

Olivencia, Mildred

From: ash@cmacap.com
Sent: Tuesday, November 24, 2015 12:50 PM
To: Olivencia, Mildred
Cc: Torres-Rojas, Genara; Van Duyne, Sheree; Ng, Danny; Shalewitz, William
Subject: Freedom of Information Online Request Form

Information:

First Name: Ash
Last Name: Dyer
Company: CMA
Mailing Address 1: 100 City Hall Plz
Mailing Address 2: Suite 200
City: Boston
State: MA
Zip Code: 02108
Email Address: ash@cmacap.com
Phone: 6178483900
Required copies of the records: No

List of specific record(s):

I would like to confirm the lease agreement for conduit access for Lighttower or its subsidiaries in the PATH tunnel. I believe it is the North PATH Uptown Tubes but may also be the Downtown Tubes. The company has told me they have a conduit there, so I believe it exists. If possible, I would like to know what conduits or innerduct Verizon and ATT have leased in those tunnels and if there is additional conduit or innerduct available for lease. Thank you, Ash

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

January 15, 2016

Mr. Ash Dyer
CMA
100 City Hall Plz, Suite 200
Boston, MA 02108

Re: Freedom of Information Reference No. 16498

Dear Mr. Dyer:

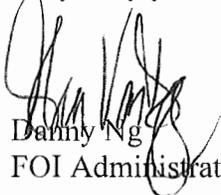
This is in response to your November 24, 2015 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy enclosed) for copy of "the lease agreement for conduit access for Lightower or its subsidiaries in the PATH tunnel. I believe it is the North PATH Uptown Tubes but may also be the Downtown Tubes. The company has told me they have a conduit there, so I believe it exists. If possible, I would like to know what conduits or innerduct Verizon and ATT have leased in those tunnels and if there is additional conduit or innerduct available for lease."

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/16498-LPA.pdf>. Paper copies of the available records are available upon request.

Pursuant to the Code, certain portions of the material responsive to your request are exempt from disclosure as, among other classifications, privacy and security.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,


Danny Ng
FOI Administrator

Enclosure

*4 World Trade Center, 18th Floor
150 Greenwich Street
New York, NY 10007
T: 212 435 3642 F: 212 435 7555*

CONFIRMED

Agreement No. L-RR-202

Agreement of Lease - Tunnel Duct

PORT AUTHORITY TRANS-HUDSON CORPORATION

THIS AGREEMENT, made as of the 15th day of June, 2000, by and between PORT AUTHORITY TRANS-HUDSON CORPORATION (hereinafter called "PATH"), a corporation organized and existing under the laws of the States of New York and New Jersey, having an office at 1 PATH Plaza, 6th Floor, in the City of Jersey City, County of Hudson and State of New Jersey, and COLUMBIA TRANSMISSION COMMUNICATIONS CORPORATION, a corporation organized and existing under and by virtue of the laws of the State of Delaware, having an office and place of business at 12801 Fair Lakes Parkway, Fairfax, VA 22033 (hereinafter called the "Lessee"), whose representative is Rob Rockwood.

WITNESSETH, THAT:

WHEREAS, PATH, acting in the public interest and pursuant to the provisions of Chapter 8 of the Laws of New Jersey, 1962 and those of Chapter 209 of the Laws of New York, 1962, and in furtherance of the purpose of the said statutes, is the owner and operator of an interstate railroad system stretching across the Hudson River through underwater railroad tunnels between points in the County of Hudson, State of New Jersey and points in the City, County and State of New York, crossing the boundary between the States of New York and New Jersey, and continuing through underground railroad tunnels and aboveground routes from said points in the County of Hudson, State of New Jersey to points in PATH's Waldo Avenue Yard, in the City of Jersey City, County of Hudson, State of New Jersey, which underwater and underground railroad tunnel facilities and aboveground routes, together with extensions thereof and additions thereto, are hereinafter collectively called the "Facility"; which underwater tunnels, only, are hereinafter collectively called the "Tunnels"; and which underground tunnels and aboveground routes are hereinafter jointly called the "Land Segment"; and

WHEREAS, the Lessee desires to install fiber optic cable in, over and through the Facility to connect between a point located at the perimeter of PATH's Waldo Avenue Yard and a point near PATH's Christopher Street Station in the City, County and State of New York and desires to use the Facility for the installation, maintenance and operation of such fiber optic cable;

NOW, THEREFORE, for and in consideration of the foregoing, and of the covenants and agreements herein contained, PATH and the Lessee hereby agree as follows:

Section 1. Letting

Section 2. Term

(a) The term of the letting under this Agreement shall commence on July 1, 2000 (which date is hereinafter referred to as the "Effective Date") and shall expire, unless sooner terminated in accordance with the provisions of this Agreement, or otherwise, at 11:59 o'clock P.M. on the last day of the calendar month in which the day preceding the fifth (5th) anniversary of the "Rent Commencement Date" established pursuant to the provisions of Section 4 of this Agreement shall fall.

(b) The Lessee shall have the right to extend this Agreement and the term of the letting under this Agreement, as to the entire premises only, for three additional five (5)-year periods in accordance with the provisions of paragraph (b) of Section 4 of this Agreement.

Section 3. Rights of User by the Lessee

The Lessee shall use the premises for the installation, operation, and maintenance of fiber optic cables to provide communications and other related services for its own use or for the use of its customers and for no other purpose or purposes whatsoever.

Section 4. Rental

(a) (i) From and after the Effective Date throughout the balance of the term of the letting under this Agreement, the Lessee shall pay to PATH a basic rental for the premises at an annual rate for the twelve-month period commencing July 1, 2000 through June 30, 2001 (subject to the provisions of subparagraph (ii), below) and for each twelve-month period commencing on each July 1st thereafter throughout the balance of the term of the letting under the Lease (the said twelve-month period commencing July 1, 2000 and each such twelve-month period thereafter occurring during the term of the letting under the Lease, including any extension periods under paragraph (b) of this Section, being sometimes hereinafter referred to as an "Annual Period"; provided however that the last Annual Period shall expire on the expiration date of the letting hereunder, as the same may be extended pursuant to the provisions of paragraph (b), below), in an amount which shall be equal to the sum of: (A) the product obtained by multiplying (x) the "Annual Basic Rental Rate," set forth in the schedule attached hereto, marked "Schedule F" and hereby made a part hereof, corresponding to the rental bracket that encompasses the total number of fiber optic strands installed by the Lessee in the River Crossing Segment as of each such July 1st and (y) 6,026 (the length, in linear feet, of the River Crossing Segment), and (B) the product obtained by multiplying (xx) the "Annual Basic Rental Rate," set forth in the schedule attached hereto, marked "Schedule F-1" and hereby made a part hereof, corresponding to the rental bracket that encompasses the total number of fiber optic strands installed by the Lessee in the Land Segment as of each such July 1st and (yy) 12,708 (the length, in linear feet, of the Land Segment).

(ii) The Lessee hereby acknowledges that the "Lessee's construction work" (as defined in paragraph (a) of Section 5 of this Agreement) shall include the installation of not more than one (1) 432 strand fiber optic cable in the premises in accordance with the provisions of Section 5. As a result of such installation of the said 432 strand fiber optic cable in the premises, the Lessee shall pay to PATH a basic rental for the

period commencing July 1, 2000 through June 30, 2001 at the rate of Three Hundred Twenty-four Thousand Six Hundred Thirty-six Dollars and No Cents (\$324,636.00) per annum, in advance in monthly installments of Twenty-seven Thousand Fifty-three Dollars and No Cents (\$27,053.00) each, on the earlier to occur of: (A) the ninetieth (90th) day following the Effective Date, or (B) such earlier date following completion of the "Lessee's construction work" as PATH may designate to the Lessee as the date on which public operations may be commenced in the premises (such earlier date being hereinafter referred to as the "Rent Commencement Date") and on the first day of each calendar month thereafter through June 30, 2001. In the event the Rent Commencement Date occurs on a day other than the first day of a calendar month, the monthly installment of basic rental for the portion of the calendar month in which the Rent Commencement Date occurs shall be payable on the first day of the calendar month following the Rent Commencement Date and shall be the amount of the monthly installment set forth above multiplied by a fraction the numerator of which shall be the number of days from the Rent Commencement Date to the last day of the calendar month in which the Rent Commencement Date occurs and the denominator of which shall be the number of days in that calendar month.

(iii) The annual basic rental payable with respect to each Annual Period commencing July 1, 2000 and with respect to each Annual Period commencing on each July 1st subsequent to July 1, 2000 throughout the term of the letting under this Agreement shall be payable in advance in equal monthly installments on each such July 1st and on the first day of each calendar month thereafter through and including the next succeeding June 1st.

(iv) In the event that at any time, and each such time, during the term of the letting under this Agreement from and after the "Completion Date" (as defined in paragraph (a) of Section 5) the Lessee installs fiber optic strands in the premises with the result that the total number of fiber optic strands installed in the premises following any such installation falls within a higher rental bracket as set forth on Exhibit F and/or Exhibit F-1, then, effective as of the date the installation of the additional fiber optic strands is completed, the annual basic rental shall be adjusted to reflect the greater number of fiber optic strands and the higher rental brackets set forth on Schedules F and F-1. If the effective date of any such adjustment of the annual basic rental occurs on other than the first day of a calendar month, the Lessee shall pay in advance on the effective date of such adjustment an installment of basic rental equal to one-twelfth of the amount by which the annual basic rental is then being increased multiplied by a fraction the numerator of which shall be

the number of days from the effective date of such adjustment to the end of the calendar month in which the effective date of such adjustment occurs and the denominator of which shall be the number of days in that calendar month.

(v) The basic rental calculated in accordance with the provisions of subparagraph (a)(i), above, as the same may be adjusted during any Annual Period pursuant to the provisions of subparagraph (a)(iv), above, shall be increased effective as of the first day of each Annual Period during the term of the letting under this Agreement following the Rent Commencement Date by multiplying the annual basic rental in effect for the immediately preceding Annual Period (as the same may have been adjusted during such immediately preceding Annual Period pursuant to subparagraph (a)(iv), above) by one hundred five percent (105%). Consistent with the aforesaid annual adjustment of basic rental, the annual basic rental rate per linear foot corresponding to each rental bracket set forth in Schedule F shall be increased as of each July 1st during the term of the letting under this Agreement following the Rent Commencement Date by multiplying the dollar amount of each such basic rental rate by one hundred five percent (105%).

(vi) If the expiration or termination date of the letting is other than the last day of a calendar month, the basic rental for the portion of the last calendar month during which the letting is in effect shall be the amount of the monthly installment applicable to that calendar month prorated on a daily basis over the actual number of days the letting is in effect in that calendar month.

(b) (i) The Lessee shall have the right to extend the term of the letting under this Agreement for a maximum of three (3) consecutive extension periods of five (5) years each (each such period hereinafter referred to as an "extension period"), the first extension period to commence immediately upon the expiration date of the initial term of the letting and each subsequent extension period to commence immediately upon the expiration of the immediately preceding extension period, provided that the Lessee shall give unconditional written notice to PATH of its election to do so not later than one hundred eighty (180) days prior to the expiration date of the term of the letting or of the immediately preceding extension period, as the case may be, and provided further that on the date of the giving of any such notice and on the intended effective date thereof the Lessee is not in default in the performance or observance of any of the terms, provisions, covenants and conditions of this Agreement and that the Lessee has not been served with a notice of termination of the Lease by PATH and that on both such dates the Lease is in full force and effect.

(ii) In the event the Lessee shall give to PATH any such notice referred to in subparagraph (b)(i), above, then, not later than sixty (60) days subsequent to its receipt of such notice from the Lessee, PATH shall advise the Lessee in writing of PATH's determination of the annual basic rental rate to be payable by the Lessee during the first year of the applicable five (5)-year extension period (such annual basic rental rate to be subject to escalation in accordance with the provisions of subparagraph (iii)(B), below, effective as of the July 1st commencement date of the Annual Period next occurring during the extension period and for each subsequent Annual Period occurring thereafter during the extension period). In the event the Lessee concludes that the annual basic rental rate so stated in PATH's notice is greater than the fair market rental value for the premises for the first year of the applicable extension period, the Lessee, within thirty (30) days after the date of PATH's said notice, shall advise PATH in writing that it has so concluded and request arbitration with respect thereto. Such arbitration shall be by three arbitrators, one to be appointed by PATH, one to be appointed by the Lessee and the third to be appointed by the arbitrators so appointed. The arbitration shall be pursuant to the then-current rules of the American Arbitration Association or by any successor organization, and the question to be answered by the arbitrators shall be:

"Is the annual basic rental rate for the premises established by PATH for the first year of the applicable five-year extension period (such annual basic rental rate to be subject to escalation in accordance with the provisions of the Agreement of Lease between the Lessee and PATH effective as of the July 1st commencement date of the Annual Period next occurring during the extension period and for each subsequent Annual Period occurring thereafter during the said extension period) greater than the fair market rental value for the premises for the first year, as aforesaid, of the said extension period?"

If the arbitrators' decision is in the negative, then from and after the first day of the extension period, the Lessee shall pay to PATH an annual basic rental as provided in subparagraph (b)(iii)(A)(1), below, in advance, in equal monthly installments throughout the applicable extension period. If the decision of the arbitrators is that the annual basic rental rate specified by PATH is greater than the fair market rental value for the premises for first year of the extension period, the arbitrators shall thereupon determine the fair market rental value for the first year of the extension period, and in such event, from and after the first day of the first year of the applicable

extension period, the Lessee shall pay to PATH in advance in equal monthly installments an annual basic rental as provided in subparagraph (b)(iii)(A)(2), below. The annual basic rental, however determined, shall be subject to escalation in accordance with the provisions of subparagraph (iii)(B), below. The cost of the arbitration shall be borne equally by PATH and the Lessee; provided however, that each side shall be responsible for payment of their respective counsel and witness fees and expenses.

(iii) (A) During the period from and after the commencement of any extension period hereunder through the next succeeding June 30th, the Lessee shall pay to PATH an annual basic rental for the premises hereunder computed in accordance with the annual basic rental rate either: (1) as established by PATH for the applicable extension period (in the event the Lessee does not request arbitration with respect thereto or the arbitrators determine that the annual basic rental rates established by PATH do not exceed fair market rental value for the applicable extension period), or (2) as finally determined by arbitration.

(B) During each Annual Period that falls during any applicable extension period hereunder, the Lessee shall pay to PATH an annual basic rental for the premises hereunder which shall be equal to the dollar amount of the annual basic rental payable by the Lessee to PATH pursuant to subparagraph (iii)(A), above, plus an additional amount equal to the sum of: (x) the product obtained by multiplying the aforesaid dollar amount of annual basic rental by a fraction the numerator of which shall be the number of points, or major fraction thereof, the Consumer Price Index published for the month of March preceding each such Annual Period has increased over the Consumer Price Index for March, 2004 and the denominator of which shall be the Consumer Price Index for March, 2004 (such percentage increase hereinafter referred to as the "CPI Factor"), and (y) the product obtained by multiplying by an additional one percent (1%) (100 basis points) the aforesaid dollar amount of annual basic rental (the total of the CPI Factor and the additional one percent (1%) increase in the aforesaid dollar amount of annual basic rental hereinafter referred to as the "Annual Period Escalation"). If at any time during an extension period the Annual Period Escalation, as so computed, shall exceed five percent (5%), then the Annual Period Escalation shall be limited to the greater of (1) the CPI Factor or (2) five percent (5%) of the aforesaid dollar amount of annual basic rental. There shall be no reduction in the Annual Period Escalation for any Annual Period in the event of any reduction in the Consumer Price Index.

The term "Consumer Price Index" shall mean the Revised Consumer Price Index for All Urban Consumers (CPI-U), New York-Northern New Jersey-Long Island (NY-NJ-CT), All Items, unadjusted 1982-1984 = 100 published by the Bureau of Labor Statistics of the United States Department of Labor. In the event that: (a) the base period of 1982-1984 for the Consumer Price Index is at any time hereafter changed to any other period, the Consumer Price Index for any calendar month of March used for purposes of this Agreement shall be re-computed accordingly; or (b) the Consumer Price Index is not in publication at a time when its use is required hereunder, then PATH shall select and apply a similarly comparable index in determining the rental payable pursuant to this Agreement.

(iv) In the event the amount of any annual basic rental has not been finally determined prior to the commencement of the applicable extension period, the Lessee shall continue to pay the monthly installments of basic rental at the rates theretofore in effect, and upon determination of the applicable rental pursuant to the provisions of this paragraph (b), the Lessee shall, within thirty (30) days thereafter, pay any amounts due to PATH arising out of the excess (if any) of the monthly installments of the annual basic rental as so determined over the monthly installments thereof actually paid by the Lessee for such period, provided however that if the sum of the monthly installments of the annual basic rental actually paid by the Lessee for such period are in excess of the sum of the monthly installments as determined by arbitration to be payable by the Lessee for such period, the Lessee shall be entitled to a credit for such excess to be applied against its rental obligations next becoming due under this Agreement.

Section 5. Installation Work

(a) The Lessee acknowledges that it has thoroughly inspected the premises and agrees to take the premises in its "as is" condition. PATH shall have no obligation for the preparation of any portion of the premises for the Lessee's use. The Lessee shall perform, at its sole cost and expense, all installation work required to prepare the premises for its operations therein including the drawing in and installing of the cable and installation of all equipment appurtenant to the operation of the cable (the work described in this paragraph being hereinafter referred to as the "Lessee's construction work"). Prior to the commencement of any portion of the Lessee's construction work, the Lessee shall submit to PATH for its approval a Tenant Alteration Application, in the form supplied by PATH, and containing such terms and conditions as PATH may include, setting forth in detail

by appropriate plans and specifications the work the Lessee proposes to perform in the premises and the manner of and time periods for performing such work. The data to be supplied by the Lessee shall identify separately each of the items constituting the Lessee's construction work and shall describe in detail the improvements, fixtures, equipment, and systems, if any, to be installed by the Lessee, including, without limitation, a report of the total number of fiber optic strands and the total number of fiber optic cables proposed to be installed by the Lessee in the premises. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as PATH, acting in a non-arbitrary and non-capricious manner, shall determine is necessary for developing, completing and submitting detailed plans and specifications for the work. PATH hereby approves the retention by the Lessee of PB Farradyne Inc. (and/or its affiliate, PB Telecommunications, Inc.) as its electrical consultant and Welsbach Electric Corp. as its contractor with regard to the Lessee's proposed design and installation, respectively, of fiber optic cables in the premises. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the work in accordance with PATH's requirements. The Lessee shall submit to PATH, at PATH's request, such additional data, detail or information as PATH may require in connection with review by PATH of the Lessee's submissions under this paragraph. Following PATH's receipt of the Tenant Alteration Application, PATH shall give its written approval or rejection thereof, or shall request such modifications thereto as PATH may find necessary. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract each such contractor or subcontractor is operating under, have been approved by PATH. The Lessee shall include in any such contract or subcontract such provisions as are required pursuant to the provisions of this Agreement and the Tenant Alteration Application approved by PATH, including, without limitation thereto, provisions regarding labor harmony. The Lessee shall, and shall require its each of its contractors (but not including its electrical consultant) to indemnify PATH and its Directors, officers, agents and employees from and against all claims and demands by third persons against PATH and its Directors, officers, agents and employees, arising or alleged to arise out of the performance of the work, and for all loss and expense incurred by it and by them in the defense, settlement or satisfaction thereof, including without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or

consequential, whether they arise from acts or omissions of the Lessee, any contractors of the Lessee, PATH, third persons, or from acts of God or the public enemy, or otherwise, excepting only risks which result from the sole negligence of PATH or the affirmative wilful acts of PATH subsequent to commencement of the work. The Lessee shall cause each such contractor and subcontractor to obtain and maintain in force such insurance coverage as PATH may specify, including, without limitation, a contractual liability endorsement to cover the indemnity obligations assumed by the Lessee pursuant to the provisions of this paragraph. All of the Lessee's construction work shall be performed by the Lessee in accordance with the Tenant Alteration Application and final plans and specifications approved by PATH, shall be subject to inspection by PATH during the progress of the work and after the completion thereof, and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. Upon completion of the Lessee's construction work the Lessee shall supply PATH with a certificate signed by a responsible officer of the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of this paragraph, certifying that all of the Lessee's construction work has been performed in accordance with the approved plans and specifications covering such work and in accordance with the provisions of this Agreement and further reporting and certifying the total number of fiber optic strands, and the total number of fiber optic cables containing such fiber optic strands, actually installed in the premises. The Lessee shall also supply PATH with as-built drawings in such form and number as are requested by PATH, and the Lessee shall keep said drawings current during the term of the letting under this Agreement. No changes or modifications to such work shall be made without the prior consent of PATH. Following PATH's receipt of the Lessee's certificate, PATH shall inspect the Lessee's construction work and unless such certificate is not correct, or PATH determines that the area is unsuitable for occupancy and use by the Lessee for reasons of health, safety, or because the Lessee's construction work, in the opinion of PATH, has failed to comply with all governmental laws, ordinances, enactments, resolutions, rules, and orders that would be applicable if PATH were a private corporation, or has failed to comply with all applicable requirements of the Insurance Services Office of New York or the Insurance Services Office of New Jersey, shall deliver to the Lessee a certificate of final completion within thirty (30) days following PATH's receipt of the Lessee's certificate. The date specified in such certificate, or the date of delivery thereof to the Lessee, whichever is later, shall constitute the "Completion Date" under this Agreement.

(b) The Lessee shall not commence any portion of the Lessee's construction work prior to the Effective Date as

established pursuant to the provisions of Section 2 hereof, and until the Tenant Alteration Application and plans and specifications covering such work referred to in paragraph (a) of this Section have been finally approved by PATH. The Lessee recognizes that its obligation to pay the basic rental for the premises provided for in this Agreement shall commence on the date established with respect thereto pursuant to the provisions of Section 4 hereof whether or not the Lessee's construction work therein is then completed, and regardless of whether the Lessee is then conducting any operations in the premises. The Lessee shall conduct no operations in the premises until PATH shall have notified the Lessee in writing that the Lessee's construction work has been completed or substantially completed to its satisfaction. In the event of any inconsistency between the provisions of this Agreement and those of the Tenant Alteration Application referred to in paragraph (a) of this Section, the provisions of this Agreement shall control.

(c) The Lessee shall be solely responsible for the plans and specifications used by it and for the adequacy or sufficiency of such plans and specifications, and all the improvements, fixtures, and equipment depicted thereon or covered thereby, regardless of the consent thereto or approval thereof by PATH or the incorporation therein of any Port Authority requirements or recommendations. PATH shall have no obligation or liability in connection with the performance of any of the Lessee's construction work or for the contracts for the performance thereof entered into by the Lessee. All warranties extended or available to the Lessee in connection with the aforesaid work shall be for the benefit of PATH as well as the Lessee.

(d) Without limiting or affecting any other term or provision of this Agreement, the Lessee shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems installed in the premises by the Lessee and shall do all preventive maintenance and make all repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems and all other improvements, additions, fixtures, finishes, decorations and equipment made or installed by the Lessee (whether the same involves structural or non-structural work) in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of any portion of the premises, or adversely affect the efficient or proper utilization of any part of the premises.

(e) Title to the cables and to the removable appurtenant equipment installed in the Tunnel or elsewhere at the Facility by the Lessee shall be and remain in the Lessee, and upon expiration or earlier termination of the letting under this Agreement the Lessee shall remove the same from the Tunnel and the Facility at its own cost and expense and shall restore the premises to the same condition as the premises was in when originally leased to the Lessee, ordinary wear excepted, and shall repair and make good all damage caused by such removal, unless otherwise agreed to by the parties.

(f) The Lessee shall not perform any construction or installation work or make any additions, modifications, alterations or improvements to the premises under this Agreement at any time during the term of the letting subsequent to the Completion Date without the prior written approval of PATH which shall not be arbitrarily or capriciously withheld or delayed. The procedures and requirements set forth above in this Section 5 with respect to the Lessee's construction work, including but not limited to the submission of a Tenant Alteration Application and appropriate plans and specifications and a report of the total number of fiber optic strands and the total number of fiber optic cables proposed to be installed in the premises by the Lessee, shall be fully applicable with respect to any such subsequent construction and installation work proposed to be performed by the Lessee in the premises at any time during the term of the letting under this Agreement subsequent to the Completion Date.

Section 6. Governmental Requirements

(a) The Lessee shall procure from all governmental authorities having jurisdiction over the operations of the Lessee at the premises all licenses, certificates, permits or other authorization which may be necessary for the conduct of its operations.

(b) The Lessee shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder or on the gross receipts or income therefrom, and shall make all applications, reports and returns required in connection therewith. If any bond or other undertaking shall be required by any governmental authority in connection with any of the operations of the Lessee or any property received or exhibited by the Lessee at the premises, the Lessee shall furnish the same and pay all other expenses in connection therewith.

(c) The Lessee shall promptly observe, comply with and execute, at its sole cost and expense, the provisions of any and all present and future governmental laws, rules regulations, requirements, orders and directions which may pertain or apply to the installation operation and maintenance of the facilities of the Lessee, or which would be applicable if PATH were a private corporation, and subject to the provisions of this Agreement, shall make any and all structural and non-structural improvements, alterations or repairs of the premises that may be required at any time hereafter by any such present or future law, rule, regulation, requirement, order or direction. Any such structural repairs or replacements shall be made or done by PATH and the Lessee shall reimburse PATH for the cost thereby incurred.

(d) The obligation of the Lessee to comply with governmental requirements is not to be construed as a submission by PATH to the application to itself of such requirements or any of them.

Section 7. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to compel its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and those doing business with it to observe and obey) the Rules and Regulations of PATH, as now supplemented and now in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) as may from time to time during the letting be promulgated by PATH for reasons of safety, health or preservation of property, or for the maintenance of the good and orderly appearance of the premises or for the safe or efficient operation of the Facility. PATH agrees that, except in cases of emergency, it will give notice to the Lessee of every such further rule or regulation adopted by it at least five (5) days before the Lessee shall be required to comply therewith.

(b) If a copy of the Rules and Regulations is not attached, then PATH will notify the Lessee thereof either by delivery of a copy, or by making a copy available at the office of PATH.

(c) No statement or provision in the said Rules and Regulations shall be deemed a representation or promise by PATH that the services or privileges described shall be or remain available, or that the charges, prices, rates or fees stated therein shall be or remain in effect throughout the letting, all of the same being subject to change by PATH from time to time whenever it deems a change advisable.

Section 8. Prohibited Acts

The Lessee shall not: (a) do or permit to be done anything which, in the opinion of PATH (not to be arbitrarily and capriciously exercised), may be or become dangerous or injurious to any portion of the Facility, or to the traveling public or any other persons, or which may interfere with the free movement of vehicles or the operations of any persons lawfully using any portion of the Facility or any other property of PATH; (b) do or permit to be done any act or thing upon the premises or in the Facility which will invalidate or conflict with any insurance policies covering the premises or the Facility or any part thereof or which, in the opinion of PATH, may constitute an extra-hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by Section 3 hereof, and the Lessee shall promptly observe, comply with and execute at its sole cost and expense the provisions of any and all present and future rules and regulations, requirements, orders and directions of the New York Board of Fire Underwriters, the New York Fire Insurance Exchange, the National Board of the Fire Underwriters, the Fire Insurance Rating Organization of N.J. and any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Lessee on the premises, including without limitation, and subject to and in accordance with the provisions of this Agreement, the making of any and all improvements, alterations or repairs of the premises that may be required at any time hereafter by any such present or future rule, regulation, requirement, order or direction, and if by reason of any failure on the part of the Lessee to comply with the provisions of this subdivision, any insurance rate on the premises or any part thereof, or on the Facility of which the premises may be a part, shall at any time be higher than it otherwise would be, then the Lessee shall pay to PATH on demand that part of all insurance premiums paid by PATH which shall have been charged because of such violation or failure by the Lessee; (c) use the premises or any equipment in any manner which will in any way endanger, interfere with, hamper or be harmful to the operation of the Tunnel, including the operation of the signals, communication facilities and other appurtenant equipment of PATH. Upon notice to the Lessee by PATH that any of its operations interferes with the Facility's operations, the Lessee will forthwith cease such operations. Except in case of emergency the Lessee may delay compliance with any direction from PATH to cease any of its operations in order to contest such direction by appropriate legal proceedings diligently prosecuted. The Lessee shall not delay compliance with any such direction if such delay will or may result in the creation or continuance of a condition endangering persons or property.

Section 9. Maintenance and Repair

(a) The Lessee shall take good care of, maintain and repair all of its cables, wires, connections and equipment which are at any time installed in, on, or through the premises or the Facility.

(b) The Lessee shall be liable for the cost of repairing, replacing, rebuilding, and painting all or any part of the premises or the Facility which may be damaged or destroyed by the acts or omissions of the Lessee, its officers, members, employees, agents, representatives, contractors, or invitees. PATH will effectuate any such repairs to the property of PATH the Lessee is required to undertake hereunder.

(c) The Lessee shall have a right of access to and through the Facility for the purpose of inspecting, repairing and maintaining its cables, wires, connections and equipment, provided however that such inspection, repair and maintenance work shall be performed by the Lessee and its agents or employees only under the supervision of a duly authorized representative of PATH, in periods commencing at 1:00 o'clock A.M. and ending at 5:00 o'clock A.M. on the same day, except as otherwise specifically authorized by PATH, including but not limited to emergency situations, and shall be at all times subject to the rules and regulations of PATH. Such right of access shall be exercised only after permission is received from PATH, to be granted upon reasonable notice, and shall be, where necessary, by use of work trains provided by PATH and paid for by the Lessee.

(d) To the extent consistent with its other obligations, PATH will respond to reasonable requests made by the Lessee for assistance in performing the Lessee's maintenance and repair obligations. Such requests shall be made in writing to PATH's Deputy General Manager.

(e) The Lessee shall maintain all points of connection between its equipment and the structures of PATH so that no water shall pass at, around or through such points of connection to the property or structure of PATH.

Section 10. Casualty

(a) In the event that, as a result of any casualty, the premises are damaged, without the fault of the Lessee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons doing business with it, so as to render them unfit or unsafe for the

purpose of the letting hereunder, in whole or in part, then the Lessee and PATH shall each have the right on thirty (30) days' notice to the other to terminate the letting under this Agreement with the same effect as expiration, provided that the Lessee shall not be entitled to terminate this Agreement if the Lessee is under notice of default as to which any applicable period to cure has passed, or under notice of termination from PATH either on the date of the giving of its notice to PATH or on the effective date thereof. In the event of termination pursuant to this provision, this Agreement and the letting hereunder shall cease and expire as if the effective date of termination stated in the notice were the date originally stated herein for the expiration of this Agreement. Termination of the letting by either party pursuant to the provisions of this paragraph shall not relieve the Lessee of any obligations or liabilities which shall have accrued on or before the effective date of termination stated in the notice, or which shall mature on such date.

(b) The parties hereby stipulate that as to the portions of the premises in the State of New Jersey neither the provisions of Titles 46:8-6 and 46:8-7 of the Revised Statutes of New Jersey nor those of any other similar statute shall extend or apply to this Agreement, and as to the portions of the premises in the State of New York, neither the provisions of Section 227 of the Real Property Law of New York, nor those of any other similar statute shall extend or apply to this Agreement.

(c) The provisions of paragraph (a) of this Section shall not apply in the event of damage to the premises resulting from a casualty occurring due to the fault of the Lessee, its officers, employees, customers, invitees or other persons doing business with the Lessee, but in such event any repairs or rebuilding shall be performed at the Lessee's sole cost and expense, in accordance with the provisions of Section 8 of this Agreement.

Section 11. Indemnity

(a) The Lessee shall indemnify and hold harmless PATH, its Directors, officers, agents, representatives and employees from all loss and expense whatsoever and all injury or damage (including wrongful death) to PATH, its officers, agents and employees, and to its or their property, and from all claims and demands of third persons, including but not limited to those due to death or personal injuries or for property damage arising out of any default of the Lessee in performing or observing any term or provision of this Agreement, or out of the use or occupancy of the premises by the Lessee or by others with its consent, or out of any of the acts or omissions of the Lessee, its

officers, members, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Lessee, other than employees, agents and contractors of PATH, unless such employees, agents or contractors are engaged in the performance of an act or obligation which the Lessee is required, or has agreed to pay for, or arising out of the installation, maintenance, operation, repair, existence or removal of the Lessee's cables and equipment, except where such loss, expense, injury or damage is caused by, or such claim or demand arises from the sole negligence of PATH or the affirmative wilful acts of PATH.

(b) If so directed, the Lessee shall at its own expense defend any suit based upon any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining express advance permission from the General Counsel of PATH raise any defense involving in any way the jurisdiction of the tribunal over the person of PATH, the immunity of PATH, its Directors, officers, agents or employees, the governmental nature of PATH or the provision of any statutes respecting suits against PATH.

Section 12. Consequential Damages

Neither PATH nor the Lessee shall in any case be liable to the other party for consequential damages of any kind including, without limitation, damages suffered by the Lessee or any other user of the Lessee's cables, on account of interruption of the Lessee's services, from any cause whatsoever.

Section 13. Changes in the Facility

PATH shall have the right to reconstruct, rebuild, enlarge or add to the Tunnel or any portion of the Facility at any time or times when, in the opinion of PATH, it shall be or become necessary, convenient or desirable so to do, in the interest of itself or of the general public, and in the exercise of the said right, to reconstruct and relocate the duct or other property of PATH constituting a part of the premises hereunder, and to cause the reconstruction or relocation of the Lessee's cables and equipment, or any one or more elements thereof; provided that PATH shall give six (6) months' notice in writing of its intention to so reconstruct or relocate.

Section 14. Non-exclusive Agreement

Nothing contained in this Agreement shall be construed or deemed to prevent or hinder PATH from granting privileges (which may or may not be equivalent to the privileges granted to

the Lessee hereunder) in the use of its Tunnels, or any approaches thereto or any of its facilities, to any one or more (including all) telephone, telegraph, television or other communications companies or common carriers, provided that the aforesaid privileges shall not materially and/or permanently interfere with the rights and privileges granted to the Lessee under this Agreement.

Section 15. Condemnation

(a) In any action or proceeding instituted by any governmental or other authorized agency or agencies for the taking for a public use of any interest in all or any part of the premises or of the Facility in which the premises is located, or in case of any deed, lease or other conveyance in lieu thereof (all of which are in this Section referred to as "taking or conveyance") the Lessee shall not be entitled to assert any claim to any compensation, award or part thereof made or to be made therein or therefor or any claim to any consideration or rental or any part thereof paid therefor, or to institute any action or proceeding or to assert any claim against such agency or agencies or against PATH for or on account of any such taking or conveyance except for the possible claim to an award for cables and equipment owned and installed by the Lessee, it being understood and agreed between PATH and the Lessee that PATH shall be entitled to all the compensation or awards made or to be made or paid and all such consideration or rentals, free of any claim or right of the Lessee. No taking by or delivery to any governmental authority under this paragraph (a) shall be or be construed to be an eviction of the Lessee or be the basis for any claim by the Lessee for damages, consequential or otherwise.

(b) In the event of a taking or conveyance of the premises by any governmental or other authorized agency or agencies, the letting under this Agreement shall, as of the date possession is taken from PATH by such agency or agencies, cease and determine in the same manner and with the same effect as if the term of the letting had on that date expired.

(c) It is understood and agreed that the reference in this Section to a "governmental or other authorized agency or agencies" shall not be deemed to include or refer to PATH.

(d) The provisions of this Section to the contrary notwithstanding, the Lessee shall not be prevented thereby from making a possible claim against the condemning party for an award for moving expenses or loss of business, or for improvements or

non-trade fixtures owned or installed by the Lessee if (i) such claim is then allowed by law and (ii) such award is made separate and apart from the award made or to be made to PATH in such proceeding and will not directly or indirectly reduce the amount thereof. Nothing herein shall be deemed a representation or recognition by PATH of the validity or legality of any such claim.

Section 16. Assignment and Sublease

(a) During the term of the letting under this Agreement, the Lessee covenants and agrees that it will not sell, assign, transfer, mortgage, pledge, hypothecate, encumber, or in any way convey or dispose of the premises, or this Agreement or any part thereof, or any rights created thereby, or the letting hereunder, or any part thereof, or any license or other interest of the Lessee therein, without the prior written consent of PATH.

(b) Notwithstanding the provisions of paragraph (a), above, the Lessee shall have the right to assign this Agreement and the letting hereunder in its entirety to a person, legal entity or corporation which directly or indirectly controls, is controlled by, or is under common control with the Lessee, or into or with which the Lessee is merged or consolidated, if all the conditions stated in subparagraph (a)(5) of Section 17 are met and such assignment is required in connection with such merger or consolidation, or to a person, legal entity or corporation which acquires all or substantially all of the assets of the Lessee, provided however that any such assignee shall use the premises solely for the purposes set forth in Section 3, and provided further that no such assignment shall be effective until an agreement in the form annexed hereto as "Exhibit Y" shall have been executed by the Port Authority, the Lessee and the proposed assignee, such assignment to continue only as long as the proposed assignee remains in the above-described relationship to the Lessee. If such relationship is no longer in effect, in addition to all other rights and remedies under this Agreement, the Port Authority shall have the right to revoke its consent to such assignment, and the Lessee and assignee will immediately cause this Agreement and the letting hereunder to be reassigned to the Lessee. The Lessee and a proposed assignee shall present in advance all documents, information and other data which the Port Authority may reasonably require relating to the relationship between them, and during the continuance of any approved assignment they shall supply such additional or current documentation or other data as the Port Authority may from time-to-time reasonably require. "Control" or "controlled" as used in this paragraph (b) shall mean: (x) with respect to a corporation, legal or beneficial ownership of not less than fifty-one percent

(51%) of the issued and outstanding shares of the capital stock and voting rights (with the power to exercise such voting rights) of such corporation, and (y) with respect to a firm or other business entity, other than a corporation, the power to direct the management and policies of such firm or other business entity, whether by legal or beneficial ownership, and in the case of any indirect control, each of the entities in the chain between the Lessee and any assignee shall directly control or be directly controlled by the immediately adjacent entity in such chain.

(c) The Lessee shall not sublet the premises or any part thereof without the prior written consent of PATH.

(d) If the Lessee assigns, sells, conveys, transfers, mortgages, pledges or sublets in violation of paragraphs (a) or (b) of this Section or if the premises is occupied by anybody other than the Lessee, PATH may collect rent from any assignee, sublessee, or anyone who claims a right to this Agreement or letting or who occupies the premises, and shall apply the net amount collected to the rental herein reserved, and no such collection shall be deemed a waiver by PATH of the covenants contained in paragraphs (a) and (b) of this Section nor an acceptance by PATH of any such assignee, sublessee, claimant, or occupant as Lessee, nor a release of the Lessee by PATH from further performance by the Lessee of the covenants contained herein.

(e) The Lessee shall not use, or permit any person to use, the premises or any portion thereof, except for the purposes set forth in the Section of this Agreement entitled "Rights of User by the Lessee." It is understood and agreed that the Lessee's granting to its customers of indefeasible rights to use fiber optic strands installed by the Lessee in the premises for communications and other related services, as well as sales and/or leases of fiber optic strands shall not be deemed an assignment or sublease for purposes of this Section, provided however that nothing herein set forth shall relieve or be deemed to relieve the Lessee of any of its maintenance and repair obligations under Section 9 of this Agreement or otherwise.

Section 17. Termination

(a) If any one or more of the following events shall occur, that is to say:

(1) The Lessee shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors,

or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement or its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any State thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all its property; or

(2) By order or decree of a court the Lessee shall be adjudged bankrupt or an order shall be made approving a petition filed by any of the creditors or, if the Lessee is a corporation, by any of the stockholders of the Lessee, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any State thereof; or

(3) A petition under any part of the Federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Lessee and shall not be dismissed or vacated ninety (90) days after the filing thereof; or

(4) The letting hereunder or the interest or estate of the Lessee under this Agreement shall be transferred to, pass to devolve upon, by operation of law or otherwise, any other person, firm or corporation except as expressly permitted in subparagraph (a)(5) of this Section and in Section 16 of this Agreement.

(5) The Lessee, if a corporation, shall, without the prior consent of PATH become a possessor or merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution unless the corporation resulting from any such merger or consolidation has a financial standing as of the date of the merger or consolidation at least as good as that of the Lessee as of such date, by which is meant that its tangible net worth and the amount of its working capital shall each be at least as favorable as that of the Lessee.

(6) The Lessee is a partnership, and the said partnership shall be dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court having jurisdiction, or for any other reason whatsoever; or

(7) By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or government board, agency or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all the property of the Lessee, or any execution or attachment shall be issued against the Lessee or any of its property, whereupon possession of the premises shall be taken by someone other than the Lessee, and any such possession or control shall continue in effect for a period of fifteen (15) days; or

(8) Any lien is filed against the premises or any improvement located thereon because of any act or omission of the Lessee and is not removed or discharged within thirty (30) days; or

(9) The Lessee shall fail to duly and punctually pay the rentals or to make any other payment required hereunder when due to PATH and such failure shall continue for a period of ten (10) days after PATH shall have given the Lessee a written statement therefor, provided that PATH shall not be required to give such a written statement to the Lessee on more than two occasions in a given calendar year; in the event of any subsequent failure to make any payment in such calendar year, the provisions of this Section 20, and all other remedies provided under this Agreement, shall be fully applicable and available to PATH without any such written statement required to be given by PATH to the Lessee; or

(10) The Lessee shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Agreement on its part to be kept, performed, or observed, within twenty (20) days after actual receipt of notice of default thereunder from PATH (except where fulfillment of its obligation requires activity over a period of time, and the Lessee shall have commenced to perform whatever may be required for fulfillment within ten (10) days after receipt of notice and continues such performance without interruption except for causes beyond its control);

then upon the occurrence of any such event or at any time thereafter during the continuance thereof, PATH may by ten (10) days' notice terminate the letting, such termination to be effective upon the date specified in such notice. Such right of termination and the exercise thereof shall be and operate as a conditional limitation.

(b) If any of the events enumerated in subdivision (a) of this Section shall occur prior to the letting, the Lessee shall not be entitled to enter into possession of the premises and PATH, upon the occurrence of any such event or at any time thereafter during the continuance thereof by 24 hours' notice, may cancel the interest of the Lessee under this Agreement, such cancellation to be effective upon the date specified in such notice.

(c) No acceptance by PATH of rentals, fees, charges or other payments in whole or in part for any period or periods after a default in any of the terms, covenants and conditions to be performed, kept or observed by the Lessee shall be deemed a waiver of any right on the part of PATH to terminate the letting.

(d) No waiver by PATH of any default on the part of the Lessee in performance of any of the terms, covenants or conditions hereof to be performed, kept or observed by the Lessee shall be or be construed to be a waiver by PATH of any other or subsequent default in performance of any of the said terms, covenants and conditions.

(e) The rights of termination described above shall be in addition to any other rights of termination provided in this Agreement and in addition to any rights and remedies that PATH would have at law or in equity consequent upon any breach of this Agreement by the Lessee, and the exercise by PATH of any right of termination shall be without prejudice to any other such rights and remedies.

(f) The Lessee shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of rental which may be brought by PATH unless such claims would be deemed to have been waived if not so interposed. Nothing herein shall be deemed to imply that there is any such claim that would be waived under the present laws of the State of New York if it were not interposed in any such action or proceeding.

Section 18. Right of Re-entry

PATH shall, as an additional remedy upon the giving of a notice of termination as provided in Section 17, have the right to re-enter the premises and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or any other legal proceedings or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or

diminish any of the obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 19. Waiver of Redemption

The Lessee hereby waives any and all rights of redemption, granted by or under any present or future law, arising in the event it is evicted or dispossessed for any cause, or in the event PATH obtains or retains possession of the premises in any lawful manner.

Section 20. Survival of the Obligation of the Lessee

(a) In the event that the letting shall have been terminated in accordance with a notice of termination as provided in Section 17, or the interest of the Lessee canceled pursuant thereto, or in the event that PATH has reentered, regained or resumed possession of the premises in accordance with the provisions of Section 18, all the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of this Agreement, and the amount or amounts of damages or deficiency shall become due and payable to PATH, as more specifically stated in paragraph (b), below, to the same extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession had taken place.

(b) Immediately upon any termination or cancellation pursuant to the Section of this Agreement entitled "Termination", or upon any re-entry, regaining or resumption of possession in accordance with the Section of this Agreement entitled "Right of Re-entry", there shall become due and payable by the Lessee to PATH, in addition to rental accrued prior to the effective date of termination, without notice or demand and as damages, the sum of the following:

(1) subject to the provisions of paragraph (c) below, an amount equal to the then-present value of all annual basic rental provided for in this Agreement for the entire term, following the effective date of termination, as originally fixed in the Section of this Agreement entitled "Term," less the amount thereof which may have been actually paid by the Lessee; and

(2) the amount of all other unfulfilled monetary obligations of the Lessee under this Agreement, including

without limitation thereto, all sums constituting additional rental hereunder and the cost to and expenses of PATH for fulfilling all other obligations of the Lessee which would have accrued or matured during the balance of the term or on the expiration date originally fixed or within a stated time after expiration or termination; and

(3) an amount equal to the out-of-pocket cost to and the out-of-pocket expenses of PATH in connection with the termination, cancellation, regaining possession and restoring and reletting the premises, PATH's reasonable legal expenses and costs (whether those of PATH's Law Department or otherwise), and PATH's out-of-pocket cost and expenses for the care and maintenance of the premises during any period of vacancy, and any brokerage fees and commissions in connection with any reletting.

(c) PATH may at any time bring an action to recover all the damages as set forth above not previously recovered in separate actions, or it may bring separate actions to recover the items of damages set forth in subparagraphs (2) and (3) of paragraph (b), above, and separate actions periodically to recover from time-to-time only such portion of the damages set forth in subparagraph (1) of paragraph (b), above, as would have accrued as rental up to the time of the action if there had been no termination or cancellation. In any such action the Lessee shall be allowed a credit against its survived damages obligations equal to the amount which PATH shall have actually received from any tenant, licensee, permittee or other occupier of the premises or a part thereof during the period for which damages are sought, and if recovery is sought for a period subsequent to the date of suit a credit equal to the market rental value of the premises during such period (discounted to reflect the then present value thereof). If at the time of such action PATH has relet the premises, the rental for the premises obtained through such reletting shall be deemed to be the market rental value of the premises or be deemed to be the basis for computing such market rental value if less than the entire premises were relet. In no event shall any credit allowed to the Lessee against its damages for any period exceed the then present value of the basic rental which would have been payable under this Agreement during such period if a termination or cancellation had not taken place. In determining present value of rental an interest rate of 6% per annum shall be used.

Section 21. Reletting by PATH

PATH, upon termination or cancellation pursuant to

Section 17, or upon any re-entry, regaining or resumption of possession pursuant to Section 18, may occupy the premises or may relet the premises, and shall have the right to permit any person, firm or corporation to enter upon the premises and use the same. Such reletting may be of part, only, of the premises or of the premises or a part thereof together with other space, and for a period of time the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. PATH shall also, upon termination or cancellation pursuant to Section 17, or upon its re-entry, regaining or resumption of possession pursuant to Section 18, have the right to repair or to make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by PATH (the mere right to use and occupy not being sufficient however), there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the said premises or portion thereof during the balance of the letting as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as PATH may during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by PATH in connection therewith. No such reletting shall be or be construed to be an acceptance of surrender.

Section 22. Remedies to be Non-exclusive

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to PATH at law or in equity.

Section 23. Surrender

(a) The Lessee covenants and agrees to yield and deliver peaceably to PATH possession of the premises on the date of the cessation of the letting, whether such cessation be by termination, expiration or otherwise, promptly and in good condition, such reasonable wear excepted as would not adversely affect or interfere with a first-class, efficient and proper operation such as is required under this Agreement.

(b) Subject to the provisions of Section 5, the Lessee shall have the right at any time during the letting, and, on or

before the expiration or earlier termination of the letting, shall so remove, at its own cost and expense, its cables and the removable appurtenant equipment installed in the Tunnel or elsewhere at the Facility. If the Lessee shall fail to remove its property on or before the termination or expiration of the letting, PATH may remove such property to a public warehouse for deposit or retain the same in its own possession, and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale and second to any sums owed by the Lessee to PATH, with any balance remaining to be paid to the Lessee; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to PATH on demand.

Section 24. Acceptance of Surrender of Lease

No agreement of surrender or to accept a surrender shall be valid unless and until the same shall have been reduced to writing and signed by the duly authorized representatives of PATH and of the Lessee. Except as expressly provided in this Section, neither the doing of, nor any omission to do, any act or thing, by any of the officers, agents or employees of PATH shall be deemed an acceptance of a surrender of the letting or of this Agreement.

Section 25. Brokerage

The Lessee represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection with this Agreement. The Lessee shall indemnify PATH and save it harmless from any and all claims for brokerage, commission, or fees made by any persons, firms or corporations whatsoever for services in connection with the negotiation and execution of this Agreement.

Section 26. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either party shall be in writing, and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an office of such party, officer or representative during regular business hours; or (iii) delivered to the residence of such party, officer or representative at any time; or (iv) if directed to the Lessee, delivered to the premises at any time; or (v) forwarded to such party, officer or representative at the office or residence address by registered or certified mail. Until further notice,

PATH hereby designates its Director/General Manager and the Lessee designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom notices and requests may be served, and PATH designates its office at 1 PATH Plaza, 6th Floor, Jersey City, New Jersey 07306, and the Lessee designates its office, the address of which is set forth on the first page of this Agreement, as their respective offices where notices and requests may be served.

(b) If any notice is mailed or delivered, the giving of such notice shall be complete upon receipt or, in the event of a refusal by the addressee, upon the first tender of the notice to the addressee or at the permitted address.

Section 27. Payments

(a) All payments required of the Lessee by this Agreement shall be mailed to the office of the Treasurer of PATH, One World Trade Center, New York, New York 10048, or to such other officer or address as may be substituted therefor.

(b) No payment by the Lessee or receipt by PATH of a lesser rental amount than that which is due and payable under the provisions of this Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest rental then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction, and PATH may accept such check or payment without prejudicing in any way its right to recover the balance of such rental or to pursue any other remedy provided in this Agreement or by law.

Section 28. Quiet Enjoyment

PATH covenants and agrees that as long as it remains the owner of the Facility, PATH hereby agreeing to make good faith efforts to similarly obligate any successor owner thereof, the Lessee, upon paying all rentals hereunder and performing all the covenants, conditions and provisions of this Agreement on its part to be performed, shall and may peaceably and quietly have, hold and enjoy the premises free of any act or acts of PATH, except as expressly permitted in this Agreement; it being understood and agreed that PATH's liability hereunder shall obtain only so long as it remains the owner of the Facility.

Section 29. Headings

The section headings and the paragraph headings, if any,

are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of any provision hereof.

Section 30. Construction and Application of Terms

(a) Wherever in this Agreement a third person singular neuter pronoun or adjective is used referring to the Lessee, the same shall be taken and understood to refer to the Lessee, regardless of the actual gender or number thereof.

(b) Whenever in this Agreement the Lessee is placed under an obligation or covenants to do or to refrain from or is prohibited from doing, or is entitled or privileged to do, any act or thing, the following shall apply:

(1) If the Lessee is a corporation, its obligations shall be performed or its rights or privileges shall be exercised only by its officers and employees; or

(2) If the Lessee is an unincorporated association or a business or "Massachusetts" trust, the obligation shall be that of its members or trustees, as well as of itself, and shall be performed only by its members or trustees, and officers and employees, and the right or privilege shall be exercised only by its members or trustees, and its officers and employees; or

(3) If the Lessee is a partnership, the obligation shall be that of its partners and shall be performed only by its partners and employees and the rights or privileges shall be exercised only by its partners and employees; or

(4) If the Lessee is an individual, the obligations shall be that of himself (or herself) and shall be performed only by himself (or herself) and his (or her) employees and the right or privilege shall be exercised only by himself (or herself) and his (or her) employees.

(5) None of the provisions of this paragraph (b) shall be taken to alter, amend or diminish any obligation of the Lessee assumed in relation to its invitees, customers, agents, representatives, contractors or other persons, firms or corporations doing business with it.

(c) If more than one individual or other legal entity is the Lessee under this Agreement, each and every obligation hereof shall be the joint and several obligation of each such individual or other legal entity.

(d) The Lessee's representative, hereinbefore specified in this Agreement (or such substitute as the Lessee may hereafter designate in writing), shall have full authority to act for the Lessee in connection with this Agreement and any things done or to be done hereunder, and to execute on the Lessee's behalf any amendments or supplements to this Agreement or any extension thereof.

(e) This Agreement does not constitute the Lessee the agent or representative of PATH for any purpose whatsoever.

(f) All designations of time herein contained shall refer to the time system then officially in effect in the municipality wherein the premises are located.

(g) No greater rights or privileges with respect to the use of the premises or any part thereof or with respect to the Facility are granted or intended to be granted to the Lessee by this Agreement, or by any provision thereof, than the rights and privileges expressly granted hereby.

Section 31. Definitions

The following terms, when used in this Agreement, shall have the respective meanings given below:

(a) "Letting" shall mean the letting under this Agreement for the original term stated herein, and shall include any extensions thereof which may be made pursuant to the provisions of this Agreement.

(b) "Causes or conditions beyond the control of PATH", shall mean and include acts of God, the elements, weather conditions, tides, earthquakes, settlements, fire, acts of Governmental authority, war, shortage of labor or materials, acts of third parties for which PATH is not responsible, injunctions, labor troubles or disputes of every kind (including all those affecting PATH, its contractors, suppliers or subcontractors) or any other condition or circumstances, whether similar to or different from the foregoing (it being agreed that the foregoing enumeration shall not limit or be characteristic of such conditions or circumstances) which is beyond the control of PATH or which could not be prevented or remedied by reasonable effort and at reasonable expense.

Section 32. Late Charges

If the Lessee should fail to pay any amount required under this Agreement when due to PATH, including without limit any payment of annual basic rental, additional annual basic rental or other rental or any payment of utility or other charges or if any such amount is found to be due as the result of an audit, then, in such event, PATH may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late, charge period. There shall be twenty-four late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to PATH as the result of PATH audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by PATH. No acceptance by PATH of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of PATH to payment of any late charge or late charges payable under the provisions of this Section with respect to such unpaid amount. Each late charge shall be recoverable by PATH in the same manner and with like remedies as if it were originally a part of the rental reserved in this Agreement. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of PATH under this Agreement, including without limitation PATH's rights set forth in this Section of this Agreement entitled "Termination" or (ii) any obligations of the Lessee under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

Section 33. Force Majeure

Except as otherwise provided in this Agreement, neither PATH nor the Lessee shall be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control, provided that this provision shall not apply to the Lessee's obligations to pay the rentals or any other fees, charges or money payments due hereunder. Further,

neither PATH nor the Lessee shall be liable unless the failure, delay or interruption shall result from failure on the part of such party to use reasonable care to prevent or reasonable efforts to cure such failure, delay or interruption.

Section 34. Liability Insurance

(a) The Lessee in its own name as assured shall secure, maintain and pay the premium on a policy of Commercial General Liability Insurance for such coverage as may be stipulated by PATH, covering the Lessee's operations hereunder, which shall be effective throughout the letting under this Agreement and shall be in the following minimum limits: Premises- Operations, Products- Completed Operations, Broad Form Property Damage and Independent Contractor Coverage, with a contractual liability endorsement covering the obligations assumed by the Lessee under this Agreement, covering bodily injury including wrongful death and property damage in the minimum amount of \$3,000,000 combined single limit for each occurrence.

(b) PATH shall be named as an additional insured in any policy of liability insurance required by this Section.

(c) The Lessee shall also require its contractors and their subcontractors to secure, maintain and pay the premiums on a policy of Workers' Compensation Insurance in accordance with the requirements of law in the state(s) where the Lessee's construction work will take place. The policy shall include an endorsement for the Federal Employers Liability Act in a limit of \$1,000,000 per accident.

(d) As to any insurance required by this Section, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof shall be delivered to PATH within twenty (20) days prior to the commencement date of the letting hereunder. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified, without giving thirty (30) days' written advance notice thereof to PATH/Port Authority of New York and New Jersey, Att'n.: General Manager, Risk Financing, One World Trade Center - 64N, New York, NY 10048. A renewal policy shall be delivered to PATH at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting. If at any time any of the policies shall be or become unsatisfactory to PATH as to form or substance, or if any of the carriers issuing such policies shall be or become unsatisfactory to PATH, the Lessee shall promptly obtain a new and satisfactory policy in replacement.

(e) Each policy of insurance required by this Section shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of PATH, raise any defense involving in any way the jurisdiction of the tribunal over the person of PATH or its parent, The Port Authority of New York and New Jersey, the immunity of PATH or the Port Authority, or their respective Directors, Commissioners, officers, agents or employees, the governmental nature of PATH or the Port Authority or the provisions of any statutes respecting suits against PATH or the Port Authority. No such policy shall contain any provisions for exclusions from liability other than provisions for exclusions from liability forming part of the standard, basic unamended and unendorsed Commercial General Liability Insurance Policy. The liability policies and certificate of insurance shall contain a cross-liability endorsement, but such endorsement shall not limit, vary, change or affect the protection afforded PATH as an additional insured.

Section 35. Services and Utilities

PATH shall not furnish or supply to the Lessee any services or utilities whatsoever.

Section 36. Premises

The Lessee acknowledges that it has not relied upon any representation or statement of PATH or its Directors, officers, employees or agents as to the suitability of the premises for the operations permitted on the premises by this Agreement. Without limiting any obligation of the Lessee to commence operations hereunder at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the premises will be used initially or at any time during the letting which is in a condition unsafe or improper for the conduct of the Lessee's operations hereunder so that there is possibility of injury or damage to life or property.

Section 37. Governmental Compliance

In the event that all or any portion of the premises is required by PATH to comply with any present or future governmental law, rule, regulation, requirement, order or direction, PATH shall give the Lessee notice that all or any such portion of the premises is so required and the Lessee shall deliver all or any such portion of the premises so required on the date specified in such notice and, if the Lessee does not so deliver, PATH may take the same. No such taking or delivery shall be or be construed to be an eviction of the Lessee or a breach of this Agreement. In the

event that the Lessee has received a notice hereunder it shall deliver all or any such portion of the premises so required in the same condition as that required hereunder for the delivery of the premises on the cessation of the letting. In the event of the taking or delivery of all the premises, this Agreement and the letting hereunder shall on the day of such taking or delivery cease and expire as if that day were the date originally stated herein for the expiration of this Agreement; and, in the event of the taking or delivery of any portion of the premises, then, from and after such taking or delivery, such portion of the premises shall cease to be a part of the premises hereunder.

Section 38. Non-Liability of Individuals

Neither the Directors of PATH nor any of them, nor any officer, agent or employee thereof shall be charged personally by the Lessee with any liability or be held personally liable to it under any term or provision of this Agreement or because of its execution or attempted execution, or because of any breach or attempted or alleged breach thereof.

Section 39. Labor Harmony Obligation

The Lessee shall use its best efforts, taking all measures and means, to insure labor harmony in its operations at the Facility, all to the end of avoiding and preventing strikes, walkouts, work stoppages, slowdowns, boycotts and other labor trouble and discord. The Lessee particularly recognizes the essential necessity of the continued and full operation of the Facility, and of the PATH railroad system.

Section 40. Ethics

(a) During the term of the letting under this Agreement, the Lessee shall not offer, give or agree to give anything of value either to a Port Authority employee, agent, job shopper, consultant, construction manager or other person or firm representing PATH, or to a member of the immediate family (i.e., a spouse, child, parent, brother or sister) of any of the foregoing, in connection with the performance by such employee, agent, job shopper, consultant, construction manager or other person or firm representing PATH, of duties involving transactions with the Lessee on behalf of PATH, whether or not such duties are related to this Agreement or any other Port Authority lease, contract or matter. Any such conduct shall be deemed a material breach of this Agreement.

(b) As used herein "anything of value" shall include but not be limited to any (1) favors, such as meals,

entertainment, transportation (other than that contemplated by this Agreement or any other Port Authority lease or contract), etc. which might tend to obligate PATH employee to the Lessee, and (2) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include compensation contemplated by this Agreement or any other Port Authority lease or contract.

(c) In addition, during the term of the letting under this Agreement, the Lessee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated as of July 18, 1994 (a copy of which is available upon request to the Office of the Secretary of PATH).

(d) The Lessee shall include the provisions of this Section in each sublease, contract or subcontract entered into under and pursuant to the provisions of this Agreement.

(e) The Lessee certifies that it has not made any offers or agreements, or given, or agreed to give anything of value (as defined in this Section) or taken any other action with respect to any Port Authority employee or former employee or immediate family members of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated as of July 18, 1994, nor does the Lessee have any knowledge of any act on the part of a Port Authority employee or former Port Authority employee relating either directly or indirectly to the Lessee which constitutes a breach of ethical standards set forth in said Code.

Section 41. Guaranty

The Lessee shall provide and maintain in full force and effect throughout the initial term of the letting under this Agreement (covering the period described in paragraph (a) of Section 2 hereof) a contract of absolute and unconditional guaranty of the due and punctual payment of the rentals, fees and other monetary obligations of the Lessee as set forth in this Agreement and of the full, faithful and prompt performance, observance and fulfillment on the part of the Lessee of all the terms, covenants and conditions of this Agreement to be kept, observed, performed and fulfilled, and such Contract of Guaranty shall be in the form annexed hereto and shall be executed by Columbia Energy Group, a corporation of the State of Delaware having an office and place of business at 13880 Dulles Corner

Lane, Herndon, Virginia 20171-4600, contemporaneously with the execution of this Agreement. In the event the Lessee shall elect to extend the term of the letting under this Agreement for one or more consecutive five (5)-year periods, as provided in paragraph (b) of Section 2 and paragraph (b) of Section 4 hereof, then, with respect to each such extension period, PATH, in its sole discretion and upon its standard terms and conditions, shall have the right to require the Lessee to furnish a security deposit, or other acceptable form of security, for the Lessee's full, faithful and prompt performance of and compliance with all of the terms, provisions covenants and conditions of this Agreement on its part to be fulfilled, kept, performed or observed. The Lessee shall be required to furnish PATH with such data and financial reports and documentation as it shall reasonably require in order to determine the need for and amount of such security deposit or other form of security.

Section 42. Entire Agreement

This Agreement consists of the following: pages 1 through 37, inclusive, plus Exhibit A and Schedules F and F-1. It constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by PATH and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon PATH unless expressed in writing in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

ATTEST:

PORT AUTHORITY TRANS-HUDSON CORPORATION

Karen Gladman
Asst. Secretary

BY *Gregory Zumbardo*
(Title) CHIEF TECHNOLOGY OFFICER

ATTEST:

COLUMBIA TRANSMISSION COMMUNICATIONS CORPORATION

Carl W. Sch
Asst. Secretary

BY *William Utterberg*
(Title) President

RMS

APPROVED:	
<u>Form</u>	<u>Terms</u>
<i>RM</i>	<i>JAM</i>

SCHEDULE F

PATH RIVER-CROSSING RATES (July 2000 - June 2001)

TOTAL NUMBER OF FIBER OPTIC STRANDS <u>(NORTH AND SOUTH TUBES)</u>	ANNUAL BASIC RENTAL RATE <u>(Per Linear Foot)</u>
0 - 144	\$ 18.90
145 - 288	\$ 23.10
289 - 432	\$ 27.30
433 - 576	\$ 31.50
577 - 720	\$ 35.70
721 - 864	\$ 39.90
865 - 1008	\$ 44.10
1009 - 1152	\$ 48.30
1153 - 1296	\$ 52.50

SCHEDULE F-1

PATH LAND RATES (July 2000 - June 2001)

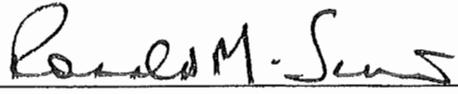
<u>NUMBER OF FIBER OPTIC STRANDS</u>	<u>ANNUAL BASIC RENTAL RATE (Per Linear Foot)</u>
0 - 144	\$ 8.40
145 - 288	\$ 10.50
289 - 432	\$ 12.60
433 - 576	\$ 14.70
577 - 720	\$ 16.80
721 - 864	\$ 18.90
865 - 1008	\$ 21.00
1009 - 1152	\$ 23.10
1153 - 1296	\$ 25.20

(New York "All-Purpose" Acknowledgment - PATH)

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 29th day of JUNE, 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared GREGORY BURNHAM, known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she signed the executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

RONALD M. SENIO
Notary Public, State of New York
No. 31-4636449
Qualified In New York County
Commission Expires 6/30/2000


(notarial seal and stamp)

(New York "All-Purpose Acknowledgment - Corporation)

STATE OF Virginia)
) ss.:
COUNTY OF Fairfax)

On the 15th day of June, 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she signed the executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.


(notarial seal and stamp)

**COLUMBIA ENERGY GROUP GUARANTY
OF
COLUMBIA TRANSMISSION COMMUNICATIONS CORPORATION**

GUARANTY

THIS GUARANTY is executed as of the 19th day of June, 2000 between COLUMBIA ENERGY GROUP, a Delaware corporation (the "Guarantor"), and PORT AUTHORITY TRANS-HUDSON CORPORATION, a corporation organized and existing under the laws of the States of New York and New Jersey (the "Landlord").

RECITAL

Columbia Transmission Communications Corporation, a Delaware corporation (the "Tenant") and the Landlord have entered into an Agreement of Lease – Tunnel Duct, being No. L-RR-202, dated as of June 15, 2000 (the "Lease"). As an inducement to the Landlord to enter into the Lease and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor covenants and agrees as follows:

1. Guaranty of Payment. The Guarantor hereby irrevocably and unconditionally guarantees the due and punctual payment of any and all present and future rentals, obligations and liabilities of all kinds of the Tenant to the Landlord pursuant to the Lease, (collectively, the "Guaranteed Obligations"), subject to the limits set forth herein. Upon any failure by the Tenant to pay any of the Guaranteed Obligations, the Guarantor agrees that it will forthwith on demand pay any amounts which the Tenant has failed to pay the Landlord, at the place and in the manner specified in the Lease. This Guaranty is a guaranty of payment and not merely a guaranty of collection. The Guarantor agrees that the Landlord may resort to the Guarantor for payment of any of the Guaranteed Obligations, whether or not the Landlord shall have resorted to any collateral security, or shall have proceeded against any other obligor principally or secondarily obligated with respect to any of the Guaranteed Obligations.

2. Guaranty Unconditional and Absolute. The obligations of the Guarantor hereunder shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(i) any extension, renewal, settlement, compromise, waiver, discharge or release in respect of any Guaranteed Obligations of the Tenant;

(ii) the existence, or the receipt or application by the Landlord, or the extent of, or any release, exchange, surrender, non-perfection or invalidity of, any direct or indirect security for any of the Guaranteed Obligations;

(iii) any modification, amendment, waiver, extension of or supplement to any of the Lease or the Guaranteed Obligations agreed to from time to time by Tenant and the Landlord (whether or not consented to by the Guarantor);

(iv) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the Tenant (whether or not consented to by the Guarantor) or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting, releasing or discharging the Tenant or its assets, the Guarantor or any other guarantor of any of the Guaranteed Obligations;

(v) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Tenant, the Landlord or any other corporation or person, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(vi) the invalidity or unenforceability in whole or in part of the Lease or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations, or any provision of applicable law or regulation purporting to prohibit payment by the Tenant of amounts to be paid by it under the Lease or any of the Guaranteed Obligations;

(vii) any other act or omission to act or delay of any kind of the Tenant which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of the Guarantor's obligations hereunder.

3. Term: Reinstatement in Certain Circumstances. This Guaranty shall remain in full force and effect until and including (i) the last date of the Lease or (ii) terminated upon the termination of the Lease, whichever is earlier. Such end of the Lease term or termination shall not release Guarantor from liability for any Guaranteed Obligations arising prior to the effective date of such termination. If at any time any payment of any of the Guaranteed Obligations is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Tenant or otherwise, the Guarantor's obligations hereunder with respect to such payment shall be reinstated at such time as though such payment had not been made.

4. Waiver by the Guarantor. The Guarantor irrevocably waives acceptance hereof, diligence, presentment, demand, protest, notice of dishonor, notice of any sale of collateral and any notice not provided for herein, any right of subrogation to Landlord's rights against the Tenant under the Lease or otherwise, and any requirement that at any time any person, including the Landlord, exhaust any right to take any action against the Tenant or its assets or any other guarantor or person, including the assertion of any rights and remedies reserved to the Landlord under the Lease or the institution or prosecution of any judicial or other proceeding by the Landlord against the Tenant.

5. Subrogation. Upon making any payment hereunder, the Guarantor shall be subrogated to the rights of the Landlord against the Tenant with respect to such payment; provided that the Guarantor shall not enforce any right or receive any payment by way of subrogation until all of the Guaranteed Obligations then due shall have been paid in full and Landlord agrees to take at Guarantor's expense such steps as the Guarantor may reasonably request to implement such subrogation.

6. Stay of Acceleration Ineffective with Respect to Guarantor. In the event that acceleration of the time for payment of any amount payable by the Tenant under the Lease is stayed upon the insolvency, bankruptcy or reorganization of the Tenant, all such amounts otherwise subject to acceleration or required to be paid upon an early termination pursuant to the terms of the Lease shall nonetheless be payable by the Guarantor hereunder forthwith on demand by the Landlord.

7. Assignment: Successors and Assigns. The Guaranty shall be binding upon and inure to the benefit of the Guarantor and its successors and assigns and the Landlord and its successors and assigns. Neither party may assign its rights and obligations hereunder without the prior written consent of the other party, and any such purported assignment without such written consent will be void.

8. Amendments and Waivers. No provision of this Guaranty may be amended, supplemented or modified, nor any of the terms and conditions hereof waived, except by a written instrument executed by the Guarantor and the Landlord.

9. Remedies Cumulative. The rights, powers, remedies and privileges provided in this Guaranty are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law and any other agreement, including the rights and remedies of the Landlord under the Lease, and the Landlord's election to pursue, or not to pursue, its rights hereunder shall not have the effect of limiting, voiding or relinquishing any of the Landlord's rights or remedies under the Lease.

10. Limitation. Notwithstanding anything in this Guaranty to the contrary, Guarantor's annual liability under this Guaranty and the Landlord's right of recovery under the same shall be limited to the amounts specified on Schedule A attached hereto. Guarantor's liability hereunder shall be and is specifically limited to payments expressly required to be made under the Lease (even if such payments are deemed to be damages); and in no event shall Guarantor be subject hereunder to consequential, exemplary, equitable, loss of profits, punitive, or any other damages, except to the extent specifically provided in the Lease to be due from Tenant.

11. Representations and Warranties.

(A) The Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full corporate power to execute, deliver and perform this Guaranty.

(B) The execution, delivery and performance of the Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene any provision of law or of the Guarantor's constitutional documents or any contractual restriction binding on the Guarantor or its assets.

(C) All consents, authorizations and approvals of, and registrations and declarations with, any governmental authority necessary for the due execution, delivery and performance of this Guaranty have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by and no notice to or filing with, any governmental authority is required in connection with the execution, delivery or performance of this Guaranty.

(D) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

12. Notices. All notices or communications to the other party shall be in writing and shall be directed by registered or certified mail or overnight delivery service to:

To Guarantor:

Columbia Energy Group
Attention: Treasury Department
13880 Dulles Corner Lane
Herndon, VA 20171-4600

To Landlord:

Port Authority Trans-Hudson Corporation
Attention: Director/General Manager
1 Path Plaza, 6th Floor
Jersey City, NJ 07306

or such other address as each party shall from time to time specify.

13. GOVERNING LAW AND JURISDICTION. THIS GUARANTY WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE.

14. Third Party Beneficiaries. This Guaranty shall not be construed to create any third party beneficiary relationship as to or with any person or entity other than the Landlord.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed as of the date first above written.

COLUMBIA ENERGY GROUP

By: Philip R. Aldridge
Name: Philip R. Aldridge
Title: Treasurer & Vice President, Finance

Schedule A

The amounts guaranteed by the Guarantor are specified below:

<u>July 1, 2000 to June 30, 2001</u>	<u>\$1,892,468.10</u>
<u>July 1, 2001 to June 30, 2002</u>	<u>\$1,567,832.10</u>
<u>July 1, 2002 to June 30, 2003</u>	<u>\$1,226,964.30</u>
<u>July 1, 2003 to June 30, 2004</u>	<u>\$869,053.11</u>
<u>July 1, 2004 to September 30, 2005</u>	<u>\$493,246.36</u>

CERTIFIED RESOLUTION
COLUMBIA ENERGY GROUP

I, the undersigned, Secretary of Columbia Energy Group (the "Corporation"), a Delaware corporation, hereby certify that the following is a true and complete copy of resolutions duly adopted by the Board of Directors of said Corporation as of November 17, 1999, and that said resolutions have not been in any wise rescinded, modified or revoked, but are still in full force and effect.

Parent Guarantees, Letters of Credit and Other Forms of Credit Support

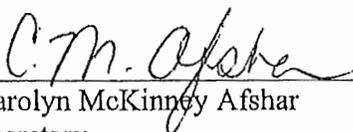
RESOLVED, that during the period of January 1, 2000 through December 31, 2000, the officers of the Corporation shall be, and they hereby are, authorized to (i) arrange for the granting to the Subsidiaries of letters of credit to be issued under the Corporation's Revolving Credit Facility or under a stand-alone facility, (ii) issue guarantees in the name of the Corporation on behalf of the Subsidiaries, and (iii) provide any other credit supports to the Subsidiaries as they deem necessary or appropriate from time to time, in such form as may be required by the beneficiary, in an amount outstanding at any one time for the Subsidiaries not to exceed in the aggregate \$1.78 billion, except that the Corporation's Chief Financial Officer may provide an additional amount of such credit supports for the Subsidiaries in an aggregate amount outstanding at any one time not to exceed ten percent of the authorized amount of credit supports for 2000 but in any event in an aggregate amount not to exceed \$178 million, *provided, however*, that all such letters of credit, guarantees and other forms of credit support, in order to come within the terms of this authorization, shall be authorized by the chief financial officer of each subsidiary, and shall be approved by the Corporation's Chief Financial Officer or such other person or persons as may be designated by the Chief Financial Officer;

General

RESOLVED, that each of the officers of the Corporation be, and hereby is, authorized and directed to take any and all actions, from time to time, including but not limited to the execution, filing and delivery of any instruments, appropriate forms, applications, agreements, notices, requests, certificates or other documents with any governmental authority, and to take any and all other actions necessary or appropriate to fully carry into effect the purposes of the foregoing resolutions and each of the transactions contemplated thereby; and

RESOLVED, that all actions previously taken on behalf of the Corporation by all officers, employees and agents of the Corporation in connection with the transactions contemplated by the foregoing resolutions, be, and hereby are, ratified, confirmed and approved in all respects.

WITNESS MY HAND and the seal of said Corporation this 13th day of June,
2000.



Carolyn McKinney Afshar
Secretary

(Seal)

**COLUMBIA ENERGY GROUP GUARANTY
OF
COLUMBIA TRANSMISSION COMMUNICATIONS CORPORATION**

GUARANTY

THIS GUARANTY is executed as of the 19th day of June, 2000 between COLUMBIA ENERGY GROUP, a Delaware corporation (the "Guarantor"), and PORT AUTHORITY TRANS-HUDSON CORPORATION, a corporation organized and existing under the laws of the States of New York and New Jersey (the "Landlord").

RECITAL

Columbia Transmission Communications Corporation, a Delaware corporation (the "Tenant") and the Landlord have entered into an Agreement of Lease – Tunnel Duct, being No. L-RR-202, dated as of June 15, 2000 (the "Lease"). As an inducement to the Landlord to enter into the Lease and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor covenants and agrees as follows:

1. Guaranty of Payment. The Guarantor hereby irrevocably and unconditionally guarantees the due and punctual payment of any and all present and future rentals, obligations and liabilities of all kinds of the Tenant to the Landlord pursuant to the Lease, (collectively, the "Guaranteed Obligations"), subject to the limits set forth herein. Upon any failure by the Tenant to pay any of the Guaranteed Obligations, the Guarantor agrees that it will forthwith on demand pay any amounts which the Tenant has failed to pay the Landlord, at the place and in the manner specified in the Lease. This Guaranty is a guaranty of payment and not merely a guaranty of collection. The Guarantor agrees that the Landlord may resort to the Guarantor for payment of any of the Guaranteed Obligations, whether or not the Landlord shall have resorted to any collateral security, or shall have proceeded against any other obligor principally or secondarily obligated with respect to any of the Guaranteed Obligations.

2. Guaranty Unconditional and Absolute. The obligations of the Guarantor hereunder shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(i) any extension, renewal, settlement, compromise, waiver, discharge or release in respect of any Guaranteed Obligations of the Tenant;

(ii) the existence, or the receipt or application by the Landlord, or the extent of, or any release, exchange, surrender, non-perfection or invalidity of, any direct or indirect security for any of the Guaranteed Obligations;

(iii) any modification, amendment, waiver, extension of or supplement to any of the Lease or the Guaranteed Obligations agreed to from time to time by Tenant and the Landlord (whether or not consented to by the Guarantor);

(iv) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the Tenant (whether or not consented to by the Guarantor) or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting, releasing or discharging the Tenant or its assets, the Guarantor or any other guarantor of any of the Guaranteed Obligations;

(v) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Tenant, the Landlord or any other corporation or person, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

(vi) the invalidity or unenforceability in whole or in part of the Lease or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations, or any provision of applicable law or regulation purporting to prohibit payment by the Tenant of amounts to be paid by it under the Lease or any of the Guaranteed Obligations;

(vii) any other act or omission to act or delay of any kind of the Tenant which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of the Guarantor's obligations hereunder.

3. Term; Reinstatement in Certain Circumstances. This Guaranty shall remain in full force and effect until and including (i) the last date of the Lease or (ii) terminated upon the termination of the Lease, whichever is earlier. Such end of the Lease term or termination shall not release Guarantor from liability for any Guaranteed Obligations arising prior to the effective date of such termination. If at any time any payment of any of the Guaranteed Obligations is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Tenant or otherwise, the Guarantor's obligations hereunder with respect to such payment shall be reinstated at such time as though such payment had not been made.

4. Waiver by the Guarantor. The Guarantor irrevocably waives acceptance hereof, diligence, presentment, demand, protest, notice of dishonor, notice of any sale of collateral and any notice not provided for herein, any right of subrogation to Landlord's rights against the Tenant under the Lease or otherwise, and any requirement that at any time any person, including the Landlord, exhaust any right to take any action against the Tenant or its assets or any other guarantor or person, including the assertion of any rights and remedies reserved to the Landlord under the Lease or the institution or prosecution of any judicial or other proceeding by the Landlord against the Tenant.

5. Subrogation. Upon making any payment hereunder, the Guarantor shall be subrogated to the rights of the Landlord against the Tenant with respect to such payment; provided that the Guarantor shall not enforce any right or receive any payment by way of subrogation until all of the Guaranteed Obligations then due shall have been paid in full and Landlord agrees to take at Guarantor's expense such steps as the Guarantor may reasonably request to implement such subrogation.

6. Stay of Acceleration Ineffective with Respect to Guarantor. In the event that acceleration of the time for payment of any amount payable by the Tenant under the Lease is stayed upon the insolvency, bankruptcy or reorganization of the Tenant, all such amounts otherwise subject to acceleration or required to be paid upon an early termination pursuant to the terms of the Lease shall nonetheless be payable by the Guarantor hereunder forthwith on demand by the Landlord.

7. Assignment: Successors and Assigns. The Guaranty shall be binding upon and inure to the benefit of the Guarantor and its successors and assigns and the Landlord and its successors and assigns. Neither party may assign its rights and obligations hereunder without the prior written consent of the other party, and any such purported assignment without such written consent will be void.

8. Amendments and Waivers. No provision of this Guaranty may be amended, supplemented or modified, nor any of the terms and conditions hereof waived, except by a written instrument executed by the Guarantor and the Landlord.

9. Remedies Cumulative. The rights, powers, remedies and privileges provided in this Guaranty are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law and any other agreement, including the rights and remedies of the Landlord under the Lease, and the Landlord's election to pursue, or not to pursue, its rights hereunder shall not have the effect of limiting, voiding or relinquishing any of the Landlord's rights or remedies under the Lease.

10. Limitation. Notwithstanding anything in this Guaranty to the contrary, Guarantor's annual liability under this Guaranty and the Landlord's right of recovery under the same shall be limited to the amounts specified on Schedule A attached hereto. Guarantor's liability hereunder shall be and is specifically limited to payments expressly required to be made under the Lease (even if such payments are deemed to be damages); and in no event shall Guarantor be subject hereunder to consequential, exemplary, equitable, loss of profits, punitive, or any other damages, except to the extent specifically provided in the Lease to be due from Tenant.

11. Representations and Warranties.

(A) The Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full corporate power to execute, deliver and perform this Guaranty.

(B) The execution, delivery and performance of the Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene any provision of law or of the Guarantor's constitutional documents or any contractual restriction binding on the Guarantor or its assets.

(C) All consents, authorizations and approvals of, and registrations and declarations with, any governmental authority necessary for the due execution, delivery and performance of this Guaranty have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by and no notice to or filing with, any governmental authority is required in connection with the execution, delivery or performance of this Guaranty.

(D) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

12. Notices. All notices or communications to the other party shall be in writing and shall be directed by registered or certified mail or overnight delivery service to:

To Guarantor:

Columbia Energy Group
Attention: Treasury Department
13880 Dulles Corner Lane
Herndon, VA 20171-4600

To Landlord:

Port Authority Trans-Hudson Corporation
Attention: Director/General Manager
1 Path Plaza, 6th Floor
Jersey City, NJ 07306

or such other address as each party shall from time to time specify.

13. GOVERNING LAW AND JURISDICTION. THIS GUARANTY WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE.

14. Third Party Beneficiaries. This Guaranty shall not be construed to create any third party beneficiary relationship as to or with any person or entity other than the Landlord.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed as of the date first above written.

COLUMBIA ENERGY GROUP

By: _____

Name: Philip R. Aldridge

Title: Treasurer & Vice President, Finance

Schedule A

The amounts guaranteed by the Guarantor are specified below:

<u>July 1, 2000 to June 30, 2001</u>	<u>\$1,892,468.10</u>
<u>July 1, 2001 to June 30, 2002</u>	<u>\$1,567,832.10</u>
<u>July 1, 2002 to June 30, 2003</u>	<u>\$1,226,964.30</u>
<u>July 1, 2003 to June 30, 2004</u>	<u>\$869,053.11</u>
<u>July 1, 2004 to September 30, 2005</u>	<u>\$493,246.36</u>

conformed

Agreement No. L-RR-202
Supplement No. 3

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of the 30th day of September, 2005 by and between **PATH TRANS-HUDSON CORPORATION** (hereinafter called "PATH") and **NEON TRANSCOM INC.**, formerly known as Columbia Transmission Communications Corporation (hereinafter called the "Lessee"),

WITNESSETH, That:

WHEREAS, heretofore and as of June 15, 2000, PATH and Columbia Transmission Communications Corporation (Columbia Transcom), entered into an agreement of lease, as the same has heretofore been supplemented and amended (hereinafter called the "Lease") covering premises consisting of a certain route, as more particularly described in the Lease, proceeding under, through and across underwater and underground railroad tunnel facilities and aboveground routes owned and operated by PATH as an interstate railroad system, such premises being composed of a "River Crossing Segment" and a "Land Segment" and being capable of supporting fiber optic cables, in which premises Lessee initially installed one (1) 432-strand fiber optic cable to provide communications and other related services for its own use or for the use of its customers; and

WHEREAS, heretofore and as of July 26, 2001, PATH and the Lessee entered into Supplemental Agreement No. 1 to the Lease pursuant to which the parties amended the Lease to provide for the Lessee's installation of 432 additional fiber optic strands in the premises, such that as of the Effective Date defined in the Lease the maximum number of strands permitted to be installed in the premises under the Lease became 864 fiber optic strands, and revised the basic rental to reflect the new total number of fiber optic strands installed in the premises; and

WHEREAS, effective as of September 12, 2003 Columbia Energy Group (CEG) sold all of the outstanding shares of stock of Columbia Transcom to NEON Communications, Inc., and Columbia Transcom thereby became a wholly-owned subsidiary of NEON Communications and was renamed NEON Transcom, Inc.; and

WHEREAS, heretofore and as of June 9, 2004, PATH and the Lessee entered into Supplemental Agreement No. 2 to the Lease and PATH executed a certain Release and Termination of Guaranty pursuant to which documents PATH released CEG's Guaranty of the payment, performance, fulfillment and observance by Columbia Transcom of the Lease obligations and PATH and the Lessee agreed to a new Section 41 of the Lease pursuant to which the Lessee heretofore posted a satisfactory letter of credit as substitute security; and

WHEREAS, PATH and the Lessee desire to extend the term of the letting under the Lease and to amend the same in certain other respects;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, PATH and the Lessee hereby agree as follows:

1. The term of the letting under the Lease is hereby extended for a period ending on September 30, 2010, unless sooner terminated.

2. (a) Effective as of September 30, 2005 (hereinafter, the "Surrender Date"), the Lessee hereby surrenders and yields up and does by these presents grant, bargain, sell, surrender and yield up to PATH, its successors and assigns forever, the portion of the Lessee's installation of fiber optic strands in the premises consisting of 720 fiber optic strands (the said portion of the installation in the premises being sometimes hereinafter referred to as the "Surrendered Installation") and the terms of years with respect thereto under the Lease yet to come, and has given, granted and surrendered and by these presents does give, grant and surrender to PATH, its successors and assigns, all the rights, rights of renewal, licenses, privileges and options of the Lessee granted by the Lease with respect to the Surrendered Installation, all to the intent and purpose that the said term under the Lease and the said rights of renewal, licenses, privileges and options may be wholly merged, extinguished and determined on the Surrender Date with the same force and effect as if the said term were in and by the provisions of the Lease originally fixed to expire on such date, provided however that, except in cases of emergency, PATH will obtain written consent from Lessee in advance (which may be via email or other electronic communication) to access the cable that houses the Surrendered Installation and shall reimburse Lessee for any reasonable costs incurred by Lessee with regard to accessing such cable, and further provided that PATH's use of the Surrendered Installation shall not materially interfere with Lessee's title or rights of use of Lessee's fiber optic strands remaining within such cable.

(b) All promises, covenants, agreements and obligations of the Lessee with respect to the Surrendered Installation under the Lease, or otherwise, that under the provisions of the Lease would have matured upon the date originally fixed in the Lease for the expiration of the term thereof, or upon the termination of the Lease prior to the said date, or within a stated period after expiration or termination, shall notwithstanding such provisions, mature upon the Surrender Date. Notwithstanding the foregoing, obligations with respect to the Surrendered Installation intended to survive the expiration or earlier termination of the Lease, such as indemnification, shall survive the execution and delivery of this Agreement, and obligations to remove the cable and restore the premises upon the expiration or earlier termination of the Lease, such as the obligations set forth in Sections 5(e) and 23(b) of the Lease, shall also survive the execution and delivery of this Agreement.

(c) In consideration of the making of this Agreement by PATH, the Lessee hereby agrees to terminate its occupancy of the Surrendered Installation and to deliver actual physical possession of the same to PATH on or before the Surrender Date in the condition required by the Lease upon surrender. The Lessee further agrees that, prior to the Surrender Date, it will disengage and physically disconnect the 720 fiber optic strands in the PATH Christopher Street Station wall-mounted splice enclosure (located in Power Substation No. 1) in such manner as to preclude Lessee's use of the said fiber optic strands at any time during the balance of the term of the letting under the Lease, as herein extended, but also so as to permit PATH to reconnect and use such 720 fiber optic strands as and when PATH may determine in its sole discretion, including but not limited to renting to, or otherwise permitting

the use of, all or any number of such strands by third parties, subject however to the provisos of subsection (a), above, of this Section 2.

3. (a) During the period from and after September 30, 2005 through and including June 30, 2006, the Lessee shall pay to PATH a basic rental at the rate of Two Hundred Eighty-one Thousand Six Hundred Forty Dollars and No Cents (\$281,640.00) per annum, in advance in monthly installments of Twenty-three Thousand Four Hundred Seventy Dollars and No Cents (\$23,470.00) each, on October 1, 2005 and on the first day of each calendar month thereafter through June 30, 2006. PATH hereby acknowledges that the monthly installment payment of rental made by the Lessee on or about September 1, 2005 pursuant to the provisions of Section 4(a)(iii) of the Lease shall be deemed to include the rental due and owing by the Lessee to PATH for September 30, 2005.

(b) For each Annual Period that shall fall during the period from and after July 1, 2006 throughout the balance of the term of the letting, as herein extended, the Lessee shall pay to PATH a basic rental in an amount that shall be equal to the amount of the annual basic rental set forth above in subparagraph (a), plus an additional amount equal to the sum of: (x) the product obtained by multiplying the amount of annual basic rental set forth above in subparagraph (a) by the percentage increase in the Consumer Price Index for all Urban Consumers, New York-Northern New Jersey-Long Island (NY-NJ-CT), All Items, unadjusted 1982-1984=100 (hereinafter the "CPI") published by the Bureau of Labor Statistics of the United States Department of Labor for the month of March preceding each such Annual Period over the CPI for March, 2005 (such percentage increase hereinafter called the "CPI Factor"); and (y) the product obtained by multiplying the amount of the annual basic rental set forth above in subparagraph (a) by one percent (1%). The total percentage increase that results from adding the CPI Factor and one percent (1%) is hereinafter referred to as the "Annual Period Escalation."

(c) Notwithstanding anything to the contrary set forth above in subparagraph (b), if for any Annual Period during the period of the extension of the term of the letting provided for under this Agreement the percentage increase comprising the Annual Period Escalation, calculated as described above in subparagraph (b), shall exceed five percent (5%), then, in such event and for such Annual Period only, the Annual Period Escalation shall be limited to the greater of: (1) the CPI Factor; or (2) five percent (5%). The additional amount of annual basic rental calculated for a given Annual Period by applying the Annual Period Escalation in accordance with subparagraph (b), above, shall not be reduced by reason of any reduction in the CPI Factor thereafter calculated for any succeeding Annual Period.

(d) The Lessee hereby acknowledges and agrees that the basic rental amount set forth in subparagraph 3(a), above, is based on the Lessee's operation of not more than 144 fiber optic strands in the premises, in light of the Surrendered Installation as discussed in paragraph 2 of this Agreement. Nothing set forth in this Agreement is intended, nor shall anything set forth herein be deemed, to modify or affect the provisions of subparagraph (a)(iv) of Section 4 of the Lease in any manner, or to make such provisions inapplicable, ineffective or invalid during the extended term of the letting under the Lease provided for under this Agreement.

4. The Lessee represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Lessee shall indemnify and save harmless PATH of and from any and all claims for commission or brokerage made by any and all persons, firms or corporations whatsoever for services in connection with the negotiation and execution of this Agreement.

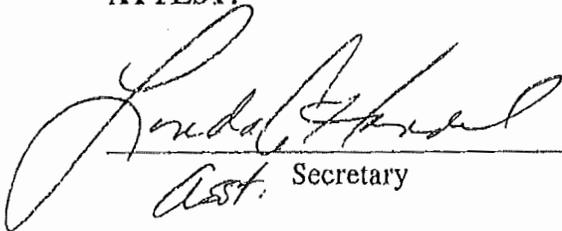
5. Neither the Directors of PATH, nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Lessee with any liability, or be held liable to it under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach or any attempted or alleged breach thereof.

6. As hereby amended, all the terms, covenants, provisions, conditions and agreements of the Leases shall be and remain in full force and effect.

7. This Agreement, and the Lease which it amends and supplements, constitutes the entire agreement between PATH and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both PATH and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon PATH unless expressed in writing in the Lease or in this Agreement.

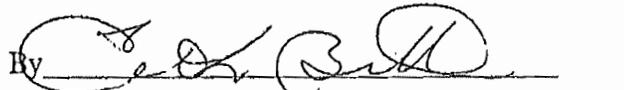
IN WITNESS WHEREOF, PATH and the Lessee have executed these presents as of the date first above written.

ATTEST:



Asst. Secretary

PORT AUTHORITY TRANS-HUDSON
CORPORATION

By 

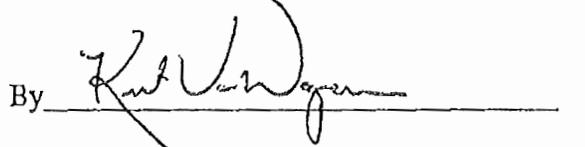
(Title) Chief Operating Officer
Vice-President PATH

ATTEST:



Corporate Secretary
ASSISTANT

NEON TRANSCOM INC.

By 

President



Agreement No. LRR-202
Supplement No. 5

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT (this "*Agreement*"), made as of the 10th day of June, 2015 (the "*Effective Date*") by and between **THE PORT AUTHORITY TRANS-HUDSON CORPORATION** (hereinafter called "*PATH*") and **NEON TRANSCOM, INC.**, formerly known as Columbia Transmission Communications Corporation (hereinafter called the "*Lessee*"),

WITNESSETH, That:

WHEREAS, heretofore and as of June 15, 2000, PATH and Columbia Transmission Communications Corporation ("*Columbia Transcom*"), entered into an agreement of lease, as the same has heretofore been supplemented and amended (hereinafter called the "*Lease*") covering premises consisting of a certain route, as more particularly described in the Lease, proceeding under, through and across underwater and underground railroad tunnel facilities and aboveground routes owned and operated by PATH as an interstate railroad system, such premises being composed of a "River Crossing Segment" and a "Land Segment" and being capable of supporting fiber optic cables, in which premises Lessee initially installed one (1) 432-strand fiber optic cable to provide communications and other related services for its own use or for the use of its customers; and

WHEREAS, heretofore and as of July 26, 2001, PATH and the Lessee entered into Supplemental Agreement No. 1 to the Lease pursuant to which the parties amended the Lease to provide for the Lessee's installation of 432 additional fiber optic strands in the premises, such that as of the Effective Date defined in the Lease the maximum number of strands permitted to be installed in the premises under the Lease became 864 fiber optic strands, and revised the basic rental to reflect the new total number of fiber optic strands installed in the premises; and

WHEREAS, effective as of September 12, 2003 Columbia Energy Group (CEG) sold all of the outstanding shares of stock of Columbia Transcom to NEON Communications, Inc., and Columbia Transcom thereby became a wholly-owned subsidiary of NEON Communications and was renamed NEON Transcom, Inc.; and

WHEREAS, heretofore and as of June 9, 2004, PATH and the Lessee entered into Supplemental Agreement No. 2 to the Lease and PATH executed a certain Release and Termination of Guaranty pursuant to which documents PATH released CEG's Guaranty of the payment, performance, fulfillment and observance by Columbia Transcom of the Lease obligations and PATH and the Lessee agreed to a new Section 41 of the Lease pursuant to which the Lessee heretofore posted a satisfactory letter of credit as substitute security; and

WHEREAS, heretofore and as of September 30, 2005, PATH and the Lessee entered into Supplemental Agreement No. 3 to the Lease, pursuant to which the Lessee surrendered 720 fiber optic strands to PATH, its successors and assigns, as more fully discussed in said Supplement No. 3, such that as of the Effective Date defined in the Lease the maximum number of fiber optic strands permitted to be installed in the premises under the Lease became 144, and revised the basic rental to reflect the new total number of fiber optic strands installed in the premises; and

WHEREAS, heretofore and as of September 30, 2010, PATH and the Lessee entered into Supplemental Agreement No. 4 to the Lease, pursuant to which the Lease was extended for an additional five (5) year period ending on September 30, 2015; and

WHEREAS, effective as of April 13, 2013, PATH consented to the sale by the members of Yankee Metro Partners, LLC, the then ultimate parent of the Lessee, of all of its equity interests in Yankee Metro Partners, LLC to LTS Buyer LLC, which is a wholly owned indirect subsidiary of LTS Group Holdings LLC, both of which are investment funds led and advised by Berkshire Partners LLC; and

WHEREAS, PATH and the Lessee desire to extend the term of the letting under the Lease and to amend the same in certain other respects;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, PATH and the Lessee hereby agree as follows:

1. **Extension.** The term of the letting under the Lease is hereby extended for a period ending on June 14, 2020, unless sooner terminated.

2. **Basic Rental**

(a) During the period from and after the Effective Date through and including June 30, 2015, the Lessee shall pay to PATH a basic rental at the rate of Three Hundred Forty-Four Thousand Seven Hundred Eighteen Dollars and Sixty Cents (\$344,718.60) per annum, in advance in monthly installments of Twenty-Eight Thousand Seven Hundred Twenty-Six Dollars and Fifty-Five Cents (\$28,726.55) each, on the Effective Date and on the first day of each calendar month thereafter through June 30, 2015.

(b) For each Annual Period that shall fall during the period from and after July 1, 2015 throughout the balance of the term of the letting, as herein extended, the Lessee shall pay to PATH a basic rental at annual rates escalated in accordance with the provisions of paragraph (c) below, of this Section.

(c) Adjustment to Basic Rental

(i) As used in subparagraph (ii) of this paragraph:

a. **“Index”** shall mean the Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items,

unadjusted 1982-84=100) published by the Bureau of Labor Statistics of the United States Department of Labor.

b. “*Base Period*” shall mean the calendar month of April 2015.

c. “*Adjustment Period*” shall mean, as the context requires, the calendar month of April 2016 and the calendar month of April in each calendar year which thereafter occurs during the balance of the term of the letting as extended hereunder.

d. “*Anniversary Date*” shall mean, as the context requires, July 1, 2016 (the “*First Anniversary Date*”) and July 1st of each calendar year which thereafter occurs during the balance of the term of the letting as extended hereunder.

e. “*Annual Index Increase*” shall mean the percentage of increase in the Index on each Anniversary Date, equal to: (x) with respect to the First Anniversary Date, a fraction of which the numerator shall be the Index for the Adjustment Period immediately preceding the First Anniversary Date less the Index for the Base Period, and the denominator shall be the Index for the Base Period, and (y) with respect to each Anniversary Date thereafter, a fraction of which the numerator shall be the Index for the Adjustment Period immediately preceding such Anniversary Date less the Index for the Adjustment Period one (1) year prior to the Adjustment Period immediately preceding such Anniversary Date, and the denominator shall be the Index for the Adjustment Period one (1) year prior to the Adjustment Period immediately preceding such Anniversary Date (for example, the Annual Index Increase for the Anniversary Date that is July 1, 2017 would be a fraction of the numerator that is the Index for April 2017 less the Index for April 2016 and the denominator is the Index for April 2016).

f. “*Percentage Increase*” shall mean, with respect to each Anniversary Date, a percentage equal to the Annual Index Increase for that Anniversary Date plus one percent (1%), unless (x) such Annual Index Increase is less than zero, in which case the Percentage Increase shall be one percent (1%) or (y) such Annual Index Increase is more than four percent (4%), in which case the Percentage Increase shall be five percent (5%).

g. Commencing on each Anniversary Date and continuing through to the day preceding the next Anniversary Date, or the expiration or termination date of the balance of the term as extended hereunder, as the case may be, both dates inclusive, in lieu of the basic rental set forth in paragraph (a) of this Section, as the same may most recently have been adjusted as provided in this paragraph (c), the Lessee shall pay a basic rental at a rate per annum equal to the product obtained by multiplying the basic rental payable immediately prior to such Anniversary Date by the sum of (x) one and (y) the Percentage Increase for such Anniversary Date.

Each adjusted annual rental shall be payable in monthly installments equal to 1/12th of the annual basic rental, as adjusted pursuant to paragraph (c) of this Section, on the

Anniversary Date and on the first day of each calendar month thereafter through the day preceding the next following Anniversary Date, or the date of expiration or earlier termination of the term of the Lease as extended hereunder, as the case may be. All adjusted rental amounts shall be rounded to the nearest cent.

(ii) Index

a. In the event the Index to be used in computing any adjustment referred to in paragraph (c) of this Section is not available on the effective date of such adjustment, the Lessee shall continue to pay the basic rental at the annual rate then in effect subject to retroactive adjustment at such time as the specified Index becomes available; provided, however, that PATH may at its option substitute for such Index the Index for the latest preceding month then published to constitute the specified Index. In the event the United States Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100) shall hereafter be converted to a different standard reference base or otherwise revised or the United States Department of Labor shall cease to publish the United States Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100), then for the purposes hereof there shall be substituted for the Index such other appropriate index or indices properly reflecting changes in the value of current United States money in a manner similar to that established in the Index used in the latest adjustment as PATH in its discretion determines.

b. If after an adjustment in the basic rental shall have been fixed for any period, the Index used for computing such adjustment shall be changed or adjusted, then the rental adjustment for that period shall be recomputed and from and after notification of the change or adjustment, the Lessee shall make payments based upon the recomputed rental and upon demand shall pay any excess in the basic rental due for such period as recomputed over amounts theretofore actually paid on account of the basic rental for such period. If such change or adjustment results in a reduction in the basic rental due for any period prior to notification, PATH will credit the Lessee with the difference between the basic rental as recomputed for that period and amounts of basic rental actually paid.

c. If the Effective Date is on a day other than the first day of a calendar month, there shall be payable in advance on the Effective Date an installment of basic rental equal to 1/12th of the increment of annual basic rental provided in paragraph (a) of this Section multiplied by a fraction, the numerator of which shall be the number of days from the Effective Date to the end of the calendar month and the denominator of which shall be the number of days in such calendar month.

d. If the date of expiration or earlier termination of the term of the Lease as extended hereunder is on a day other than the last day of a calendar month, there shall be payable in advance on the first day of such calendar month a basic rental equal to 1/12th of the increment of annual basic rental provided in paragraph (a) of this Section as most recently adjusted multiplied by a fraction, the numerator of which shall

be the number of days from the first day of such calendar month to the date of expiration or earlier termination of the term of this Lease as extended hereunder and the denominator of which shall be the number of days in such calendar month.

(d) The Lessee hereby acknowledges and agrees that the basic rental amount set forth in subparagraph 3(a), above, is based on the Lessee's operation of not more than 144 fiber optic strands in the premises. Nothing set forth in this Agreement is intended, nor shall anything set forth herein be deemed, to modify or affect the provisions of subparagraph (a)(iv) of Section 4 of the Lease in any manner, or to make such provisions inapplicable, ineffective or invalid during the extended term of the letting under the Lease provided for under this Agreement.

3. Amendments

(a) Paragraph (d) of Section 34 of the Lease entitled "Liability Insurance" as amended in Supplemental Agreement No. 4 to the Lease is hereby stricken in its entirety, and the following Paragraph (d) is substituted therefor:

"(d) As to any insurance required by this Section, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof shall be delivered to PATH within twenty (20) days prior to the commencement date of the letting hereunder. Each such copy or certificate must be specifically endorsed to provide that the policy may not be canceled, terminated, materially changed or modified, without giving thirty (30) days' written advance notice thereof to PATH/Port Authority of New York and New Jersey, Att'n.: General Manager, Risk Financing, 4 World Trade Center, 150 Greenwich Street, 19th Floor, New York, New York 10007. A renewal policy or certificate shall be delivered to PATH prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting. If at any time any of the policies shall be or become unsatisfactory to PATH as to form or substance, or if any of the carriers issuing such policies shall be or become unsatisfactory to PATH, the Lessee shall promptly obtain a new and satisfactory policy in replacement."

(b) Letter of Credit

(i) Upon the execution of this Agreement by the Lessee and delivery thereof to PATH, the Lessee shall deposit with PATH (and shall keep deposited throughout the effective term under the Lease as extended hereunder) Two Hundred Sixty Thousand Dollars and No Cents (\$260,000.00) in the form of a letter of credit pursuant to the terms and conditions in Section 41 of the Lease as amended below in subparagraph (b)(ii) of this Section 3.

(ii) Section 41 of the Lease as amended in Supplemental Agreement No. 2 to the Lease entitled "*Security Deposit or Letter of Credit*" is hereby stricken in its entirety, and the following Section 41 is substituted therefor:

“41. Security Deposit or Letter of Credit

(a) **Security Deposit**

(i) *Required Security Amount.* The amount required as a security deposit (the “**Required Security Deposit**”) hereunder is One Hundred Forty Thousand Dollars and No Cents (\$140,000.00) (the “**Required Security Deposit Amount**”). If the amount of said Required Security Deposit is less than \$20,000.00, upon the execution of this Agreement by the Lessee and delivery thereof to PATH, the Lessee shall deposit with PATH (and shall keep deposited throughout the effective term under this Agreement) the Required Security Deposit, either in cash, or bonds of the United States of America, or of the State of New Jersey, or of the State of New York, or of the Port Authority of New York and New Jersey, having a market value of that amount, as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Agreement on its part to be fulfilled, kept, performed or observed.

(ii) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form but if bonds of that issue were offered only in registered form, then the Lessee may deposit such bonds or bonds in registered form, provided, however, that PATH shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of PATH (the expense of such re-registration to be borne by the Lessee) in a manner satisfactory to PATH. The Lessee may request PATH to accept a registered bond in the Lessee’s name and if acceptable to PATH the Lessee shall deposit such bond together with an irrevocable bond power (and such other instruments or other documents as PATH may require) in form and substance satisfactory to PATH. In the event the Required Security Deposit is returned to the Lessee, any expenses incurred by PATH in re-registering a bond to the name of the Lessee shall be borne by the Lessee.

(iii) *Use of Deposit.* In addition to any and all other remedies available to it, PATH shall have the right, at its option, at any time and from time to time, with or without notice, to use the Required Security Deposit, or any part thereof, in whole or partial satisfaction of any of its claims or demands against the Lessee. There shall be no obligation on PATH to exercise such right and neither the existence of such right nor the holding of the Required Security Deposit itself shall cure any default or breach of this Agreement on the part of the Lessee. With respect to any bonds deposited by the Lessee, PATH shall have the right, in order to satisfy any of its claims or demands against the Lessee, to sell the same in whole or in part, at any time, and from time to time, with or without prior notice at public or private sale, all as determined by PATH, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Lessee. The Lessee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of PATH against the Lessee. The proceeds of every such sale shall be

applied by PATH first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due PATH from the Lessee. Any balance remaining shall be retained in cash toward bringing the Required Security Deposit to the Required Security Deposit Amount. In the event that PATH shall at any time or times so use the Required Security Deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the Required Security Deposit Amount, the Lessee shall, on demand of PATH and within two (2) days thereafter, deposit with PATH additional cash or bonds so as to maintain the Required Security Deposit at all times to the Required Security Deposit Amount, and such additional deposits shall be subject to all the conditions of this Section.

(iv) *No Encumbrance.* The Lessee agrees that it will not assign or encumber the deposit.

(v) *Interest.* The Lessee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which PATH is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that PATH shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(vi) *Return of Deposit.* After the expiration or earlier revocation or termination of the effective term under this Agreement, and upon condition that the Lessee shall then be in no wise in default under any part of this Agreement, and upon written request therefor by the Lessee, PATH will return the Required Security Deposit to the Lessee less the amount of any and all unpaid claims and demands (including estimated damages) of PATH by reason of any default or breach by the Lessee of this Agreement or any part thereof.

(b) **Letter of Credit**

(i) *Letter of Credit in Lieu of Security Deposit.* In lieu of the Required Security Deposit made in the form described above in paragraph (a)(i), the Lessee may at any time during the effective term granted under this Agreement offer to deliver to PATH, as security for all obligations of the Lessee under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to PATH and having its main office within the Port of New York District, in favor of PATH in the amount of the Required Security Deposit.

(ii) *Form and Terms.* The form and terms of such letter of credit, as well as the institution issuing it (which shall be an investment-grade rated bank), shall be subject to the prior and continuing approval of PATH; **the form of any proposed letter of credit shall be submitted to PATH in advance for review and approval by its Credit, Collection and Accounts Receivable unit.** Such letter of credit shall provide that it shall continue throughout the

effective term granted under this Agreement and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter.

(iii) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by PATH, and upon request by the Lessee made thereafter, PATH will return the Required Security Deposit, if any, theretofore made under and in accordance with the provisions of the foregoing paragraph (a). The Lessee shall have the same rights to receive such Required Security Deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of the effective term granted under this Agreement and fulfillment of the obligations of the Lessee hereunder.

(iv) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit, the Lessee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Security Amount or another letter of credit satisfactory to PATH, PATH may draw down the full amount thereof and thereafter PATH will hold the same as security under the foregoing paragraph (a). If PATH shall make any drawing under a letter of credit held by PATH hereunder, the Lessee on demand of PATH and within two (2) days thereafter shall bring the letter of credit back up to its full amount.

(v) *Failure to Provide Letter of Credit.* Following PATH's acceptance of the Lessee's election to provide a letter of credit in lieu of the security deposit required pursuant to the foregoing paragraph (a), any failure to provide such a letter of credit at any time during the effective term granted under this Agreement, valid and available to PATH, including any failure of any banking institution issuing any such letter of credit previously accepted by PATH to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Agreement on the part of the Lessee.

(vi) *No Waiver.* No action by PATH pursuant to the terms of any letter of credit, or receipt by PATH of funds from any bank issuing any such letter of credit, shall be deemed to be a waiver of any default by the Lessee under the terms of this Agreement, and all remedies under this Agreement consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

(c) **Letter of Credit Required.** Provided that the Required Security Deposit Amount is equal to or greater than \$20,000.00, upon the execution of this Agreement by the Lessee and delivery thereof to PATH, the Lessee shall deliver to PATH, as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Agreement on its part to be fulfilled, kept, performed or observed, a letter of credit, which letter of credit shall meet the requirements and be subject to the terms and conditions of paragraph (b) of this Section.

(d) **Adjustment of Required Security Deposit Amount.** The Lessee acknowledges and agrees that PATH reserves the right, in its sole discretion at any time and from time to time upon sixty (60) days' notice to the Lessee, to adjust the Required Security Deposit Amount but in no event would the adjusted amount equal more than three months of fees that would be payable to PATH. Not later than the effective date set forth in said notice by PATH, the Lessee shall furnish additional cash or bonds, as provided for in paragraph (a) above, or an amendment to, or a replacement of, the letter of credit providing for such adjusted Required Security Deposit Amount, as the case may be, and such additional cash and/or bonds or adjusted (or replaced) letter of credit shall thereafter constitute the Required Security Deposit required under this Section.

(e) **Obligations Under Other Agreements.** If the Lessee is obligated by any other agreement ("*Other PA Agreement*") to maintain a security deposit with PATH or the Port Authority of New York and New Jersey to insure payment and performance by the Lessee of all fees, rentals, charges and other obligations which may become due and owing to PATH arising from the Lessee's operations at the Facility pursuant to any such Other PA Agreement or otherwise, then all such security deposit-related obligations under such Other PA Agreement, and any deposit pursuant thereto, also shall be deemed obligations of the Lessee under this Agreement and as security hereunder, as well as under any such Other PA Agreement. All provisions of such Other PA Agreement with respect to security deposit-related obligations, and any obligations thereunder of PATH or the Port Authority of New York and New Jersey as to the security deposit, are hereby incorporated herein by this reference as though fully set forth herein and hereby made a part hereof. It is understood that the term Other PA Agreement refers both to agreements entered into prior to, or as of, the effective date of this Agreement, as well as agreements hereinafter entered into.

(f) **Federal Tax ID.** The Lessee represents to PATH that its Federal Tax Identification number is

4. **No Broker.** The Lessee represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Lessee shall indemnify and save harmless PATH of and from any and all claims for commission or brokerage made by any and all persons, firms or corporations whatsoever for services in connection with the negotiation and execution of this Agreement.

5. **No Personal Liability.** Neither the Directors of PATH, nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Lessee with any liability, or be held liable to it under any term or provision of this Agreement, or because of its execution or attempted execution or because of any breach or any attempted or alleged breach thereof.

6. **Full Force and Effect.** As hereby amended, all the terms, covenants, provisions, conditions and agreements of the Leases shall be and remain in full force and effect.

7. **Entire Agreement.** This Agreement, and the Lease which it amends and supplements, constitutes the entire agreement between PATH and the Lessee on the subject matter, and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both PATH and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon PATH unless expressed in writing in the Lease or in this Agreement.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, PATH and the Lessee have executed these presents as of the date first above written.

PORT AUTHORITY TRANS-HUDSON CORPORATION

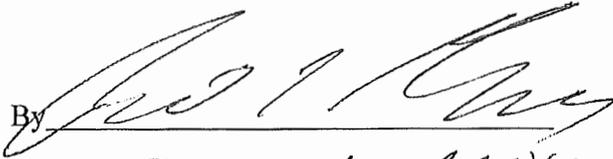
By: THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By 

(Name) Michael B. Francois, PP, AICP
Chief, Real Estate & Development

(Title) _____

NEON TRANSCOM, INC.

By 

(Name) DAVID L. MAYER

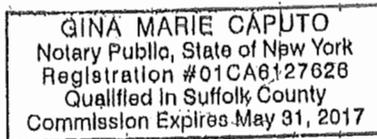
(Title) Executive Vice President and
General Counsel

Approve As to Terms MC
Approve as to Form _____

(New York "All-Purpose" Acknowledgment - PATH)

STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

On the 6 day of August, 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared Michael B. Franco known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she signed the executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



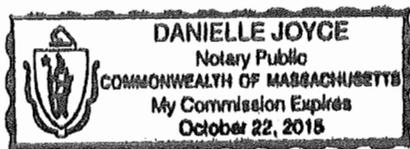
[Handwritten Signature]
(notarial seal and stamp)

(New York "All-Purpose" Acknowledgment - Corporation)

NEON Transcom, Inc.

COMMONWEALTH OF MASSACHUSETTS)
)ss.:
COUNTY OF MIDDLESEX)

On the 15 day of June, 2015, before me, the undersigned, a Notary Public in and for said State, personally appeared David L. Meyer, known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she signed the executed the same in his/her capacity on behalf of NEON Transcom, Inc., and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



[Handwritten Signature]
(notarial seal and stamp)