



Name of Bank: Niagara Credit Union Limited      Date Issued:    October 1, 2004

Letter of Credit No.    2516      Amount: \$5,000.00

Issued subject to the Uniform Customs and Practices for Documentary Credits being ICC Publication UCP 500.

To:            The Corporation of the Town of Pelham  
Address:      20 Pelham Town Square, P O Box 400, Fonthill, ON L0S 1E0

WE HEREBY AUTHORIZE YOU TO DRAW ON THE Niagara Credit Union Limited, UP TO AN AGGREGATE AMOUNT OF Five Thousand Dollars (\$5,000.00) available on demand.

PURSUANT TO THE REQUEST OF our customer: Niagara Regional Broadband Network Ltd. we the Niagara Credit Union Limited hereby establish and give you an Irrevocable Letter of Credit in your favour in the above amount which may be drawn on by you at any time and from time to time, upon written demand for payment made upon us by you which demand we shall honour without enquiring whether you have the right as between yourself and the said customer to make such demand, and without recognizing any claim of our said customer, or objection by it to payment by us.

DEMAND shall be by was of a Letter signed by the Treasurer of the Municipality under the corporate seal attached to which shall be the original Letter of Credit. Presentation shall be made to the bank at Niagara Credit Union Limited, 1567 Highway 55, PO Box 220 Virgil, ON L0S 1T0.

THE LETTER OF CREDIT we understand relates to those Municipal services and financial obligations set out in an Agreement between the customer Niagara Regional Broadband Network Ltd and the Municipality.

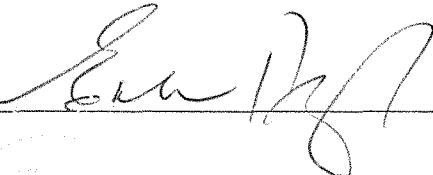
THE AMOUNT of this Letter of Credit may be reduced from time to time as advised by notice in writing to the undersigned by the Treasurer of the Corporation of the Town of Pelham.


THIS LETTER OF CREDIT will continue in favour for a period of one year, but shall be subject to the condition hereinafter set forth.

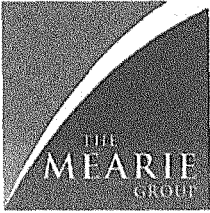
IT IS A CONDITION of this Letter of Credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date hereof, unless at least 30 days prior to the present or any future expiration date, we notify you in writing by registered mail that we elect not to consider this Letter of Credit to be renewable for any additional period.

Dated at Niagara-on-the-Lake, Ontario this 01 day of October 2004.

Niagara Credit Union Limited

Per  **Erika Dyck**  
Loan Securities Officer

Per  **B. BERGER**  
Commercial Credit Specialist



INSURANCE,  
RISK MANAGEMENT &  
FINANCIAL SOLUTIONS

October 5, 2004

**This is to certify that the following insurance is in effect:**

**NAME OF INSURED:** Niagara Regional Broadband Network Limited  
201 – 111A Garrison Village Drive  
Niagara-on-the-Lake, Ontario, L0S 1J0

**COVERAGE:**

1. General Liability including:  
Bodily Injury  
Property Damage  
Premises and Operations  
Products and Completed Operations  
Tenants Legal Liability
2. Environmental Impairment
3. Errors and Omissions/Professional Liability
4. Non-Owned Automobile Liability
5. Legal Expense Coverage - Occupational Health & Safety Act  
/Municipal Conflict of Interest Act  
S.E.F. No. 94 – Legal Liability for Damage to Hired Automobiles Endorsement

**LIMIT:** \$5,000,000 per occurrence

**INSURER:** Municipal Electric Association Reciprocal Insurance Exchange

**POLICY NUMBER:** L2004NRBN1

**POLICY PERIOD:** March 5, 2004 – January 1, 2005

**ADDITIONAL INSURED:** The Corporation of the Town of Pelham, but only with respect to liability arising out of the operations of Niagara Regional Broadband Network Limited. The policy limit is not increased by the addition of such Additional Insured. Should the above described policy be cancelled before the expiration date thereof, the issuing company will endeavour to mail 30 days written notice to the Certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

**This certificate of insurance is subject to the conditions, exclusions and provisions of the contract of insurance and any endorsements attached thereto currently or during the policy period. The Municipal Electrical Association Reciprocal Insurance Exchange will not be held responsible for liability assumed by the Named Insured outside the agreed insurance provisions.**

Municipal Electric Association Reciprocal Insurance Exchange

per:   
(Authorized Signature)

Certificate 04 - 183

3700 Steeles Avenue West, Suite 1100, Vaughan Ontario L4L 8K8  
TEL: (905) 265-5300 (800) 668-9979 FAX: (905) 265-5301 www.mearie.ca

## MUNICIPAL ACCESS AGREEMENT

**THIS AGREEMENT made in triplicate this 20<sup>th</sup>. Day of September, 2004 A.D.**

BETWEEN:

**THE CORPORATION OF THE TOWN OF PELHAM**

hereinafter called the "Municipality"

of the FIRST PART;

- and -

**NIAGARA REGIONAL BROADBAND NETWORK LIMITED**

hereinafter called the "Company"

of the SECOND PART;

**WHEREAS** the Company operates a communications undertaking by transmitting signals and information through its facilities;

**AND WHEREAS** the Company is designated as a non-dominant carrier by the Canadian Radio-Television and Telecommunications Commission to operate in the area designated in the Company's License, such area including all or a portion of the land within the boundaries of the Municipality;

**AND WHEREAS** the Company wishes to install and maintain wires, fibre-optic cables, ducts, conduits, manholes and other accessories, structures and equipment, however no above ground structures shall be permitted, unless specifically approved by the Director, (collectively, the "Equipment") in, on, under, over, along and across highways, streets, road allowances, lanes, bridges, viaducts, and other ways open to public use and any other municipally-owned property within and under the jurisdiction of the Municipality (singularly a "Service Corridor" and collectively, the "Service Corridors");

**AND WHEREAS** the Municipality is willing to permit the non exclusive use of Service Corridors where in its judgement such use will not interfere with its own service requirements and use of the streets including the consideration of the economy and safety and any rights or privileges previously conferred or hereafter conferred by the Municipality by contract or otherwise to others not parties to this Agreement to use any of the Service Corridors;

**NOW THEREFORE** in consideration of the sum of TWO DOLLARS (\$2.00) paid by the Company to the Municipality and of the mutual terms, conditions and covenants herein contained, the Municipality and the Company each agree with each other as follows:

1. The Municipality hereby agrees to permit the Company non-exclusive use of the Service Corridors for the purpose of installing, maintaining and removing the Equipment subject to the terms and conditions hereinafter set forth and in accordance with all federal, provincial and municipal statutes, laws and by-law or other rules and regulations pertaining to the application and use of the Service Corridors or the Equipment.

2. The Company shall not install any of its Equipment in, on, under, over, along or across a Service Corridor without first obtaining the written approval of the Director (for the purpose of this Agreement or his designate), with regard to the proposed location of the Equipment in, under, over, above and across the Service Corridor and second providing plans to the Director, setting out the location of the Service Corridor. The Company acknowledges and agrees that the Municipality may refuse to grant approval with regard to any proposed location for reasons in the sole discretion of the Director, acting reasonably.
3. Prior to commencing work of any kind in, on, under, over, along or across a Service Corridor, including the installation, maintenance and removal of its Equipment, the Company shall obtain the prior written approval for such work from the Director and the Director may establish the terms and conditions under which the work may be conducted by the Company. As a condition of such approval, the Municipality may, at its sole discretion, require that the Company submit detailed engineering plans to the Director with respect to the work to be conducted on a Service Corridor. This section does not apply where the Company utilizes existing duct banks or similar structures and no physical disruptions or changes to the Service Corridor or its use is required, however, in such cases the Company shall notify the Municipality in advance of such work and provide updated drawings forthwith upon completion of such work.
4. Despite Section 3, the Company may carry out routine maintenance, field testing and subscriber connections without the consent of the Municipality, but in no case shall it carry out any physical disruption or change to the Service Corridor or its use, without the Municipality's prior written consent.
5. All work conducted by the Company on a Service Corridor including, without limitation, excavation, installation, maintenance and removal of its Equipment, is subject to the following conditions:
  - a) all work shall be conducted and completed and the Service Corridors restored to the satisfaction of the Director, at the Director's sole discretion, acting reasonably, and in accordance with all laws, by-laws and the Municipality's policies, as amended from time to time. For greater certainty, the Company acknowledges and agrees that permits granted pursuant to this Agreement shall be subject to an expiry date, being six months from the date of issuance of each such permit and whether or not specified on the permit. Upon request by the Company the Municipality may extend a permit beyond its expiry date by notice in writing to the Company. If the Company breaks the surface of a Service Corridor and there is public exposure to hazard caused by the Company, it shall forthwith repair and restore the surface of the Service

Corridor to substantially the same condition it was in before such work was undertaken by the Company in accordance, without limitation, to the satisfaction of the Director, acting reasonably. If the Company fails to repair and restore a Service Corridor to the satisfaction of the Director, acting reasonably, within forty-eight (48) hours of being notified by the Municipality, the Municipality may effect such repairs and charge all Municipality costs related thereto to the Company in accordance with paragraph 11 hereof. All reasonable Municipality costs related thereto shall be paid by the Company forthwith upon receipt of an invoice from the Municipality. For the purposes of this section reasonable "Municipality's costs" shall be mean actual time and material cost for the work;

- b) the portions of the Equipment which pass over or under existing utilities or cross beneath streets shall be placed in a carrier pipe or be encased in concrete and shall not place substantial point loading or bear directly on any existing pipe, conduit or structure;
- c) if the Municipality requires the excavation, installation, maintenance or removal of the Equipment to be stopped for any reasonable reason relating to public safety or health identified by the Director or community interest expressed by the Municipality's Council, the Company shall cease all such installations, maintenance, or removal of the Equipment forthwith upon receipt of notice from the Director. Within three (3) business days of issuing a stop work order under this subsection, the Director will provide written reasons for such order to the Company;
- d) the Company is responsible for all excavation, installation, maintenance and removal of the Equipment including the cost of such work;
- e) in considering any application for the installation of Equipment pursuant to this Agreement, the Municipality may require as a condition of its approval and, at its sole option, the Company to provide excess capacity, in the form of installing a four inch conduit at the time of such installation provided that the Municipality does not reasonably delay issuance of approval and that the installation of such excess capacity is reasonably technically feasible. The Municipality may further, at its sole option;
  - i. at the time of such approval, obtain title, ownership and all rights to such excess capacity and its use by paying the Company the amount equal to the actual cost of installation of such excess capacity including any additional engineering costs, and an overhead cost equal to five per cent (5%) of the total actual cost of installation of such excess capacity. An estimate of such installation to be provided by the Company to the Municipality prior to the Municipality approving such installation;

- ii. at any time require the Company to make such excess capacity available to the Municipality or any third party or parties as requested from time to time by the Municipality at competitive market rates on a basis consistent with the Company's CRTC regulated provision of such excess capacity, if applicable.
6. The Company represents and warrants to and covenants and agrees with the Municipality that:
- a) within 48 hours after completion of any work related to the excavation, installation, maintenance, repair, replacement or removal of the equipment, the Company shall leave the Service Corridors in a sanitary, neat, tidy and safe condition and free from nuisance, all to the reasonable satisfaction of the Director;
  - b) the Company shall not suffer or permit any lien to be filed or registered against the Service Corridors or other property of the Municipality;
  - c) if this Agreement is terminated by the Municipality, all the unfulfilled covenants, indemnities and obligations of the Company hereunder shall survive such termination; and
  - d) the Municipality has made no representations or warranties as to the state of repair of the Service Corridors or the suitability of the Service Corridors for any business, activity or purpose whatsoever and the Company hereby agrees to take the Service Corridors on an "as is" basis.
7. The Company shall provide at its expense to the Municipality, within two months of completing the installation of any of the Equipment, "as built" record drawings in an electronic format compatible with AutoCad Map 2000 satisfactory to the Director acting reasonably. Upon request by the Company, mapping may be provided, where available, to the Company by the Municipality at the Company's expense.
8. Upon receiving a request from the Municipality, the Company shall, at no cost to the Municipality, provide locations of its Equipment:
- a) within 2 hours in the event of an emergency, using reasonable best efforts;
  - b) within 24 hours in the event of a priority request; and
  - c) within 48 hours in all other cases.
- The Company shall also be members of the municipal utility locate notification system used by the Municipality from time to time during the term of this Agreement.
9. The Company shall provide to the Director a list of southern Ontario emergency contact personnel for the Company available at all times and shall ensure that the aforementioned list is always current.

10. Upon receipt of ninety (90) days notice from the Municipality, the Company shall, at its own expense, relocate its Equipment within a Service Corridor, or perform any other work in connection with the Service Corridor as may be required by the Municipality for municipal purposes or at law, provided that in cases of emergency, after first making a reasonable attempt to contact the Company and whether or not an Equipment locate has been obtained from the Company, the Municipality may take any measures deemed necessary for public safety or the public interest with respect to the Equipment that may be required in the circumstances as the Municipality shall in its sole discretion, acting reasonably, determine and the Company shall forthwith reimburse the Municipality for all actual expenses thereby incurred.
11. If the Company fails to complete the relocation of the Equipment in accordance with Section 10 or fails to repair the Service Corridors or do anything else required of the Company pursuant to this Agreement in a timely and expeditious manner to the satisfaction of the Director, acting reasonably, the Municipality may, but is not obligated to, at its sole option, complete such relocation or repair and the Company shall pay the cost of such relocation, repair, removal, restoration or other work to the Municipality, forthwith, upon receipt of invoice from the Municipality.
12. Forthwith upon the execution of the Agreement, the Company will provide the Municipality with security in a form satisfactory to the Municipality in the amount of five thousand (\$5,000.00) which said amount shall be maintained for the term of this Agreement. The Company agrees and authorizes the Municipality to use the said security in the event the Company fails to pay invoices or meet the requirements of this Agreement. Further, the Company agrees to be responsible to ensure that the amount of security held by the Municipality is maintained at five thousand (\$5,000.00). The Company may apply for reduction of the security upon satisfactory completion of the initial phase of construction.
13. Except in cases of its own gross negligence, the Municipality is not responsible, either directly or indirectly, for any damage to the Equipment howsoever caused that may occur during its excavation, installation, maintenance or removal by the Company, nor is the Municipality liable to the Company for any losses, claims, charges, damages and expenses whatsoever suffered by the Company including, without limitation, claims for loss of revenue or loss of profits, indirect or consequential damages, on account of any actions or omissions of the Municipality, its officers, employees, contractors or agents, working in, under, over, along, upon and across its highways and Service Corridors or otherwise.



14. The Company covenants and agrees to indemnify, defend, release and save harmless the Municipality, its agents, officers, elected officials, employees and assigns from and against all losses, claims, including without limitation claims for injurious affection, charges, damages and expenses which the Municipality may at any time or time bear, sustain or suffer, by reason, or on account of the placement, installation, relocation, maintenance or use of the Equipment in, on, under, over, along or across a Service Corridor, and the Company will, upon demand by the Municipality and at its own sole risk and expense, defend any and all suits, actions or other legal proceedings which may be brought or instituted by third persons against the Municipality on any such claim, demand or cause of action, and will pay and satisfy any judgement or decree which may be rendered against the Municipality in any such suit, action or other legal proceedings, and will reimburse the Municipality for any and all legal expenses on a substantial indemnity basis incurred in connection therewith. The Company's obligation to indemnify defend and save harmless the Municipality shall survive the termination of this Agreement. If the Municipality becomes aware of any claim to which the Company's indemnity as set out above or elsewhere in this Agreement applies, the Municipality will promptly, within seven (7) calendar days of the Municipality's solicitor becoming aware of the claim, advise the Company in writing of it. The Municipality will provide reasonable particulars (to the extent of the Municipality's knowledge) of the factual basis of the claim and the amount of the claim, if known at that time. With respect to any third party claim, the Company will have the right at its expense, to participate in or assume control of the negotiation, settlement or defence of the claim.

If the Company does not assume and continue control of the defence of any third party claim within fifteen (15) days of the initial written advise of its existence from the Municipality, then the Municipality has the exclusive right to contest, settle or pay the amount claimed at the expense of the Company provided however the Municipality shall not settle any claim without the prior consent of the Company, such consent not to be unreasonably withheld. Where the Company assumes control of any third party claim, the Company has the right to settle the claim on such terms and conditions as are acceptable to the Company and the Municipality will provide and execute such releases or such other documentation as may be necessary to complete the settlement of such claim. All costs associated thereto shall be borne by the Company.

15. This Agreement shall commence upon the date of execution and shall be for a term of ten(10) years, and continue until the 30th day of September, 2014, unless earlier terminated in accordance with this Agreement, or upon execution of a new Municipal Access Agreement, whichever occurs earlier, and upon such termination all rights and privileges hereunder shall come to an end, provided that notwithstanding such termination the Company shall continue to be liable to the Municipality for all payments due and obligations incurred hereunder prior to the date of such termination. The parties agree that if the Company is not in default it shall have the right to renew for a further five (5) year period subject to renegotiation of applicable fees.
16. The Company covenants and agrees to pay the Municipality at the time of submitting each application under Section 2 of the Agreement a consent processing charge of two hundred (\$200.00) per installation, plus applicable federal Goods and Services and any other applicable tax.
17. Where during the term of this Agreement, the Municipality agrees to a fee with another telecommunications company for a like agreement with substantially similar terms and scope pertaining to access to the Service Corridors at a lesser or greater consent processing charge than paid under this Agreement, the Municipality shall adjust the charge paid by the Company to the Municipality under this Agreement to equal the charge payable by the other telecommunications company from the effective date of the agreement with the other telecommunications company.
18. Section 17 does not apply to:
  - a) any telecommunications company which as at the commencement date of this Agreements owns or uses Equipment in the Service Corridors; or
  - b) the installation or use of Equipment in the Service Corridors by or through a local hydroelectric company for which an exemption from, or reduction of, the payment of fees is obtained from the Municipality.
19. If at any time subsequent to the entering into of this Agreement the provincial or federal government or a regulatory authority, acting within its jurisdiction, enacts or repeals any legislation or regulation, or orders, directs or mandates anything which pertains to the subject matter of this Agreement or there is rendered any decision of a court of final appeal or tribunal which pertains to the subject matter of this Agreement, either party may notify the other of its intention to require the other party to enter into good faith negotiations to amend this Agreement or to enter into a new Agreement reflecting such legislative or regulatory action or court or tribunal decision, as the case may be, within thirty (30) days after written

notice (the "Notice") from the notifying party and any newly permitted charges or fees pursuant to such new or amended agreement will take effect from the date upon which the Notice expires.

20. If the parties are unable to renegotiate the terms and conditions of the Agreement under Section 19 then the unresolved matters may, with thirty (30) days prior written notice from the requesting party, be referred by the party to the CRTC or to arbitration for resolution, in accordance with the *Ontario Arbitration Act*, as amended or its successor legislation. Subject to the right to request arbitration, if an amendment or new agreement is not reached within ninety (90) days from the date on which the Notice was received, either party may terminate this Agreement without further notice and both parties shall fulfill their respective obligations thereafter in accordance with this Agreement.
21. Upon request by the Municipality, the parties agree to forthwith enter into good faith negotiations to agree upon the terms and conditions under which the Company will permit installations from time to time of the Municipality's Equipment, or other Third Party's Equipment together with the Company's Equipment in the conduits, ducts or other means of installations of the Company. However, both parties agree that the Municipality may permit its own installations or installations of third parties in the same alignment as that assigned to the Company without consent of the Company, provided the installations do not interrupt or negatively affect the Company's service.
22. The Municipality and the Company mutually agree that should the Company or the Municipality materially fail to carry out any of the terms, covenants and conditions herein contained or default in any of its obligations under the terms hereof and fail within thirty (30) days after receiving written notice from the other party to correct any such failure capable of correction, then this Agreement may, at the option of the non-defaulting party, thereupon be terminated by giving written notice to be effective upon receipt, provided that the Company shall continue to be liable to the Municipality for all payments due and obligations incurred under the Agreement prior to such termination.
23. Despite Section 22, this Agreement may be terminated immediately and without prior notice by the Municipality in the event that:
  - a) the Company becomes insolvent, makes an assignment for the benefit of its creditors, has a liquidator, receiver or trustee in bankruptcy appointed for it or becomes voluntarily subject as a debtor to the provisions of the *Winding Up Act*, the *Companies' Creditors Arrangements Act*, the *Bankruptcy and Insolvency Act*, as amended from time to time, or any successor legislation;

- b) the Company transfers, assigns, or sublicenses any part or all of its interest in this Agreement other than in accordance with the provision of this Agreement, or attempts to do same;
  - c) ceases to be licensed as a Canadian non dominant carrier or distribution undertaking within the meaning of the *Telecommunications Act*, as amended from time to time, or any successor legislation; or
  - d) violates any law or by-law in connection with the use of a Service corridor and fails to remedy the violation to the satisfaction of the Director, acting reasonably, in an expedient manner.
24. Forthwith upon the termination of this Agreement, whether by expiry of its term or otherwise, and in addition to fulfilling its other obligations under this Agreement, the Company shall, if directed to do so by the Director, remove all its Equipment including all above ground structures and access structures from the Service Corridors and restore the Service Corridors at the Company's expense and to the satisfaction of the Director. The Company shall remove all Equipment as requested by, and only with the prior written consent of, the Director acting reasonably or such consent is refused, such Equipment vests in the Municipality without compensation. In the event that the Company fails to carry out its obligations under this section within six (6) months of the termination of this Agreement, the Municipality will own the Equipment at the end of such six (6) month period without any obligation to the Company and further the Municipality may draw on any security previously provided by the Company to cover any costs, losses or other expenses incurred by the Municipality due to the default of the Company and recover any deficiency from the Company.
25. This Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective permitted successors and assigns.
26. This Agreement may be sublicensed, granted, transferred or assigned:
- a) by the Municipality or the Company in its entirety, to a single sublicensee, grantee, transferee or assignee by either party with the other's prior consent in writing, which consent shall not be unreasonably withheld; or
  - b) by the Company in part to no more than three other parties during the term of this Agreement without the Municipality's prior consent in writing;
    - i. Upon having first given notice to the Municipality of the sublicense, grant, transfer or assignment;

- ii. Provided the sublicensee, grantee, transferee or assignee is an affiliate of the Company within the meaning of the *Business Corporations Act of Ontario* as amended from time to time; and
  - iii. Despite the sublicense, grant, transfer or assignment of this Agreement in part by the Company, the Company will remain fully responsible to the Municipality for fulfilment of the obligations and liabilities of the Company described in this Agreement regardless of whether the obligations or liabilities arise out of any acts or omissions by the sublicensee, grantee, transferee or assignee.
- 27. The Company may pledge the license granted by this Agreement as security without the consent of the Municipality to any person directly or indirectly providing financing to the Company but such pledge shall not release the Company from its obligations and liabilities under this Agreement.
- 28. No use of a Service Corridor under this Agreement shall create or vest in the Company any ownership or property rights in a Service Corridor, and the Company shall be and remain a mere non-exclusive licensee of the Service Corridor and placement of the Equipment in a Service Corridor shall not create or vest in the Municipality any ownership in or property rights to the Equipment unless otherwise provided for herein.
- 29. Nothing in this Agreement shall be construed as affecting any rights or otherwise of others not a party to this Agreement to use any Service Corridor in accordance with the Municipality's legal authority.
- 30. The Company agrees that it shall at its own expense procure and carry or cause to be produced and carried and paid for, full Workplace Safety and Insurance Board coverage for itself and all workers, employees, servants and others engaged in or upon any work within the Municipality.
- 31. The Company shall maintain insurance in sufficient amount and description as will protect the Company and the Municipality from claims for damages, personal injury including death, and for claims from property damage which may arise from the Company's operations in the Municipality under this Agreement including without limitation the use or maintenance of the Equipment on or in the Service Corridors or any act or omission of the company's agents or employees while engaged in the work of excavating, placing, maintaining, renewing or removing the Equipment and such coverage shall include all costs, charges and expenses reasonably incurred with any injury or damage.

32. In addition to the foregoing the Company covenants and agrees that:

- a) the Company will maintain at its expense during the term of this Agreement comprehensive general liability occurrence-based insurance coverage with an insurer licensed to sell insurance in Ontario covering claims and expenses for liability for Personal Injury, Bodily Injury and Property Damage in an amount not less than Five Million (\$5,000,000.00) Dollars per claim exclusive of interest and costs and such insurance coverage shall include the contractual obligations of the Company as stated within this Agreement and name the Municipality as an additional insured;
- b) all policies shall provide that they are primary insurance which will not call into contributions any other insurance available to the Municipality, provide a waiver of subrogation and for severability of interests and further that such insurance shall not be cancelled, lapsed or materially changed to the detriment of the Municipality, acting reasonably, without at least thirty (30) days notice to the Municipality by registered mail;
- c) the insurance coverage required under this Agreement shall not be construed to, and shall in no manner, limit or restrict the Company's liability or obligations under this Agreement; and
- d) forthwith upon the execution of this Agreement the Company shall provide the Municipality with certificates of insurance evidencing the insurance coverage required by this Agreement and thereafter renewals of such insurance coverage.

33. Any notice required or permitted to be given hereunder or any tender or delivery of documents may be sufficiently given by personal delivery or, if other than the delivery of an original document, by facsimile transmission to the Municipality at the following addresses:

**THE CORPORATION OF THE TOWN OF PELHAM**  
**20 Pelham Town Square, P. O. Box 400**  
**Fonthill, Ontario, L0S 1E0**  
**Attention: Director of Operations**  
**Telephone No.: 905-892-2607, Ext. #14**  
**Fax No.: 905-892-5055**


and to the Company at the following address:

**The President**  
**NIAGARA REGIONAL BROADBAND NETWORK LIMITED**  
**201-111A Garrison Village Drive**  
**Niagara-on-the-Lake, Ontario L0S 1J0**


Any notice may also be given by prepaid mail mailed within the Province of Ontario and such notice shall be effective five (5) days following the date of mailing, except in the event that there shall be a disruption in postal services at the date of mailing, in which case notice shall be effective by personal delivery or a facsimile transmission followed by receipt of original notice within five (5) days of transmission as stated above.

34. This Agreement is the entire Agreement between the Municipality and the Company regarding the subject of this Agreement and it can be amended or supplemented only by a document executed in writing by both the Municipality and the Company.
35. This Agreement benefits and binds the Municipality and the Company and the successors of each of them.
36. If any term of this Agreement is found to be invalid, illegal, or unenforceable by a court having the jurisdiction to do so, that term is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that finding or by the severance of that term.
37. This Agreement creates contractual rights only between the Municipality and the Company and not an interest in the Service Corridors and the Company covenants and agrees with the Municipality that the Company shall desist always from any registration of this Agreement or of any right howsoever arising under it.
38. No alleged waiver or breach of this Agreement is effective unless it is an express waiver in writing of the breach in respect of which it is asserted against the party alleged to have given the waiver. No waiver by a party of any breach of this Agreement operates as a waiver of any other breach of this Agreement.
39. In this Agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.
40. This Agreement shall be governed by and construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada which may be applicable to a party in the Province of Ontario and both parties irrevocably attorn to the jurisdiction of the Courts of the Province of Ontario.

[illegible]

  
MAYOR

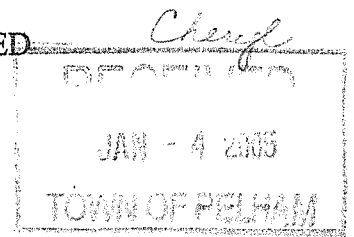
**NIAGARA REGIONAL BROADBAND  
NETWORK LIMITED**

  
\_\_\_\_\_  
PRESIDENT



NIAGARA REGIONAL BROADBAND NETWORK LIMITED

P.O. BOX 460  
8 HENEGAN ROAD  
VIRGIL  
ONTARIO L0S 1T0



Director of Operations  
The Corporation of The Town of Pelham  
20 Pelham Town Square, P.O. Box 400  
Fonthill, Ontario, L0S 1E0

January 4, 2005

Dear Sir:

In accordance with the Municipal Access Agreement that NRBN has signed with Pelham we are enclosing a \$5 Million MEARIE Liability Insurance Certificate Number 05-15L which covers the period January 1, 2005 to January 1, 2006.

We wish also to advise you of an address change for contacting NRBN from:

Niagara Regional Broadband Network Limited  
201-111A Garrison Village Drive  
Niagara-on-the Lake  
Ontario L0S 1J0

to:

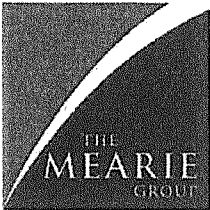
Niagara Regional Broadband Network Limited  
P.O. Box 460  
8 Henegan Road  
Virgil  
Ontario L0S 1T0  
Attention: The President  
905 468 0431

If you have any questions please contact the writer at his home office at 905 892 2190.

Regards

A handwritten signature in black ink, appearing to read "G. Marasco".

Gordon F. Marasco  
Director



INSURANCE,  
RISK MANAGEMENT &  
FINANCIAL SOLUTIONS

January 3, 2005

**This is to certify that the following insurance is in effect:**

**NAME OF INSURED:** Niagara Regional Broadband Network Limited  
201 – 111A Garrison Village Drive  
Niagara-on-the-Lake, Ontario, L0S 1J0

**COVERAGE:**

1. General Liability including:  
Bodily Injury  
Property Damage  
Premises and Operations  
Products and Completed Operations  
Tenants Legal Liability
2. Environmental Impairment
3. Errors and Omissions/Professional Liability
4. Non-Owned Automobile Liability
5. Legal Expense Coverage - Occupational Health & Safety Act  
/Municipal Conflict of Interest Act  
S.E.F. No. 94 – Legal Liability for Damage to Hired Automobiles Endorsement

**LIMIT:** \$5,000,000 per occurrence

**INSURER:** Municipal Electric Association Reciprocal Insurance Exchange

**POLICY NUMBER:** L2005NRBN1

**POLICY PERIOD:** January 1, 2005 – January 1, 2006

**ADDITIONAL INSURED:** The Corporation of the Town of Pelham, but only with respect to liability arising out of the operations of Niagara Regional Broadband Network Limited. The policy limit is not increased by the addition of such Additional Insured. Should the above described policy be cancelled before the expiration date thereof, the issuing company will endeavour to mail 30 days written notice to the Certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

**This certificate of insurance is subject to the conditions, exclusions and provisions of the contract of insurance and any endorsements attached thereto currently or during the policy period. The Municipal Electrical Association Reciprocal Insurance Exchange will not be held responsible for liability assumed by the Named Insured outside the agreed insurance provisions.**

Municipal Electric Association Reciprocal Insurance Exchange

per:   
(Authorized Signature)

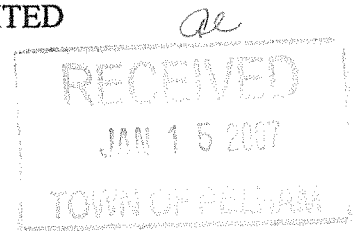
Certificate 05 – 15L

3700 Steeles Avenue West, Suite 1100, Vaughan Ontario L4L 8K8  
TEL: (905) 265-5300 (800) 668-9979 FAX: (905) 265-5301 www.mearie.ca

BK# 2612 (2004)

NIAGARA REGIONAL BROADBAND NETWORK LIMITED

P.O. BOX 460  
8 HENEGAN ROAD  
VIRGIL  
ONTARIO L0S 1T0



Director of Operations  
The Corporation of The Town of Pelham.  
20 Pelham Town Square  
PO Box 400  
Fonthill  
Ontario L0S 1E0

January 15, 2007

Dear Sir:

In accordance with the Municipal Access Agreement that NRBN has signed with The Town of Pelham we are enclosing a \$5 Million MEARIE Liability Insurance Certificate Number 07-53L which covers the period January 1, 2007 to January 1, 2008.

If you have any questions please contact the writer at his home office at 905 892 2190.

Regards

A handwritten signature in black ink, appearing to be "G. Marasco", with a long horizontal stroke extending to the right.

Gordon F. Marasco  
Director



INSURANCE,  
RISK MANAGEMENT &  
FINANCIAL SOLUTIONS

January 10, 2007

**This is to certify that the following insurance is in effect:**

**NAME OF INSURED:** Niagara Regional Broadband Network Limited  
8 Henegan Road, P.O. Box 460  
Virgil, Ontario, L0S 1T0

**COVERAGE:**

1. General Liability including:  
Bodily Injury  
Property Damage  
Premises and Operations  
Products and Completed Operations  
Tenants Legal Liability
2. Environmental Impairment
3. Errors and Omissions/Professional Liability
4. Non-Owned Automobile Liability
5. Legal Expense Coverage - Occupational Health & Safety Act  
/Municipal Conflict of Interest Act  
S.E.F. No. 94 – Legal Liability for Damage to Hired Automobiles Endorsement

**LIMIT:** \$5,000,000 per occurrence

**INSURER:** Municipal Electric Association Reciprocal Insurance Exchange

**POLICY NUMBER:** L2007NRBN1

**POLICY PERIOD:** January 1, 2007 – January 1, 2008

**ADDITIONAL INSURED:** The Corporation of the Town of Pelham, but only with respect to liability arising out of the operations of Niagara Regional Broadband Network Limited the policy limit is not increased by the addition of such Additional Insured. Should the above described policy be cancelled before the expiration date thereof, the issuing company will endeavour to mail 30 days written notice to the Certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives

**This certificate of insurance is subject to the conditions, exclusions and provisions of the contract of insurance and any endorsements attached thereto currently or during the policy period. The Municipal Electric Association Reciprocal Insurance Exchange will not be held responsible for liability assumed by the Named Insured outside the agreed insurance provisions.**

Municipal Electric Association Reciprocal Insurance Exchange

per:   
(Authorized Signature)

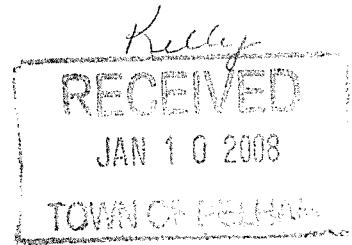
Certificate 07 – 53L

3700 Steeles Avenue West, Suite 1100, Vaughan Ontario L4L 8K8  
TEL: (905) 265-5300 (800) 668-9979 FAX: (905) 265-5301 [www.mearie.ca](http://www.mearie.ca)

BL# 2612

NIAGARA REGIONAL BROADBAND NETWORK LIMITED

P.O. BOX 460  
8 HENEGAN ROAD  
VIRGIL  
ONTARIO L0S 1T0



Director of Operations,  
The Corporation of TheTown of Pelham,  
20 Pelham Town Square, P.O. Box 400  
Fonthill, Ontario L0S 1E0

January 9, 2008

Dear Sir:

In accordance with the Municipal Access Agreement that NRBN has signed with The Corporation of The Town of Pelham we are enclosing \$5 Million MEARIE Liability Insurance Certificate Number 08-49L, Policy Number L2008NRBN1 which covers the period January 1, 2008 to January 1, 2009.

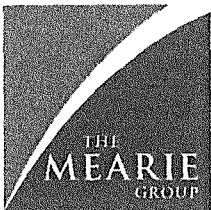
If you have any questions please contact the writer at his home office at 905 892 2190.

Regards

A handwritten signature in black ink, appearing to read "Gordon Marasco".

Gordon Marasco

Director



INSURANCE,  
RISK MANAGEMENT &  
FINANCIAL SOLUTIONS

January 7, 2008

**This is to certify that the following insurance is in effect:**

**NAME OF INSURED:** Niagara Regional Broadband Network Limited  
8 Henegan Road, P.O. Box 460  
Virgil, Ontario, L0S 1T0

**COVERAGE:**

1. General Liability including:
  - Bodily Injury
  - Property Damage
  - Premises and Operations
  - Products and Completed Operations
  - Tenants Legal Liability
2. Environmental Impairment
3. Errors and Omissions/Professional Liability
4. Non-Owned Automobile Liability
5. Legal Expense Coverage - Occupational Health & Safety Act  
/Municipal Conflict of Interest Act

S.E.F. No. 94 – Legal Liability for Damage to Hired Automobiles Endorsement

**LIMIT:** \$5,000,000 per occurrence

**INSURER:** Municipal Electric Association Reciprocal Insurance Exchange

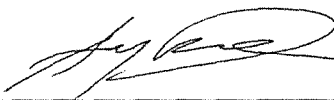
**POLICY NUMBER:** L2008NRBN1

**POLICY PERIOD:** January 1, 2008 – January 1, 2009

**ADDITIONAL INSURED:** The Corporation of the Town of Pelham, but only with respect to liability arising out of the operations of Niagara Regional Broadband Network Limited the policy limit is not increased by the addition of such Additional Insured. Should the above described policy be cancelled before the expiration date thereof, the issuing company will endeavour to mail 30 days written notice to the Certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives

**This certificate of insurance is subject to the conditions, exclusions and provisions of the contract of insurance and any endorsements attached thereto currently or during the policy period. The Municipal Electric Association Reciprocal Insurance Exchange will not be held responsible for liability assumed by the Named Insured outside the agreed insurance provisions.**

Municipal Electric Association Reciprocal Insurance Exchange

per:   
(Authorized Signature)

Certificate 08 – 49L

3700 Steeles Avenue West, Suite 1100, Vaughan Ontario L4L 8K8  
TEL: (905) 265-5300 (800) 668-9979 FAX: (905) 265-5301 [www.mearie.ca](http://www.mearie.ca)