FOI #16061

Olivencia, Mildred

From: patrick@ruggierolawgroup.com
Sent: Monday, June 01, 2015 7:58 PM
To: Olivencia, Mildred
Cc: Torres-Rojas, Genara; Van Duyne, Sheree; Ng, Danny
Subject: Freedom of Information Online Request Form

Information:

First Name: Patrick
Last Name: Grochmal
Company: Steel in the Air, Inc.
Mailing Address 1: 1537 Franklin Street
Mailing Address 2: Suite 208
City: San Francisco
State: CA
Zip Code: 94109
Email Address: patrick@ruggierolawgroup.com
Phone: 626 394-6257
Required copies of the records: Yes

List of specific record(s):
Please provide existing leases or license agreements commenced between years 2000 through 2015 between the Port Authority of New York and New Jersey and cellular or PCS wireless service providers including but not limited to ATT, Clearwire, Sprint, MetroPCS, Leap Wireless aka Cricket, Nextel, T-Mobile, US Cellular, or Verizon or third party tower companies or neutral host DAS providers including but not limited to American Tower, Crown Castle, NextG, Mobilitie, Insite Communications, SBA Communications, Extenet for the lease or license of public property known as Newark Liberty International Airport, LaGuardia Airport, and One World Trade Center. This request is intended to include Distributed Antenna System agreements, cell tower ground lease agreements, rooftop cell site or cell tower agreements, in-building wireless systems, or water tower lease or license agreements. I am particularly interest in the financial terms rent paymentsescalations, lease length, other payment

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

August 19, 2015

Mr. Patrick Grochmal
Steel in the Air, Inc.
1537 Franklin Street, Suite 208
San Francisco, CA 94109

Re: Freedom of Information Reference No. 16061

Dear Mr. Grochmal:

This is in response to your June 1, 2015 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy enclosed) for copies of existing leases or license agreements commenced between years 2000 through 2015 between the Port Authority of New York and New Jersey and cellular or PCS wireless service providers including but not limited to ATT, Clearwire, Sprint, MetroPCS, Leap Wireless aka Cricket, Nextel, T-Mobile, US Cellular, or Verizon or third party tower companies or neutral host DAS providers including but not limited to American Tower, Crown Castle, NextG, Mobilitie, Insite Communications, SBA Communications, Extenet for the lease or license of public property known as Newark Liberty International Airport, LaGuardia Airport, and One World Trade Center. This request is intended to include Distributed Antenna System agreements, cell tower ground lease agreements, rooftop cell site or cell tower agreements, in-building wireless systems, or water tower lease or license agreements, particularly interested in the financial terms rent payments/escalations, lease length, other payment.

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/16061-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 7348 F: 212 435 7555

Agreement No. AX - 713

TELECOMMUNICATIONS NETWORK ACCESS AGREEMENT

by and between

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

and

NEW YORK TELECOM PARTNERS, LLC

TABLE OF CONTENTS

Section 1.	Definitions	-1-
Section 2.	Scope of Agreement-Permittee's Rights of User	-7-
Section 3.	Permittee's Permitted Activities and Certain Obligations	-9-
Section 4.	Term	-10-
Section 5.	Fees	-11-
Section 6.	Leases of Facilities	-24-
Section 7.	Installation Work	-26-
Section 8.	Initial System Capital Cost	-39-
Section 9.	Governmental Requirements	-40-
Section 10.	Prohibited Acts	-41-
Section 11.	Maintenance and Repair	-42-
Section 12.	Casualty	-45-
Section 13.	Indemnity	-48-
Section 14.	Consequential Damages	-49-
Section 15.	Port Authority's Right of Relocation	-49-
Section 16.	In-Kind Services	-51-
Section 17.	Limitation on Service by Others	-52-
Section 18.	Condemnation	-53-
Section 19.	Assignment and Sublease	-54-

Section 20.	Termination	-55-
Section 21.	Right of Use Upon Termination	-57-
Section 22.	Waiver of Redemption	-58-
Section 23.	Remedies to be Non-exclusive	-58-
Section 24.	Surrender	-59-
Section 25.	Project Financing	-60-
Section 26.	Disputes	-70-
Section 27.	Carrier Agreement	-71-
Section 28.	Payments	-71-
Section 29.	Recording	-72-
Section 30.	Quiet Enjoyment	-72-
Section 31.	Headings	-72-
Section 32.	Performance of Permittee's Obligations	-72-
Section 33.	Publicity and Advertising	-73-
Section 34.	Renewal Term	-74-
Section 35.	Manner of Operation	-74-
Section 36.	Termination Without Cause - Renewal Term	-76-
Section 37.	Late Charges	-78-
Section 38.	Other Construction by the Lessee	-79-
Section 39.	Force Majeure	-79-
Section 40.	Liability Insurance	-79-
Section 41.	Non-Discrimination	-81-

Section 42.	Affirmative Action	-82-
Section 43.	Permittee's Additional Ongoing Affirmative Action- Equal Opportunity Commitment	-83-
Section 44.	Electricity	-86-
Section 45.	Suitability of Port Authority Facilities	-91-
Section 46.	Objectionable Interference	-91-
Section 47.	Non-Liability of Individuals	-93-
Section 48.	Existing Wireless Agreements	-93-
Section 49.	Non-Disturbance	-94-
Section 50.	Labor Harmony Obligation	-94-
Section 51.	Brokerage	-95-
Section 52.	Notices	-95-
Section 53.	Severability	-96-
Section 54.	Counterparts	-96-
Section 55.	Rules of Interpretation	-96-
Section 56.	Third Party Beneficiaries	-97-
Section 57.	Governing Law	-97-
Section 58.	Entire Agreement	-97-

Exhibits A, B, C, D and E
Schedule E

AGREEMENT

TELECOMMUNICATIONS NETWORK ACCESS SYSTEM

THIS AGREEMENT, made as of the 26th day of August, 1999, by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority") a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States of America and having an office at One World Trade Center, in the City, County and State of New York, and NEW YORK TELECOM PARTNERS, LLC, a limited liability company organized under the laws of the State of Delaware, having an office and place of business at 158 Third Street, Mineola, New York 11501, (hereinafter called the "Permittee") whose representative is Richard J. DiGeronimo.

WITNESSETH, THAT:

NOW, THEREFORE, for and in consideration of the foregoing, and of the covenants and agreements herein contained, the Port Authority and the Permittee hereby agree as follows:

Section 1. Definitions

"Additional Port Authority Facilities" shall have the meaning set forth in Section 2.

"Adjusted Gross Receipts" shall have the meaning set forth in Section 5.

"Adjusted Gross Receipts Fee Component" shall have the meaning set forth in Section 5.

"Airports" shall mean the John F. Kennedy International Airport, LaGuardia Airport and Newark International Airport, collectively.

"Ancillary Towers" shall have the meaning set forth in Section 2.

"Annual Period" shall have the meaning set forth in Section 5.

"Base Net Present Value Amount" shall have the meaning set forth in Section 36.

"Base Unamortized Capital Amount" shall have the meaning set forth in Section 36.

"Basic Port Authority Facilities" shall have the meaning set forth in Section 2.

"Basic Port Authority Facilities Construction Work Completion Date" shall mean the earlier to occur of: (i) the tenth (10th) day following the date on which the Port Authority has delivered certificates as provided for in Section 7(g)(i), with respect to all of the Basic Port Authority Facilities, or (ii) the date the System at each of the Basic Port Authority Facilities has been tested and accepted by at least one Cellular Carrier User and one PCS Carrier User.

"Billing Periods" shall have the meaning set forth in Section 44.

"Business Days" shall mean Mondays to Fridays, inclusive, legal holidays excepted.

"Carrier Agreement" shall have the meaning set forth in Section 2.

"Carrier Users" shall have the meaning set forth in Section 2.

"Causes or conditions beyond the control of the Port Authority," shall mean and include acts of God, the elements, weather conditions, tides, earthquakes, settlements, fire, acts of Governmental authority, war, shortage or labor or materials, acts of third parties for which the Port Authority is not responsible, injunctions, strikes, boycotts, picketing,

slowdowns, work stoppages, labor troubles or disputes of every kind (including all those affecting the Port Authority, 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 the Port Authority or which could not be prevented or remedied by reasonable effort and at reasonable expense.

"Cellular Carrier Users" shall mean a Carrier User that provides "Commercial Mobile Service" using frequencies assigned by the Federal Communications Commission for cellular telecommunications use prior to the designation of frequencies for use by "PCS Carrier Users" (as hereinafter defined).

"Chief Engineer" shall mean the Chief Engineer of the Port Authority.

"Commencement Date" shall have the meaning set forth in Section 4.

"Commercial Mobile Service" shall have the meaning set forth in 47 U.S.C. §332 (d)(1), as the same may hereafter be amended from time-to-time.

"Consumption and Demand" shall have the meaning set forth in Section 44.

"Covered Facilities" shall have the meaning set forth in Section 2.

"Default Available Cash" shall have the meaning set forth in Section 25.

"Facility" shall mean one or more facilities owned by or leased to the Port Authority.

"Governmental Authority" or "Governmental Authorities" shall mean federal, state, municipal and other governmental authorities, boards and agencies, except that neither term shall be construed to include The Port Authority of New York and New Jersey.

"Gross Receipts" shall have the meaning set forth in Section 5.

"Gross Receipts Fee Component" shall have the meaning set forth in Section 5.

"Hazardous Substances" shall include, without limitation, any pollutant, contaminant, toxic or hazardous waste, dangerous substance, potentially dangerous substance, noxious substance, toxic substance, flammable, explosive, radioactive material, urea formaldehyde foam insulation, asbestos, polychlorinated biphenyls(PCBs), chemicals known to cause cancer or reproductive toxicity, petroleum and petroleum products and other substances declared to be hazardous or toxic, or the removal of which is required, or the manufacture, preparation, production, generation, use maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any Laws.

"In Kind Services" shall have the meaning set forth in Section 16.

"In Kind Services Budgeted Amount" shall have the meaning set forth in Section 16.

"Initial System Capital Cost" shall have the meaning set forth in Section 8.

"Initial System Construction Work" shall have the meaning set forth in Section 7.

"Initial Term" shall have the meaning set forth in Section 4.

"Interim System Operator" shall have the meaning set forth in Section 25.

"Laws" shall mean all laws, ordinances, orders, enactments, resolutions, rules, requirements, directives and regulations of any Governmental Authority now or at any time hereafter in effect as the same may be amended or supplemented.

"Loan Agreement" shall have the meaning set forth in Section 25.

"Loan Amount" shall have the meaning set forth in Section 25.

"Local Multipoint Distribution Service" shall have the meaning set forth in 47 Code of Federal Regulations Parts 1 and 101, as the same may hereafter be amended from time-to-time.

"Minimum Fee" shall have the meaning set forth in Section 5.

"Minimum Carrier User Annual Contribution" shall have the meaning set forth in Section 5.

"Minimum Paging Carrier User Annual Contribution" shall have the meaning set forth in Section 5.

"NYUCC" shall mean the New York Uniform Commercial Code (McKinney's Consolidated Laws).

"Objectionable Interference" shall have the meaning set forth in Section 46.

"PCS Carrier Users" shall mean a Carrier User providing Commercial Mobile Services for which a license from the Federal Communications Commission is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services" or any successor proceeding, as described in 47 U.S.C. Sec. 153 (27).

"Partial Use Certificate" shall have the meaning set forth in Section 7.

"Paging Only Carrier Agreement" shall have the meaning set forth in Section 2.

"Paging Carrier User" shall have the meaning set forth in Section 2.

"Person" shall mean not only a natural person, corporation or other legal entity, but shall also include two or more natural persons, corporations or other legal entities acting jointly as a firm, partnership, unincorporated association, consortium, joint venture or otherwise.

"Personal Wireless Service" shall have the meaning set forth in 47 U.S.C. §332(c)(7)(C), as the same may hereafter be amended from time-to-time.

"Port Authority Facility" shall mean one or more facilities owned by or leased to the Port Authority.

"Port of New York District" shall have the meaning set forth in N.Y. Unconsolidated Laws §6403 (McKinney).

"Project Lender" shall have the meaning set forth in Section 25.

"Prudent Engineering and Operating Practice" shall mean the practices, methods and acts (including those engaged in or approved by engineers and operators generally with respect to systems the same as or similar to the System) that in the exercise of reasonable judgment in light of the facts known at the time a decision is made or an action is taken, would be expected to accomplish the desired result in a workmanlike manner and in compliance with applicable laws and reliability and safety standards.

"Renewal Term" shall have the meaning set forth in Section 34.

"Replacement Project Lender" shall have the meaning set forth in Section 25.

"Satellite-based Communications Service" shall mean the services currently regulated under 47 Code of Federal Regulations Part 25, as the same may be amended from time-to-time.

"System" shall have the meaning set forth in Section 2.

"System Operations" shall have the meaning set forth in Section 2.

"Taking or Conveyance" shall have the meaning set forth in Section 18.

"Term" shall have the meaning set forth in Section 4.

"Tenant Alteration Application" shall have the meaning set forth in Section 7.

"Termination Amount" shall have the meaning set forth in Section 36.

"Tower Gross Receipts" shall have the meaning set forth in Section 5.

"Variable Fee" shall have the meaning set forth in Section 5.

Section 2. Scope of Agreement - Permittee's Rights of User

(a) (i) The Permittee shall have the right to install, operate and maintain a wireless telecommunications network access system (the "System") at the Port Authority Facilities specified in Exhibit A annexed hereto and hereby made a part hereof for shared use by those wireless communications carriers ("Carrier Users") that have entered into, or subsequent to this date of this Agreement enter into, a certain "Carrier Agreement" with the Permittee, in form satisfactory to the Port Authority, providing for the use of the System solely for the purposes set forth in paragraph (c), below, and as more fully described in the Carrier Agreement. Certain matters with respect to the Carrier Agreement are set forth in Section 27, below. The Permittee shall furnish the Port Authority with a true copy of each fully-executed Carrier Agreement it enters into with any Carrier User. The Permittee shall be obligated to install, operate and maintain the System in those Port Authority Facilities listed on Exhibit A and designated as "Basic Port Authority Facilities" whether or not any Carrier User or Paging Carrier User has agreed to use the System at such Basic Port Authority Facilities. The Permittee shall be obligated to install, operate and maintain the System in one or more additional Port Authority Facilities listed on Exhibit A and designated as "Additional Port Authority Facilities," provided however that the Permittee shall only be obligated to install the System, or any components thereof, at an Additional Port Authority Facility when one or more Cellular Carrier Users and one or more PCS Carrier Users have each requested to use the System at such Additional Port Authority Facility pursuant to the

terms of its Carrier Agreement, provided however that the Permittee shall only be obligated to install the System, or any components thereof, (x) at the Port Authority Bus Terminal ("PABT") when one or more Cellular Carrier Users (not including Bell Atlantic Mobile) and one or more PCS Carrier Users have each requested to use the System at the PABT, and (y) in the Port Authority Trans-Hudson Corporation's ("PATH") subterranean or enclosed ground rail transit tubes (as distinguished from its rail transit lines running in open areas at ground level and all portions of its passenger stations) when one or more Carrier Users: (i) have requested to use the System in all or part of the aforesaid PATH facilities and (ii) have agreed to pay or provide for the payment of all of the costs of constructing the System in all or the portion of the aforesaid PATH facilities in which the System is to be constructed. Such obligation to install shall pertain only to that part of the PATH facilities requested by such Carrier Users. The Basic Port Authority Facilities, together with the Additional Port Authority Facilities in which the System is installed in accordance with the provisions of this Agreement, are sometimes hereinafter referred to as "Covered Facilities." Paging Carrier Users using the System only in connection with the operation of paging devices shall enter into a "Paging Only Carrier Agreement" with the Permittee with the consent of the Port Authority.

(ii) The "Summary Basis of Design" of the System, including the technical standards therefor, is contained in Exhibit B, annexed hereto and hereby made a part hereof. The installation, operation and maintenance of the System are hereinafter collectively referred to as the "System Operations."

(b) In addition to System Operations, the Permittee shall have the non-exclusive right to install radio transmission towers ("Ancillary Towers") at locations at Port Authority Facilities as and to the extent approved by the Port Authority in its sole and absolute discretion. The Permittee may mount exterior antennas on Ancillary Towers, other existing towers or towers otherwise constructed by the Permittee as components of the System as and to the extent approved by the Port Authority in its sole and absolute discretion.

(c) The System shall be installed, operated and maintained by the Permittee for the transmission or reception of

wireless telecommunications signals to or from end-user customers of Carrier Users using mobile or portable devices located at the Covered Facilities. All radio signals received or transmitted to or by such end-user customers shall be only in the portion of the electromagnetic radio frequency spectrum (i) described in Exhibit C, annexed hereto and hereby made a part hereof, or (ii) now or hereafter allocated or assigned under federal law to a Commercial Mobile Service, Personal Wireless Radio Service, Local Multipoint Distribution Service or a Satellite-Based Communications Service. In no event shall the Permittee be afforded any rights with respect to any rooftop areas, facilities, structures or installations at the World Trade Center and elsewhere at the World Trade Center, except (i) such point-to-point microwave transmitters, receivers and other equipment installed by the Permittee that are necessary for, and are used only in connection with the System and (ii) at the shopping concourse and PATH Station levels.

(d) The Permittee may install, operate and maintain as a part of the System an equal access in-building backbone facility, on a non-exclusive basis, for use by all interested specialized wireless telecommunications service carriers offering telecommunications services to end user customers using mobile, portable or fixed wireless devices in offices and nearby areas at the Port Authority World Trade Center towers and in the terminal buildings at the Airports, subject to the consent of the operators of such terminals. Such in-building backbone facility shall be used only to connect equipment utilizing the portion of the electromagnetic radio frequency spectrum (i) identified in Exhibit C, or (ii) now or hereafter allocated or assigned under Federal Law to a Commercial Mobile Service, Personal Wireless Radio Service, Local Multipoint Distribution Service or a Satellite-Based Communications Service. Construction of such backbone facility must be completed on or before the date set forth in subparagraph (c)(ii) of Section 7 for the completion of the installation of the System in such Port Authority Facility.

Section 3. Permittee's Permitted Activities and Certain Obligations

(a) The Permittee shall operate the System so as to accommodate all interested Carrier Users and Paging Carrier Users on a non-discriminatory basis (to the extent provided in Section

3.3 of the Carrier Agreement) up to the design capacity of the System at the locations specified in Exhibit A. The limitation on service by Persons other than the Permittee, as set forth in Section 17, shall be applicable throughout the Term.

(b) The Permittee shall not conduct any other form of business activity than System Operations and shall not own or control any other Person or own any equity interest in any other Person. The aforesaid restriction shall not be applicable to the Project Lender, a Replacement Project Lender or a Qualified System Operator in connection with the performance of System Operations by any such party, provided that in no event shall any such party also be a Carrier User.

(c) Senior representatives of the Permittee shall meet with Port Authority representatives monthly during the construction of the System and quarterly thereafter (or at such other times as may be specified by the Port Authority) to discuss the financial and operational performance of the System. At such meetings, the Permittee's representatives shall discuss (i) the impact of any changes in the wireless communications industry, (ii) the financial and operational performance of the System, and (iii) any steps the Permittee is taking to assure that all appropriate technological developments are incorporated into the System on an on-going basis and in order to comply with the provisions of paragraph (a), above.

Section 4. Term

(a) The term of this Agreement shall commence on the date first set forth on the first page hereof (hereinafter sometimes referred to as the "Commencement Date") and shall, unless sooner terminated, expire on the day preceding the fifteenth (15th) anniversary of the Commencement Date (the "Initial Term").

(b) The Permittee shall have the right to extend the term of this Agreement (the "Renewal Term") in accordance with Section 34.

(c) The "Term" shall mean the term of the Agreement in effect at any particular time.

Section 5. Fees

I. MINIMUM FEE

(a) (i) The Permittee shall pay to the Port Authority a Minimum Fee separately for each Annual Period during the Term for the privileges described in this Agreement at the annual rates set forth below, payable as follows:

(1) With respect to the portion of the Term from the "Commencement Date" to the day preceding the "Basic Port Authority Facilities Construction Work Completion Date," in advance, in quarterly installments on the Commencement Date and on the first day of each October, January, April and July thereafter, in each case with respect to the calendar quarter during which such date occurs, including any part of such calendar quarter that occurs during the Term and on or before the day preceding the Basic Port Authority Facilities Construction Work Completion Date.

(2) With respect to the portion of the Term from and after the Basic Port Authority Facilities Construction Work Completion Date to the expiration date of this Agreement, in arrears, in quarterly installments commencing on the first to occur of the last day of January, April, July and October, as the case may be, in the calendar quarter following the calendar quarter during which the Basic Port Authority Facilities Construction Work Completion Date occurs and on the last day of the first month of each calendar quarter thereafter, including the first said date following the expiration date of this Agreement, in each case with respect to the calendar quarter ending on the last day of the preceding month. For example, if the Basic Port Authority Facilities Construction Work Completion Date occurs on January 15, the next quarterly installment of the Minimum Fee shall be payable on July 31.

(ii) If the Commencement Date occurs on a day which is other than the first day of a calendar quarter, the Minimum Fee for the portion of the calendar quarter during which the

Commencement Date occurs following such date shall be the amount of the quarterly installment described in this paragraph (a) prorated on a daily basis and shall be payable on the Commencement Date. The quarterly installment of the Minimum Fee payable during the calendar quarter in which the Basic Port Authority Facilities Construction Work Completion Date occurs shall not be prorated. If the Initial Term expires on a date which is other than the day immediately prior to the first day of a calendar quarter, the Minimum Fee for the portion of the calendar quarter during which the expiration date of the Initial Term occurs, to and including such date, shall be the amount of the quarterly installment described in this paragraph (a) prorated on a daily basis. If this Agreement expires on a date which is other than a day immediately prior to the first day of a calendar quarter, the Minimum Fee for the portion of the calendar quarter during which the expiration date occurs, to and including such date, shall be the amount of the quarterly installment described in this paragraph (a) prorated on a daily basis.

(b) Minimum Fees are as follows:

(i) For the First Annual Period, in the sum of One Hundred Sixty-nine Thousand Eight Hundred Sixty-three Dollars and One Cent ($169,863.01), in the amount of Forty-three Thousand Eight Hundred Thirty-five Dollars and Sixty-two Cents ($43,835.62) on August 30, 1999 and in the amount of One Hundred Twenty-six Thousand Twenty-seven Dollars and Thirty-nine Cents ($126,027.39) on October 1, 1999, without any proration of any of the aforesaid sums or amounts pursuant to any other provision of this Agreement.

(ii) For the Second Annual Period, the sum of Five Hundred Thousand Dollars and No Cents ($500,000.00).

(iii) For the Third Annual Period, the sum of Seven Hundred Sixty-three Thousand Thirteen Dollars and Sixty-nine Cents ($763,013.69).

(iv) For the Fourth Annual Period, the sum of One Million Two Hundred Fifty Thousand Dollars and No Cents ($1,250,000.00) and for the Fifth Annual Period, the sum of One Million Two Hundred Fifty Thousand Dollars

and No Cents ($1,250,000.00).

(v) For the Sixth Annual Period, the sum of One Million Three Hundred Twenty Thousand One Hundred Thirty-six Dollars and Ninety-six Cents ($1,320,136.96).

(vi) For the Seventh Annual Period, the sum of One Million Four Hundred Fifty Thousand Dollars and No Cents ($1,450,000.00) and for the Eighth Annual Period, the sum of One Million Four Hundred Fifty Thousand Dollars and No Cents ($1,450,000.00).

(vii) For the Ninth Annual Period, the sum of One Million Five Hundred Seventy-two Thousand Seven Hundred Thirty-nine Dollars and Seventy Cents ($1,572,739.70).

(viii) For the Tenth Annual Period, the sum of One Million Eight Hundred Thousand Dollars and No Cents ($1,800,000.00), for the Eleventh Annual Period, the sum of One Million Eight Hundred Thousand Dollars and No Cents ($1,800,000.00) and for the Twelfth Annual Period, the sum of One Million Eight Hundred Thousand Dollars and No Cents ($1,800,000.00).

(ix) For the Thirteenth Annual Period, the sum of One Million Nine Hundred-five Thousand Two Hundred Five Dollars and Forty-four Cents ($1,905,205.44).

(x) For the Fourteenth Annual Period, the sum of Two Million One Hundred Thousand Dollars and No Cents ($2,100,000.00) and for the Fifteenth Annual Period, the sum of Two Million One Hundred Thousand Dollars and No Cents ($2,100,000.00).

(xi) For the portion of the Sixteenth Annual Period during which this Agreement would be in effect if the Lessee does not exercise its right to extend this Agreement pursuant to Section 34, below, the sum of One Million Three Hundred Sixty-three Thousand Five Hundred Sixty-one Dollars and Sixty Cents ($1,363,561.60), without any proration thereof pursuant to any other provision of this Agreement.

(c) If the Permittee exercises its right to extend this Agreement pursuant to Section 34, below, the Permittee shall pay to the Port Authority a Minimum Fee for the privileges described in this Agreement, separately for each Annual Period during the Renewal Term, at the annual rates set forth below, in arrears, in quarterly installments on January 31, 2015 and on the last day of each April, July, October and January thereafter, in each case with respect to the calendar quarter ending on the last day of the preceding month:

(i) For the portion of the Sixteenth Annual Period which shall fall during the Renewal Term, the sum of Seven Hundred Thirty-six Thousand Four Hundred Thirty-eight Dollars and Forty Cents ($736,438.40), without any proration thereof pursuant to any other provision of this Agreement.

(ii) For the Seventeenth Annual Period, the sum of Two Million One Hundred Thousand Dollars and No Cents ($2,100,000.00).

(iii) For the Eighteenth Annual Period, the sum of Two Million Two Hundred Five Thousand Two Hundred Five Dollars and Forty-two Cents ($2,205,205.42).

(iv) For the Nineteenth Annual Period, the sum of Two Million Four Hundred Thousand Dollars and No Cents ($2,400,000.00), for the Twentieth Annual Period, the sum of Two Million Four Hundred Thousand Dollars and No Cents ($2,400,000.00) and for the Twenty-first Annual Period, the sum of Two Million Four Hundred Thousand Dollars and No Cents ($2,400,000.00).

(v) For the Twenty-second Annual Period, the sum of Two Million Four Hundred Thirty-five Thousand Sixty-eight Dollars and Forty-two Cents ($2,435,068.42).

(vi) For the Twenty-third Annual Period, the sum of Two Million Five Hundred Thousand Dollars and No Cents ($2,500,000.00) and for the Twenty-fourth Annual Period, the sum of Two Million Five Hundred Thousand Dollars and No Cents ($2,500,000.00).

(vii) For the Twenty-fifth Annual Period, the sum of Two Million Five Hundred Thirty-five Thousand Sixty-eight Dollars and Forty-one Cents ($2,535,068.41).

(viii) For the Twenty-sixth Annual Period, the sum of One Million Six Hundred Eighty-eight Thousand Two Hundred Nineteen Dollars and Eighteen Cents ($1,688,219.18), without any proration thereof pursuant to any other provision of this Agreement.

(d) In the event the Permittee seeks to install portions of the System at one or more Port Authority Facilities, or major portions thereof (such as individual airport terminals), during an Annual Period, and the Port Authority has not made arrangements with the lessees or other occupants thereof to permit the Permittee to install the System at such locations, the Minimum Fee for such Annual Period shall be equitably adjusted.

II. VARIABLE FEE

(a) The Permittee shall pay to the Port Authority a Variable Fee for each Annual Period during the Initial Term or the Renewal Term, as the case may be. The Variable Fee shall be determined by ascertaining separately for each Annual Period the amount which is the greater of (i) the Adjusted Gross Receipts Fee Component or (ii) the Gross Receipts Fee Component and subtracting from the amount thus determined the Minimum Fee payable for such Annual Period, including, without limitation, any applicable proration or equitable adjustment of such Minimum Fee. No other proration of the Variable Fee shall be applicable.

(b) (i) The Variable Fee shall be payable in quarterly installments and computed, at the percentage rates set forth below, based on the reasonably determined projection of the amount to be due for the entire Annual Period prepared by the Permittee and approved by the Port Authority, such approval not to be unreasonably withheld, not later than sixty (60) days prior to the commencement of each Annual Period. The Variable Fee shall be payable for each Annual Period in equal quarterly installments on the last day of January, April, July and October, in each case with respect to the calendar quarter ending on the last day of the immediately preceding calendar month (for

example, the Variable Fee shall be payable on July 31 for the calendar quarter April 1 to June 30) and for every calendar quarter or part thereof thereafter in any Annual Period during the Initial Term or the Renewal Term as the case may be.

(ii) Within sixty (60) days following the end of each Annual Period the Permittee shall compute the actual amount of the Adjusted Gross Receipts Fee Component and the Gross Receipts Fee Component for the Annual Period and compute the Variable Fee based on the greater of the Adjusted Gross Receipts Fee Component or the Gross Receipts Fee Components. In the event the actual Variable Fee shall exceed the total of the quarterly installments actually paid by the Permittee with respect to such Annual Period, the Permittee shall pay to the Port Authority the difference between the actual Variable Fee for the preceding Annual Period and the total of the said quarterly installments paid by the Permittee. In the event the total of the said quarterly installments paid by the Permittee to the Port Authority shall exceed the actual Variable Fee for the preceding Annual Period, the Port Authority shall pay the amount of such excess to the Permittee. In either such case, the required payment shall be made not later than ten (10) business days following the date of the notice from the Permittee to the Port Authority setting forth its computation of the actual Variable Fee for the immediately preceding Annual Period.

III. ADDITIONAL FEES

(a) In addition to all other fees payable under this Agreement, the Permittee shall pay to the Port Authority an Additional Fee which shall be determined by ascertaining separately for each Annual Period the amount determined in accordance with paragraph (c) below. No proration of the Additional Fee shall be applicable.

(b) The Additional Fee shall be payable, in quarterly installments and computed at the percentage rates set forth below, based on the reasonably determined projection of the amount to be due for the entire Annual Period prepared by the Permittee and approved by the Port Authority, such approval not to be unreasonably withheld, on the last day of each January, April, July and October in each case with respect to the calendar quarter ending on the last day of the immediately preceding

calendar month (for example, the Additional Fee shall be payable on July 31 for the calendar quarter April 1 to June 30) and for every such calendar quarter or part thereof thereafter occurring during the Initial Term or the Renewal Term as the case may be. In the event the actual Additional Fee shall exceed the total of the quarterly installments actually paid by the Permittee with respect to such Annual Period, the Permittee shall pay to the Port Authority the difference between the actual Additional Fee for the preceding Annual Period and the total of the said quarterly installments paid by the Permittee. In the event the total of the said quarterly installments paid by the Permittee to the Port Authority shall exceed the actual Additional Fee for the preceding Annual Period, the Port Authority shall pay the amount of such excess to the Permittee. In either such case, the required payment shall be made not later than ten (10) business days following the date of the notice from the Permittee to the Port Authority setting forth its computation of the actual Additional Fee for the immediately preceding Annual Period.

(c) The Additional Fee for each Annual Period shall be the sum of:

(i) Fifty-five percent (55%) of World Trade Center Towers and Airports Adjusted Gross Receipts, plus

(ii) Eighty Percent (80%) of Tower Gross Receipts.

IV. MINUTES OF USE ("MOU'S) CHARGES BY THE PERMITTEE

The Permittee shall, in addition to charging Carrier Users fixed fees for usage of portions of the System, charge each Carrier User a fee based upon its usage of the System in excess of a threshold amount, such fee initially to be established on an MOU basis, it being understood that such methodology may be modified with the prior written consent of the Port Authority. The said fee shall be within the range set forth in the form of Carrier Agreement attached hereto, hereby made a part hereof and marked "Exhibit D," unless the Port Authority shall consent to a modification thereof. The Permittee may, on a fair, reasonable and non-discriminatory basis, offer Carrier Users an opportunity to obtain a discounted rate for such MOU'S on a pre-paid, "use it

or lose it," basis, subject to the prior written approval of the Port Authority of a range and structure of discounts, to be proposed by the Permittee, such approval not to be unreasonably withheld.

V. FEE RELATED DEFINITIONS

"Adjusted Gross Receipts" for each Annual Period shall mean Gross Receipts less the sum of the following:

(i) For a management fee:

For the First Annual Period and the Second Annual Period, the sum of Three Hundred Thousand Dollars and No Cents ($300,000.00);

For the Third Annual Period and each Annual Period thereafter during the Initial Term, the sum set forth above, plus an additional amount equal to the greater of: (x) an amount equal to the product obtained by multiplying the sum set forth above by a fraction the numerator of which shall be the number of points, or major fraction thereof, that the Consumer Price Index published for the December immediately preceding such Annual Period has increased over the Consumer Price Index published for December, 1999, and the denominator of which shall be the Consumer Price Index published for December, 1999 (the "CPI Adjustment Amount") or (y) the CPI Adjustment Amount determined in accordance with this subparagraph for the preceding Annual Period.

For the purposes of this Agreement, 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, then the Consumer Price Index for any calendar month of December used for purposes of this Agreement shall be recomputed accordingly; or (b) the Consumer Price Index is not in

publication at a time when its use is required hereunder, then the Port Authority shall select and apply a similarly comparable index in determining the additional amounts payable pursuant to this subparagraph (i) and pursuant to subparagraphs (ii) and (iii), below.

(ii) For an administrative and professional fee to cover (1) customary accounting and legal services, (2) administrative services, including any expenses associated with a trustee providing the independent auditing of minutes of use by Carrier Users, and (3) other miscellaneous expenses, including office expenses such as rent, computers and other supplies:

For the First Annual Period and the Second Annual Period, the sum of Two Hundred Twenty-five Thousand Dollars and No Cents ($225,000.00);

For the Third Annual Period and each Annual Period thereafter during the Initial Term, the sum set forth above, plus an additional amount equal to the greater of: (x) the CPI Adjustment Amount or (y) the CPI Adjustment Amount determined in accordance with subparagraph (i), above, for the preceding Annual Period.

(iii) For a replacement reserve:

For the First Annual Period and the Second Annual Period, the sum of One Hundred Thousand Dollars and No Cents ($100,000.00);

For the Third Annual Period and each Annual Period thereafter during the Initial Term, the sum set forth above, plus an additional amount equal to the greater of: (x) the CPI Adjustment Amount or (y) the CPI Adjustment Amount determined in accordance with subparagraph (i), above, for the preceding Annual Period. Any unexpended replacement reserve shall constitute Gross Receipts during the Annual Period in which this Agreement expires or is sooner terminated.

(iv) The annual amortization, over the Initial Term, of amounts paid by the Permittee in connection with its acquisition of rights of access and use, as approved by the Port Authority, pursuant to Section 6(b) of this Agreement.

(v) Amounts paid by the Permittee in each Annual Period for debt service (but not including debt service on any "Non-Recurring Capital Amounts," as hereinafter defined), provided however that in no event shall the total amount of the principal of the debt on which the debt service qualifies for a deduction under this clause (v) exceed the sum of Three Million Five Hundred Thousand Dollars and No Cents ($3,500,000.00) and the interest rate on such debt shall be not greater than twelve percent (12%) per annum or such lower annual rate obtained by the Permittee.

(vi) Amounts paid by the Permittee in each Annual Period to unaffiliated third parties (unless otherwise consented to by the Port Authority) for engineering services in connection with the Initial System Construction Work (during the First and Second Annual Periods only), System maintenance, monitoring, fiber optic carriage and insurance, all to parties and under agreements approved by the Port Authority.

(vii) For transaction costs associated with the negotiation and execution of this Agreement, for the First Annual Period, only, the sum of One Million Dollars and No Cents ($1,000,000.00).

In the event the expiration of the Initial Term or the Renewal Term, as the case may be, shall occur on a day other than last day of an Annual Period, the amounts to be deducted from Gross Receipts in subparagraphs (i), (ii), (iii) and (iv), above, shall be prorated on a daily basis.

"Adjusted Gross Receipts Fee Component" shall mean:

(1) For each Annual Period during the Initial Term: Fifty Percent (50%) of Adjusted Gross Receipts.

(2) For the Fifteenth Annual Period (the Annual

Period during which the Renewal Term occurs): Fifty-three and one-half Percent (53.5%) of Adjusted Gross Receipts.

(3) For each Annual Period thereafter occurring during the Renewal Term: Sixty Percent (60%) of Adjusted Gross Receipts.

"Annual Period" shall mean one calendar year commencing on January 1 and ending on December 31. The period from the Commencement Date to the next occurring December 31 shall be the First Annual Period and the next Annual Period from January 1 to December 31 shall be the Second Annual Period and so forth.

"Gross Receipts" shall mean all monies received or receivable (unless and until any amount is deemed to be uncollectible in accordance with generally accepted accounting principles) by the Permittee for sales made or services rendered through the System including without limitation for the transmission of communications signals originating on, terminating on or carried through any portion of the System. Gross Receipts shall include all revenues (but not debt incurred by the Permittee) except for any sums collected and paid out for any sales tax, direct excise tax or other similar tax or any governmental or regulatory fees or any other pass-through or ancillary fees that the Permittee is required by law to collect and upon which the Permittee derives no revenue or profit. Gross Receipts shall not include Tower Gross Receipts or World Trade Center Towers and Airports Gross Receipts, nor shall Gross Receipts include (a) "entrance fees" paid by Carrier Users in an amount not to exceed $500,000.00 per Carrier User, or (b) any other non-recurring payments made by Carrier Users to the Permittee that are (i) properly allocable, with the concurrence of the Port Authority, to the capital construction of portions of the System, (ii) are in addition to sums otherwise due to the Permittee from the Carrier Users for the use of the System and (iii) are expended by the Permittee prior to the end of the second Annual Period following the Annual Period in which such payments are made (such amounts being herein referred to as "Non-Recurring Capital Amounts"). Any such payments to the Permittee not so expended by the Permittee shall be deemed Gross Receipts in the Annual Period immediately following the expiration of such second Annual Period.

"Gross Receipts Fee Component" shall mean:

(i) For each Annual Period during the Initial Term:

(1) For the First Annual Period, the Second Annual Period and the Third Annual Period: Zero Percent (0%) of Gross Receipts.

(2) For the Fourth Annual Period, the Fifth Annual Period and the Sixth Annual Period: Fifteen Percent (15%)of Gross Receipts.

(3) For the Seventh Annual Period, the Eighth Annual Period and the Ninth Annual Period: Eighteen Percent (18%) of Gross Receipts.

(4) For the Tenth Annual Period, the Eleventh Annual Period, the Twelfth Annual Period and the Thirteenth Annual Period: Twenty Percent (20%) of Gross Receipts.

(5) For the Fourteenth Annual Period, the Fifteenth Annual Period, the Sixteenth Annual Period and each Annual Period thereafter through the expiration date of this Agreement, if this Agreement is not extended pursuant to Section 34 below: Twenty-five Percent (25%) of Gross Receipts.

(ii) For each Annual Period during the Renewal Term:

(1) For the Sixteenth Annual Period, the Seventeenth Annual Period and the Eighteenth Annual Period: Twenty-five Percent (25%) of Gross Receipts.

(2) For the Nineteenth Annual Period, the Twentieth Annual Period, the Twenty-first Annual Period, the Twenty-second Annual Period, the Twenty-third Annual Period, the Twenty-fourth Annual Period, the Twenty-fifth Annual Period, the Twenty-sixth Annual Period and each Annual Period thereafter through the expiration date of this Agreement: Thirty Percent (30%) of Gross Receipts.

"Tower Gross Receipts" shall mean all monies received or receivable (unless and until any amount is deemed to be uncollectible in accordance with generally accepted accounting principles) by the Permittee for the mounting or use of antennas which do not comprise any part of the System on Ancillary Towers or existing towers. Tower Gross Receipts shall include all revenues from the mounting or use of antennas as aforesaid except for any sums collected and paid out for any sales tax, direct excise tax, real estate tax, personal property tax or other similar tax or any governmental or regulatory fees or any other pass-through or ancillary fees that the Permittee is required by law to collect and upon which the Permittee derives no revenue or profit. Tower Gross Receipts shall not include monies received by the Permittee at any time in connection with antennas which are installed on a tower within thirty (30) days after the completion of construction of such tower by the Permittee; monies received in connection with such antennas shall instead be Gross Receipts.

"World Trade Center Towers and Airports Gross Receipts" shall mean all monies received or receivable in an Annual Period (unless and until any amount is deemed to be uncollectible in accordance with generally accepted accounting principles) by the Permittee for the use, by all specialized wireless telecommunications service carriers offering telecommunications services to end user customers using mobile, portable or fixed wireless devices in offices and nearby areas at the Port Authority World Trade Center Towers and in the terminals at the Airports, of the in-building fiber optic backbone facility to be installed by the Permittee, pursuant to the provisions of paragraph (d) of Section 2, in the World Trade Center Towers (excluding the shopping concourse and PATH Station levels) and in the terminals at the Airports. World Trade Center Towers and Airports Gross Receipts shall include all revenues from the use of the in-building fiber optic backbone facility as aforesaid except for any sums collected and paid out for any sales tax, direct excise tax, real estate tax, personal property tax or other similar tax or any governmental or regulatory fees or any other pass-through or ancillary fees that the Permittee is required by law to collect and upon which the Permittee derives no revenue or profit.

"World Trade Center Towers and Airports Adjusted Gross Receipts" shall mean, for each Annual Period, World Trade Center Towers and Airports Gross Receipts reduced by the sum of: (i) Five Percent (5%) of World Trade Center Towers and Airports Gross Receipts for such Annual Period (which represents an allowance for administrative costs), (ii) the annual amortization, over the remainder of the Initial Term, of capital expenditures not financed by debt and made by the Permittee for the purposes set forth in clause (iii), below, and (iii) the amounts of principal and interest due and payable by the Permittee during such Annual Period that are properly allocable to debt incurred by the Permittee for the installation by the Permittee of an in-building fiber optic backbone facility in the World Trade Center Towers and in the terminals at the Airports, for use by all specialized wireless telecommunications service carriers offering telecommunications services to end user customers using mobile, portable or fixed wireless devices in offices and nearby areas at the Port Authority World Trade Center Towers (excluding the shopping concourse and PATH Station levels) and in the terminals at the Airports.

Section 6. Leases of Facilities

(a) The Permittee hereby acknowledges that certain of the Facilities operated by the Port Authority are leased by the Port Authority from third parties and that the permission granted hereunder with respect to any such Facility shall in any event terminate with the expiration or termination of the Port Authority's lease for such Facility. The Port Authority has delivered to the Permittee true and correct copies of an agreement with the City of New York for the lease of John F. Kennedy International Airport and an agreement with the City of Newark for the lease of Newark International Airport.

(b) In the event the lease or other agreement pursuant to which the Port Authority operates one or more of the Port Authority Facilities is terminated or expires, title to and ownership of the portion or portions of the System located at such Port Authority Facility shall thereupon vest in the Permittee without any further act or deed by the Permittee. Upon such termination or expiration, the Minimum Fee shall be equitably abated. If the Port Authority reacquires a leasehold interest in, a right to operate or manage, or title to or

ownership of such Port Authority Facility after such termination or expiration, and provided the System is then operable or can be made operable by the Permittee within twelve (12) months after such reacquisition, then this Agreement, and the Permittee's and the Port Authority's rights and obligations thereunder, shall be reinstated with respect to such Port Authority Facility for the balance of the Term without any further action or deed by the Permittee.

(c) (i) The Permittee hereby further acknowledges that portions of the Facilities where System Operations may occur are now or in the future may be under lease or permit from the Port Authority to third parties for their occupancy and use and that the Permittee, by independent arrangement with such third parties, shall use commercially reasonable efforts to acquire the right or rights of access and use in such areas as are necessary for System Operations in instances in which such rights of access and use are not reserved to the Port Authority under the terms of such leases or permits, and as a component of such independent arrangements, the Permittee must use commercially reasonable efforts to arrange with such third parties for the supply to the Permittee of the facilities, utilities and services it may require for use in connection with System Operations, including without limitation and without limiting the applicability of Section 7, below, the installation of any telecommunications, electrical or other wires, conduits, ducts and pipes.

(ii) The Port Authority has made and hereby makes no representation or warranty as to the location, size, adequacy, suitability or availability of any facilities, utilities or services to be used by the Permittee in the exercise of its privileges under this Agreement. To the best of the Port Authority's knowledge as of the date of the execution of this Agreement, no material restrictions on the Permittee's access to or use of those portions of the Port Authority Facilities where the System is proposed to be installed by the Permittee, as described in the Summary Basis of Design attached hereto as Exhibit B, are contained in any lease or permit from the Port Authority to any third party except for the interior and the exterior of the passenger terminals at each Airport (it being understood and agreed that for purposes hereof, the Port Authority's knowledge consists solely of the actual knowledge following due inquiry, of those Port Authority employees having

primary responsibility for the implementation of the Port Authority's obligations under this Agreement). Upon the request of the Permittee, the Port Authority will use commercially reasonable efforts to identify to the Permittee representatives of third parties with whom the Permittee may discuss independent arrangements for the rights of access to and use of those portions of the Port Authority Facilities where System Operations may occur that are under lease or permit to such third parties. The Port Authority will use commercially reasonable efforts to assist the Permittee in the Permittee's efforts to obtain the rights of access and use as described above, and in connection therewith and as an accommodation to the Permittee, will not require, and will use commercially reasonable efforts to ensure that such third parties will not require, the Permittee to pay any fees or charges to such third parties as a condition to obtaining such rights of access and use. The Port Authority shall reimburse the Permittee for any such fees or charges that are reasonably paid by the Permittee following consultation with the Port Authority.

(iii) In the event of the expiration or earlier termination of any independent arrangement between the Permittee and a third party providing for rights of access and use to those portions of Port Authority Facilities where System Operations may occur, the privilege granted under this Agreement shall be suspended with respect to the areas covered by such independent arrangement until a new independent arrangement can be established and the Minimum Fee shall be equitably adjusted as provided in Section 5 I.(d). In the event of any inconsistency between the terms of any such independent arrangement with a third party, as aforesaid, and the terms of this Agreement, the terms of this Agreement shall control. The Port Authority shall use commercially reasonable efforts to reserve to itself for the benefit of the Permittee any right of access or use under the terms of any lease entered into with, or permit issued to, any third party.

Section 7. Installation Work

(a) The Permittee shall perform, at its sole cost and expense, all installation work required to prepare each Port Authority Facility where the Permittee is to conduct System Operations for the Permittee's operations, including installing

all transmitters, receivers, cables and other equipment and the construction of all associated improvements appurtenant to the operation of the System, provided however that the Permittee shall have no obligations with respect to the installation of proprietary base station equipment for the exclusive use of individual Carrier Users, as provided in the Carrier Agreement (the work described in this Section being hereinafter referred to, separately with respect to each Port Authority Facility, as the "Initial System Construction Work").

(b) (i) The Permittee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting procedures for the installation of all equipment and the construction of all improvements appurtenant to the operation of the System. Prior to retaining any architect, professional engineer or other technical consultant in connection with the Initial System Construction Work the name or names of said architect, professional engineer or other technical consultant shall be submitted to the Port Authority for its approval. The Port Authority shall have the right to disapprove any architect, professional engineer or other technical consultant who may be unacceptable to it. The Port Authority shall approve in advance the Permittee's contract with each such architect, professional engineer or other technical consultant. The Port Authority hereby approves any retention by the Permittee of Andrew Corporation, RCC Consultants, LGC Wireless and Allen Telecom.

(ii) (1) Prior to the commencement of any Initial System Construction Work at any Port Authority Facility, the Permittee shall submit to the Port Authority for its approval a Tenant Alteration Application (hereinafter, "Construction Application"), in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include, setting forth in detail by appropriate plans and specifications the Initial System Construction Work the Permittee proposes to perform at such Port Authority Facility and the manner of and time periods for performing such work. The data to be supplied by the Permittee shall identify separately each of the items constituting the Initial System Construction Work and shall describe in detail the improvements, fixtures, equipment, and systems to be installed by the Permittee. The plans and

specifications to be submitted by the Permittee shall be in sufficient detail for a contractor to perform the Initial System Construction Work and shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the Initial System Construction Work in accordance with the Port Authority's requirements. The Permittee may submit a single Construction Application for each Port Authority Facility. Alternatively, the Permittee may submit one or more separate Construction Applications comprising only a portion of the Initial System Construction Work at such Port Authority Facility. All Construction Applications shall be submitted in compliance with the requirements set forth above in this paragraph. Any Construction Application that covers less than an entire Port Authority Facility shall cover an integrated functional portion of the Initial System Construction Work at such Port Authority Facility which, when complete, will function to provide service to Carrier Users and the public without being dependent on any other portion of the Initial System Construction Work not yet completed. The Permittee may submit a Construction Application covering a portion of the Initial System Construction Work which the Port Authority shall have approved by prior written notice to the Permittee as eligible for inclusion in a separate Construction Application. In connection with the review by the Port Authority of the Permittee's submissions under this Section, the Permittee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may require for such review. Following the Port Authority's receipt of the Permittee's Construction Application, the Port Authority shall give its written approval or rejection thereof, or shall request such modifications thereto as the Port Authority may find necessary or appropriate. The Permittee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor or subcontractor is operating under, have been approved by the Port Authority. The Permittee shall include in any such contract or subcontract such provisions as are required pursuant to the provisions of this Agreement and the Construction Application approved by the Port Authority, including, without limitation thereto, provisions regarding labor harmony. The Permittee has engaged Andrew Corporation and LGC Wireless Inc. as its contractors, and the Port Authority hereby approves such engagement. The Port Authority hereby approves for retention by such contractors, as subcontractors, the following firms: None Listed).

(2) The Port Authority shall review each Construction Application and all plans and specifications submitted by the Permittee therewith and will furnish its comments regarding the same to the Permittee within twenty (20) business days after its receipt thereof. The Port Authority will review and comment on any corrected, modified or amended plans and specifications resubmitted to the Port Authority by the Permittee within fifteen (15) business days after receipt of any such resubmission. The total of the number of business days actually required by the Port Authority for the review of all submissions and resubmissions of the Permittee's Construction Applications and plans and specifications for the Initial System Construction Work and the total of the number of business days allocated in the first two sentences of this paragraph to each separate Construction Application computed for all such reviews of the Permittee's submissions and resubmissions of all Construction Applications and plans and specifications for the Initial System Construction Work shall be separately ascertained and each of such total number of business days shall be used in determining whether the Permittee is entitled to a credit against its payment obligations under this Agreement, as provided for in subparagraph (g)(iii), below.

(iii) (1) The Permittee hereby assumes the risk of loss or damage to all of the Initial System Construction Work prior to the completion thereof and the risk of loss or damage to all property of the Port Authority, its lessees and permittees arising out of or in connection with the Initial System Construction Work. In the event of any such loss or damage, the Permittee shall forthwith repair, replace and make good the Initial System Construction Work and the property of the Port Authority, its lessees and permittees. The Permittee shall, and shall require each of its contractors to indemnify the Port Authority and its Commissioners, officers, agents and employees from and against all claims and demands, just or unjust, by third persons (including the Commissioners, officers, agents and employees of the Port Authority) against the Port Authority and its Commissioners, officers, agents and employees, arising or alleged to arise out of the performance of the Initial System Construction Work or based upon any of the risks assumed by the Permittee in this Agreement or any breach hereof, 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 Permittee, any contractors of the Permittee, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only claims and demands which result solely from the gross negligence or willful misconduct of the Port Authority subsequent to commencement of the Initial System Construction Work; provided however, the Permittee shall not be required to indemnify the Port Authority where indemnity would be precluded by Section 5-322.1 of the General Obligations Law of the State of New York. The Permittee shall cause each such contractor and subcontractor to obtain and maintain in force such insurance coverage and performance bonds as the Port Authority may specify, including, without limitation, a contractual liability endorsement to cover the indemnity obligations assumed by the Permittee pursuant to the provisions of this Section.

(2) If so directed, the Permittee shall at its own expense defend any suit based upon any claim or demand described in subparagraph (1) above (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 the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority. The Permittee shall not be liable for any fees and expenses of separate counsel representing the Port Authority, other than the reasonable costs of investigation. The Permittee shall not be liable for any settlement of any action, proceeding or suit, which settlement is effected by the Port Authority without the prior written consent of the Permittee, which shall not be unreasonably withheld. If the Permittee shall not grant its consent as provided above, such action, proceeding or suit shall thereafter be defended by the Permittee, at its sole cost and expense, subject to the limitations set forth above in this subparagraph (2).

(iv) The Initial System Construction Work shall be performed by the Permittee in accordance with the Construction Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the Initial System Construction Work and after the completion thereof, and the Permittee shall upon direction from the Port Authority to do so, stop the performance of any portion of the Initial System Construction Work which is not being performed in accordance with the above and redo or replace at its own expense any Initial System Construction Work not done in accordance therewith. The Permittee shall also supply the Port Authority with "as-built" drawings in such form and number as are reasonably requested by the Port Authority and the Permittee shall keep said drawings current during the Term. No changes or modifications to any Initial System Construction Work shall be made without the prior consent of the Port Authority.

(v) Any dispute between the Port Authority and the Permittee regarding whether or not any Construction Application submitted by the Permittee should be approved by the Port Authority, shall be handled pursuant to Section 26 of this Agreement.

(vi) The Permittee shall pay or cause to be paid all claims lawfully made against it by its contractors, subcontractors, material suppliers and workers, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the Initial System Construction Work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them, provided, however, that nothing herein contained shall be construed to limit the right of the Permittee to contest any claim of a contractor, subcontractor, material supplier or worker or other person and no such claim shall be considered to be an obligation of the Permittee within the meaning of this Section unless and until the same shall have been finally adjudicated. The Permittee shall use commercially reasonable efforts to resolve any such claims and shall keep the Port Authority fully informed of its actions with respect thereto. Without limiting the generality of the foregoing, all of the Permittee's construction contracts shall provide as follows: "If (1) the Contractor fails to perform any of its obligations under this

Contract, including its obligation to pay any claims lawfully made against it by any material supplier, subcontractor, worker or any other third person which arises out of or in connection with the performance of this Contract, (2) any claim (just or unjust) which arises out of or in connection with this Contract is made against the Permittee, or (3) any subcontractor under this Contract fails to pay any claims lawfully made against it by any material supplier, subcontractor, worker or any other third person which arise out of or in connection with this Contract or if in the Permittee's opinion any of the aforesaid contingencies is likely to arise, then the Permittee shall have the right, in its discretion, to withhold out of any payment (final or otherwise and even though such payments have already been certified as due) such sums as the Permittee may deem ample to protect it against delay or loss or to assume the payment of just claims of third persons, and to apply such sums as the Permittee may deem proper to secure such protection or to satisfy such claims. All sums so applied shall be deducted from the Contractor's compensation. Omission by the Permittee to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at the time of payment, shall not be deemed to indicate that the Permittee does not intend to exercise its right with respect to such contingency. Neither the above provisions for the rights of the Permittee to withhold and apply monies nor any exercise or attempted exercise of, or omission to exercise, such right by the Permittee shall create any obligation of any kind to such material suppliers, subcontractors, workers or other third persons. Until actual payment is made to the Contractor, its right to any amount to be paid under this Contract (even though such payments have already been certified as due) shall be subordinate to the rights of the Permittee under this provision."

(c) (i) The Permittee shall not commence any Initial System Construction Work prior to the Commencement Date and until the Construction Application and plans and specifications covering such work, have been finally approved by the Port Authority. The Permittee recognizes that its obligation to pay fees, including, without limitation, the Minimum Fee, provided for in this Agreement shall commence on the Commencement Date even though the Initial System Construction Work has not yet then been commenced or completed.

(ii) Construction Application(s) for the Initial System Construction Work at each of the Holland and Lincoln tunnels shall be submitted to the Port Authority within sixty (60) days following execution of this Agreement. Construction Application(s) for the Initial System Construction Work at each of John F. Kennedy International Airport, LaGuardia Airport and Newark International Airport shall be submitted to the Port Authority within twelve (12) months following execution of this Agreement. The Permittee shall commence the performance of the Initial System Construction Work at each Basic Port Authority Facility within thirty (30) days following the approval of the Construction Application with respect to each such Basic Port Authority Facility and shall diligently pursue the completion of such Initial System Construction Work. The Initial System Construction Work at the Basic Port Authority Facilities shall be completed as follows (subject to extension for causes or conditions beyond the control of the Permittee): (A) with respect to the Holland and Lincoln tunnels, the Initial System Construction Work shall be completed within six (6) months following execution of this Agreement, (B) with respect to John F. Kennedy International Airport, LaGuardia Airport and Newark International Airport, the Initial System Construction Work shall be completed within eighteen (18) months following execution of this Agreement, subject to the Permittee's inability to obtain such access to the Basic Port Authority Facilities as is necessary to perform the Basic Port Authority Facilities Construction Work and to major airport terminal construction plans, and (C) with respect to construction work performed at any Additional Port Authority Facilities, within two (2) years following a bona fide commitment by one Cellular Carrier User and one PCS Carrier User with respect to any such Additional Port Authority Facility, provided however that the Permittee shall install the System in all or part of PATH's subterranean or enclosed rail transit tubes (as distinguished from its rail transit lines running in open areas at ground level and all portions of its passenger stations) within two (2) years following the date when one or more Carrier Users: (i) have requested to use the System in all or part of the aforesaid PATH facilities and (ii) have agreed to pay or provide for the payment of all of the costs of constructing the System in all or the portion of the aforesaid PATH facilities in which the System is to be constructed, such installation obligation to pertain only to that part of the PATH facilities requested by such Carrier Users.

(d) The Permittee 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 the Port Authority or the incorporation therein of any Port Authority requirements or recommendations. Nothing contained in any approval hereunder shall constitute a determination or indication by the Port Authority that the Permittee has complied with the applicable governmental rules, ordinances, enactments, resolutions, rules and orders, including but not limited to, those of the City of New York or the City of Newark which may pertain to the work to be performed. The Port Authority shall have no obligation or liability in connection with the performance of any of the Initial System Construction Work or for the contracts for the performance thereof entered into by the Permittee. The Permittee hereby releases and discharges the Port Authority, its Commissioners, officers, representatives and employees of and from any and all liability, claims for damages or losses of any kind, whether legal or equitable, or from any action or cause of action arising out of or in connection with the performance of any of the Initial System Construction Work pursuant to the contracts between the Permittee and its contractors except for any of the foregoing caused solely by the gross negligence or willful misconduct of the Port Authority. The Permittee shall use commercially reasonable efforts to make arrangements for the extension of all warranties extended or available to the Permittee in connection with the aforesaid work to the Port Authority as well.

(e) As between the Permittee and the Port Authority, the Port Authority shall be and remain responsible for the clean-up, removal and disposal, response or remediation of any and all Hazardous Substances which were not placed at a Port Authority Facility by the Permittee or its officers, employees, guests, invitees and other representatives which could subject any Person to liability for costs of cleanup, removal, response or remediation under any Environmental Laws; provided however, the Port Authority shall have the right to direct the Permittee to alter the location of any Initial System Construction Work or otherwise modify the plans and specifications for any Initial System Construction Work in order to investigate the need for any clean-up, removal and disposal, response or remediation. The

Permittee shall consult with the Port Authority prior to preparing its plans and specifications to minimize any disturbance to any Hazardous Substance.

(ii) The Permittee shall promptly advise the Port Authority of any environmental findings by the Permittee during the performance of the Initial System Construction Work which suggest that any Hazardous Substance has been or may be disturbed by the performance of the Initial System Construction Work. The Port Authority shall have the right to direct the Permittee to stop the performance of the Initial System Construction Work at any location where it is reasonably expected such work will disturb any Hazardous Substance. The Port Authority shall thereafter promptly commence the performance of any appropriate environmental testing at such location. The Port Authority and the Permittee shall promptly discuss appropriate modifications to the Initial System Construction Work as provided in subparagraph (i), above.

(iii) As between the Permittee and the Port Authority, the Permittee shall be responsible for the clean-up, removal and disposal, response or remediation of any and all Hazardous Substances which could subject any Person to liability for costs of clean-up, removal, response or remediation under any Environmental Laws and which arise out of or result from (1) the use or occupancy of the System by the Permittee or its officers, employees, guests, invitees, contractors and other representatives, or (2) any acts or omissions of the Permittee or any of the aforesaid in connection with the System; provided that the Permittee shall not be responsible under this subparagraph (iii) with respect to any Hazardous Substances to the extent the Port Authority is responsible for such Hazardous Substances under subparagraph (i) above.

(f) The Permittee understands that there may be other communications and utility lines and conduits located on or under portions of one or more Port Authority Facilities where the Permittee will operate the System. The Port Authority will use commercially reasonable efforts to make available to the Permittee its records to the extent the same are available in an effort to identify to the Permittee the location of such communication and utility lines which may interfere with the Initial System Construction Work proposed by the Permittee. The

Port Authority hereby disclaims any warranty or representation to the Permittee that such records are accurate. The Permittee agrees to design the Initial System Construction Work so as to eliminate or minimize the need for relocation of any such communications and utility lines. If such design cannot be performed in accordance with Prudent Engineering and Operating Practice, the Permittee shall relocate and reinstall such communications and utility lines and conduits as necessary in connection with the Initial System Construction Work and restore all affected areas in accordance with all the terms and provisions of this Section.

(g) (i) Upon completion of the Initial System Construction Work at each Port Authority Facility, the Permittee shall supply the Port Authority with a certificate signed by a responsible officer of the Permittee and by the architect or engineer who sealed the Permittee's plans pursuant to the provisions of this Section, certifying that all of the Initial System Construction Work has been performed in accordance with the approved plans and specifications covering such work, in accordance with the provisions of this Agreement and in compliance with all applicable laws, ordinances, governmental rules, regulations and orders. The Port Authority will inspect the Initial System Construction Work at such Port Authority Facility and if the same has been completed as certified by the Permittee and the Permittee's architect or engineer, the Port Authority shall deliver a certificate to such effect to the Permittee within twenty (20) business days following the Port Authority's receipt of such certification, subject to the condition that all risks thereafter with respect to the construction and installation of the Initial System Construction Work and any liability therefor for negligence or other reason shall be borne by the Permittee. The Permittee shall not use or permit the use of the Initial System Construction Work for the purposes set forth in this Agreement until such certificate is received from Port Authority.

(ii) The Permittee may wish to utilize a portion or portions of the System at a Port Authority Facility prior to the issuance by the Port Authority of the certificate referred to in subparagraph (i) above. In addition to, and without affecting the obligations of the Permittee under the aforesaid subparagraph, when a portion of the Initial System Construction

Work at a Port Authority Facility covered by a Construction Application pursuant to subparagraph (b)(iii), above, is substantially completed and is properly usable, the Permittee may advise the Port Authority to such effect and may deliver to the Port Authority a certificate of an authorized officer of the Permittee and of the Permittee's architect or engineer certifying that such portion of the Initial System Construction Work at a Port Authority Facility has been constructed strictly in accordance with the approved plans and specifications and the provisions of this Agreement and in compliance with all applicable laws, ordinances and governmental rules, regulations and orders and specifying that such portion of the Initial System Construction Work at such Port Authority Facility can be properly used and that the Permittee desires such use even though the Initial System Construction Work has not been completed. Thereafter, said portion of the Initial System Construction Work will be inspected by the Port Authority and if the same has been completed as specified by the Permittee, the Port Authority will, within fifteen (15) business days following its receipt of the certificates of the Permittee and the Permittee's architect or engineer, deliver a certificate of the Port Authority to the Permittee with respect to each such portion of the Initial System Construction Work permitting the use of such portion of the System for the purposes set forth in this Agreement, subject to the condition that all risks thereafter in connection with the construction and installation of the same and any liability therefor for negligence or other reason shall be borne by the Permittee.

(iii) The total number of business days actually required by the Port Authority for the inspection of the completed Initial System Construction Work at each Port Authority Facility and the delivery of its certificate, as described in subparagraphs (g)(i) and (g)(ii), above, shall be added to the total number of business days actually required by the Port Authority for the review of all submissions and resubmissions of all Construction Applications and plans and specifications as ascertained in accordance with the provisions of subparagraph (b)(ii)(2) of this Section 7. The total number of business days allocated to all reviews of the Permittee's submissions and resubmissions of all Construction Applications and plans and specifications shall be added to the twenty (20) business days provided for all the Port Authority's inspections of the

completed Initial System Construction Work and the delivery of its certificate. In the event the total number of business days actually required by the Port Authority for all of the review, inspection and certification obligations described in subparagraphs (b)(ii)(2) and (g)(i) and (g)(ii), above, exceeds the total number of business days allocated for the performance of all such obligations, then the Permittee shall be entitled to a credit against its payment obligations next becoming due under this Agreement at the rate of Three Thousand Five Hundred Dollars and No Cents ($3,500.00) for each such excess business day.

(iv) The determination provided for in subparagraph (g)(iii), above, shall be made once, only, effective as of the fifth anniversary of the date of execution of this Agreement, and delays thereafter occurring shall not be taken into consideration in making such determination.

(h) Except as otherwise provided in the Carrier Agreement, with respect to equipment owned by Carrier Users, title to all fixtures and equipment (as defined in the NYUCC) forming a part of the System shall immediately vest in the Port Authority upon the first to occur of affixation to any Port Authority Facility or the first use of such items in System Operations. The Permittee shall have the right to install replacements for, and to modify or repair, any or all of the foregoing fixtures and equipment forming a part of the System. Title to such replacements shall vest in the Port Authority in the manner provided above. Title to the fixtures and equipment so replaced shall pass to the Permittee. Title to System software licenses, equipment warranties and service contracts, to the extent the terms under which the Permittee has obtained the same permit title therein to be transferred to the Port Authority, shall vest in the Port Authority upon the execution thereof or at the first possible time thereafter as title thereto may vest in the Port Authority. Title to all other assets forming a part of the System, including all intangible assets, shall remain vested in the Permittee. The Permittee shall promptly execute and deliver bills of sale and all other documents necessary or convenient in order to evidence the transfer of title to the Port Authority of all the items mentioned in this paragraph. The Port Authority hereby grants to the Permittee an exclusive right to use all parts of the System to which title is being conveyed to the Port Authority pursuant

to this paragraph, which use shall be in the manner permitted by this Agreement. This right to use shall commence upon the vesting of title to the Port Authority as hereinabove provided and shall continue throughout the Term.

(i) Without limiting any of the terms and conditions of this Agreement, the Permittee understands and agrees that it shall put into effect prior to the commencement of any Initial System Construction Work (i) an affirmative action program and Minority Business Enterprise ("MBE") program and (ii) a Women-owned Business Enterprise ("WBE") program in accordance with the provisions of Schedule E, attached hereto and hereby made a part hereof. The provisions of said Schedule E shall be applicable to the Permittee's contractor or contractors and any subcontractors at any tier of construction as well as the Permittee and the Permittee shall include the provisions of said Schedule E within all of its construction contracts so as to make said provisions and undertakings the direct obligation of the Permittee's contractor or contractors and any subcontractors at any tier of construction. The Permittee shall and shall require its contractor or contractors and any subcontractors at any tier of construction to furnish to the Port Authority such data, including but not limited to, compliance reports relating to the operation and implementation of the affirmative action MBE and WBE programs called for hereunder as the Port Authority may request at any time and from time to time regarding the affirmative action, MBE and WBE programs of the Permittee and its contractor or contractors and subcontractors at any tier of construction, and the Permittee shall and shall also require that its contractor or contractors and any subcontractors at any tier of construction make and put into effect such modifications and additions thereto as may be directed by the Port Authority pursuant to the provisions hereof and said Schedule E to effectuate the goals of the affirmative action, MBE and WBE programs.

Section 8. Initial System Capital Cost

Within thirty (30) days following the end of each calendar quarter during which any part of the performance of the Permittee's Initial System Construction Work as set forth in Section 7 of this Agreement shall have occurred, the Permittee shall submit a certificate certified by a responsible fiscal

officer of the Permittee in the format specified by the Port Authority setting forth in reasonable detail amounts actually paid by the Permittee to independent contractors and amounts properly allocated by Port Authority Facility in accordance with such additional categories as may be established by the Port Authority from time to time by notice to the Permittee and having attached thereto reproduction copies of invoices of third parties (the total of such amounts, with respect to each Port Authority Facility, is hereinafter referred to as the "Initial System Capital Cost".) The Permittee shall also furnish to the Port Authority such further information with respect to expenditures related to the Permittee's Initial System Construction Work as the Port Authority may require which shall be given on such forms, if any, as may be adopted by the Port Authority.

Section 9. Governmental Requirements

(a) The Permittee shall procure from all Governmental Authorities having jurisdiction over the operations of the Permittee all licenses, certificates, permits or other authorization which may be necessary for the conduct of its operations. The Port Authority shall use commercially reasonable efforts to assist the Permittee in fulfilling such obligation and shall cooperate with the Permittee in obtaining all approvals that may be required to be obtained by the Permittee from the Federal Aviation Administration to operate and maintain the System at the Airports.

(b) The Permittee shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed by a Governmental Authority 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 the operation of the System, the Permittee shall furnish the same and pay all other expenses in connection therewith. The Port Authority shall not itself impose on the Permittee any taxes or license, certification, permit or examination fees or charges.

(c) The Permittee shall promptly observe, comply with and execute, at its sole cost and expense, the provisions of any

Laws which may pertain or apply to the installation, operation and maintenance of the System or which would be applicable if the Port Authority were a private corporation (including, without limitation, any Laws relating to electromagnetic radiation) and, subject to the provisions of this Agreement, shall make any and all non-structural improvements, alterations or repairs that may be required at any time hereinafter by any such Laws. Subject to the provisions of Section 12, any structural repairs or replacements shall be made or done by the Port Authority at its expense; provided however, that if such structural repairs would not be necessary except for the installation of the System, such structural repairs shall be made at the expense of the Permittee, the cost thereof to be determined on statements rendered by the Port Authority to the Permittee and the sum so determined to be paid to the Port Authority by the Permittee.

(d) If any Laws which relate to the physical health or safety of persons, including, without limitation, any Laws relating to electromagnetic radiation (which the Permittee acknowledges in all instances relate to the physical health or safety of persons), shall be enacted, made, given or promulgated, causing or requiring alterations or changes (i) in the System, or limitations on the use thereof, or (ii) in any Port Authority Facility, when the necessity therefor shall be due to an act, omission or violation on the part of the Permittee or any Carrier User, then, in any such event, after consulting with and obtaining the consent of the Port Authority, the Permittee shall expeditiously perform the work or take any action necessary to effect such alterations, changes or limitations, at the cost and expense of the Permittee.

(e) The obligation of the Permittee to comply with governmental requirements is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

Section 10. Prohibited Acts

The Permittee shall not: (i) do or permit to be done anything which, in the opinion of the Port Authority, acting in a non-arbitrary and non-capricious manner, may be or become dangerous or injurious to any portion of any Port Authority Facility, or to the traveling public or any other persons, or may

interfere with the operations of any persons lawfully using any portion of any Port Authority Facility or any other property of the Port Authority; (ii) do or permit to be done any act or thing at any Port Authority Facility which will invalidate or conflict with any insurance policies covering such Port Authority Facility or any part thereof or which, in the non-arbitrary and non-capricious opinion of the Port Authority, may constitute an extra-hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by Section 2 hereof and the Permittee 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 Fire Underwriters, the Fire Insurance Rating Organization of New Jersey and any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Permittee at any Port Authority Facility 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 at such Port Authority Facility 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 Permittee to comply with the provisions of this Section, any insurance rate at any Port Authority Facility, shall at any time be higher than it otherwise would be, then the Permittee shall pay to the Port Authority on demand that part of all insurance premiums paid by the Port Authority which shall have been charged because of such violation or failure by the Permittee; (iii) use the System in any manner which will, in the non-arbitrary and non-capricious opinion of the Port Authority, endanger, hamper or be harmful to the operation of any Port Authority Facility, including any operation of the signals, communication facilities and other appurtenant equipment of the Port Authority. Upon notice to the Permittee by the Port Authority that any of its operations interferes with the operations of any Port Authority Facility, the Permittee shall forthwith cease such operations or otherwise cure such interference.

Section 11. Maintenance and Repair

(a) Without limiting or affecting any other term or

provision of this Agreement, the Permittee shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems comprising the System 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 Permittee (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 functioning of the System or the efficient or proper utilization of any part of any Port Authority Facility, provided however that any such maintenance, repairs, replacements, rebuilding, or painting necessitated by a casualty shall be governed solely by the provisions of Section 12 of this Agreement.

(b) As between the Permittee and the Port Authority, responsibility for the clean-up, removal and disposal, response or remediation of any Hazardous Substances discovered by the Permittee at a Port Authority Facility during the course of performing its maintenance and repair obligations pursuant to this Section subsequent to the completion of the Initial System Construction Work shall be determined in accordance with the provisions of paragraph (e) of Section 7 of this Agreement. The Permittee shall promptly comply with the provisions of subparagraph (e)(ii) of said Section 7 in the event that during the performance of its maintenance and repair obligations at a Port Authority Facility pursuant to this Section it discovers or has reason to suspect the presence of any Hazardous Substance.

(c) The Permittee shall be liable for the cost of repairing, replacing, rebuilding, and painting all or any part of any Port Authority Facility, including but not limited to Port Authority property located at such Port Authority Facility, which may be damaged or destroyed by the acts or omissions of the Permittee, any Carrier User or the officers, employees, agents, representatives, contractors, or invitees of the Permittee or any Carrier User. The Permittee shall expeditiously effectuate any such repairs to the property of the Port Authority the Permittee is required to undertake hereunder, at the direction of the Port Authority and in accordance with all the requirements and

procedures of this Agreement.

(d) The Permittee shall have a right of access to and through each Port Authority Facility where any portion of the System is installed, subject to whatever limitations may be imposed upon the Port Authority in any lease, permit or other agreement entered into with any lessee, permittee or other occupant at such Port Authority Facility, for the purpose of inspecting, repairing and maintaining the Permittee's cables, wires, connections and equipment, provided however that, except in cases of emergency, such inspecting, repairing and maintaining shall be performed by the Permittee and its agents or employees only under the supervision or with the consent of a duly authorized representative of the Port Authority and any other affected lessee, permittee or other occupant unless otherwise approved by the Port Authority and any such affected lessee, permittee or other occupant and only at such times and in such manner as will not unreasonably interfere with the operation of the Port Authority Facility. Where consistent with the regular operating schedules of Port Authority Facilities in which the System is installed, the Permittee may have access to such Port Authority Facilities on a twenty-four (24)-hour per day, three hundred sixty-five (365)-day per year basis. Such inspection, repair and maintenance work performed by the Permittee shall be at all times subject to the rules and regulations of the Port Authority including those governing access to and security measures at such Port Authority Facility. The Permittee shall give the Manager of the Port Authority Facility at least three (3) days' advance notice of its intention to perform any inspection, maintenance, or repair work, except in cases of emergency. Such notice shall be given to the Manager of the Port Authority Facility in the manner reasonably specified from time-to-time by such Facility Manager. In the exercise of its rights of access to a Port Authority Facility at which tolls are charged, the Permittee shall not be required to pay tolls at such Port Authority Facility.

(e) To the extent consistent with its other priorities, the Port Authority will respond in a commercially reasonable manner to reasonable requests made by the Permittee for assistance in performing the Permittee's maintenance and repair obligations. Such requests shall be made in writing to the Manager of the Facility.

Section 12. Casualty

(a) In the event that, as a result of any casualty, the System or any other part of any one or more Port Authority Facilities is damaged so as to render the System inoperable at such Port Authority Facility or Facilities, then the Port Authority shall advise the Permittee within twenty (20) days after the occurrence of such casualty of the anticipated time necessary to complete the repairs and rebuilding of the Port Authority Facility in question, and:

(i) if the Port Authority, acting in good faith, finds that the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence to a condition substantially equivalent to the condition existing immediately prior to the fire or other casualty, and subject to the provisions of paragraph (e) of this Section 12, the Minimum Fee payable under this Agreement shall be equitably abated only for the period from the occurrence of the damage to the earlier of: (i) ten (10) days after the date of completion of the repairs or rebuilding, or (ii) the resumption of System Operations by the Permittee in the Port Authority Facility in question, or the damaged portion thereof, as the case may be;

(ii) if the Port Authority, acting in good faith, finds that such repairs and rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, then the Port Authority shall at its option: (1) proceed with due diligence to repair or to rebuild the Port Authority Facility in question to a condition substantially equivalent to the condition existing immediately prior to the fire or other casualty, in which case the Minimum Fee payable under this Agreement shall be equitably abated only for the period from the occurrence of the damage to the earlier of (x) ten (10) days after the completion of the repairs or rebuilding or (y) the resumption of System Operations by the Permittee in the Port Authority Facility in question, or the damaged portion thereof,

as the case may be or (2) terminate this Agreement only with respect to the Port Authority Facility in question, with the same force and effect as if the effective date of termination were the original expiration date provided in this Agreement, except as provided in paragraph (c), below.

(b) In the event a Port Authority Facility is damaged by fire or other casualty under the circumstances described under subparagraph (a)(ii), above, and provided the Port Authority has not elected to terminate this Agreement with respect to such Port Authority Facility as provided in clause (2) of subparagraph (a)(ii), above, then the Permittee shall have the right to terminate with the same force and effect as if the effective date of termination were the original expiration date set forth in this Agreement with respect to the Port Authority Facility in question, provided that within ten (10) days after receipt of the Port Authority's statement of the anticipated repair and rebuilding completion date, the Permittee shall give to the Port Authority a notice of termination to be effective ten (10) days after the date of the giving of such notice, provided further however, that the Permittee shall not be entitled to terminate this Agreement with respect to such Port Authority Facility or Facilities as are affected by the casualty if the Permittee is under notice of default from the Port Authority as to which any applicable period to cure has passed, or under notice of termination from the Port Authority either on the date of the giving of its notice of termination pursuant to this Section to the Port Authority or on the effective date thereof.

(c) In the event of termination pursuant to this Section with respect to one or more, but less than all, Port Authority Facilities in which the Permittee operates the System, this Agreement shall be terminated only with respect to such Port Authority Facilities and the Minimum Fee payable under this Agreement shall be equitably abated. After any such termination, if the Port Authority has made a formal determination to repair or replace such Port Authority Facility within two (2) years following the occurrence of the casualty, the Permittee's rights to operate the System in such Port Authority Facility shall be reinstated as if the termination of this Agreement with respect to such Port Authority Facility had not occurred, provided that the Permittee shall advise the Port Authority in writing of its

desire to have its rights to operate the System in such Port Authority Facility reinstated within sixty (60) days after receipt of notice from the Port Authority that the Port Authority has made such formal determination to repair or replace such Port Authority Facility. If the Permittee does not so notify the Port Authority of its desire to have its rights reinstated, then, the Port Authority shall be free to implement any kind of telecommunications network access system it may desire at such Port Authority Facilities either by itself or through an agreement with one or more contractors or permittees. Except as provided above in this paragraph (c) with respect to one or more but less than all Port Authority Facilities, in the event of termination with respect to all Port Authority Facilities in which the Permittee operates the System, this Agreement 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, and the Port Authority shall be free to implement any kind of telecommunications network access system it may desire. Termination of this Agreement in whole or in part shall not relieve the Permittee of any obligations or liabilities which shall have accrued on or before the effective date of termination stated in the notice of termination, or which shall mature on such date.

(d) The parties hereby stipulate that as to any Port Authority Facility located in the State of New Jersey (or the portion of any bi-state Port Authority Facility located 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 any Port Authority Facility located in the State of New York (or the portion of any bi-state Port Authority Facility located 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.

(e) In the event the damage to the Port Authority Facility resulting from a casualty caused by the fault of the Permittee, any Carrier User or the officers, employees, agents, representatives, contractors, or invitees of the Permittee or any Carrier User or other persons doing business with the Permittee or any Carrier User, then, notwithstanding the provisions of

paragraph (a), above, the Permittee shall not be entitled to an abatement of the Minimum Fee payable under this Agreement.

Section 13. Indemnity

(a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, representatives and employees 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: (i) out of any default of the Permittee in performing or observing any term or provision of this Agreement, (ii) out of the use of any Port Authority Facility by the Permittee or by others with its consent, (iii) out of any of the acts or omissions of the Permittee, any Carrier User or Paging Carrier User or the officers, employees, agents, representatives or contractors of the Permittee or any Carrier User or Pager Carrier User other than the officers, employees, agents, representatives, and contractors of the Port Authority, unless such employees, agents, representatives or contractors of the Port Authority are engaged in the performance of an act or obligation which the Permittee has agreed to pay for, or (iv) out of the installation, maintenance, operation, repair, existence or removal of any part of the System. Nothing herein set forth is intended to require the Permittee to indemnify the Port Authority, its Commissioners, officers, agents, contractors, representatives and employees from any claims or demands of third persons arising out of the gross negligence or willful misconduct of the Port Authority, its Commissioners, officers, agents, contractors, representatives and employees.

(b) If so directed, the Permittee 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 the Port Authority raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority. The Permittee shall not be liable for any fees and expenses of separate counsel representing the

Port Authority, other than the reasonable costs of investigation. The Permittee shall not be liable for any settlement of any action, proceeding or suit, which settlement is effected by the Port Authority without the prior written consent of the Permittee, which shall not be unreasonably withheld. If the Permittee shall not grant its consent as provided above, such action, proceeding or suit shall thereafter be defended by the Permittee, at its sole cost and expense, subject to the limitations set forth above in this paragraph (b).

Section 14. Consequential Damages

Neither the Port Authority nor the Permittee shall in any event be liable to the other party hereto for consequential damages suffered by (i) the Permittee or any Carrier User or the officers, employees, agents, representatives, contractors, or invitees of the Permittee or any Carrier User or other persons doing business with the Permittee or any Carrier User, or (ii) the Port Authority, its Commissioners, officers, agents or employees, on account of the interruption of the Permittee's services or the services of any Carrier User from any cause whatsoever.

Section 15. Port Authority's Right of Relocation

(a) The Port Authority shall have the right to require the Permittee to relocate all or any portion of the System installed at any one or more of the Port Authority Facilities in the event (i) any portion of the System constructed by the Permittee shall obstruct the access of the Port Authority, its officers, employees, agents, representatives or contractors, to portions of the Port Authority Facility in question or shall substantially interfere with the conduct by the Port Authority of the regular operations of the said Port Authority Facility or (ii) the Port Authority, and/or any lessee, permittee or other occupant at any Port Authority Facility, shall determine that demolition, reconstruction, rebuilding, enlargement or addition to any Port Authority Facility shall be required or shall be desirable in its or their own interest or in the interest of the general public.

(b) In the exercise of its right under paragraph (a),

above, the Port Authority shall:

(i) deliver to the Permittee a detailed plan for the relocation work the Port Authority proposes to require the Permittee to perform (including, but not limited to specifying an alternative location for the portion, or all, of the System to be relocated) not later than sixty (60) days prior to the date on which the Port Authority requires the Permittee to commence such relocation work (or, with respect to any such relocation work that is required to prevent imminent injury to any person, loss of life, or damage to property having a significant monetary value, such shorter period that is reasonable under the circumstances then existing) or, with respect to work to be performed of a minor, non-structural nature, not later than thirty (30) days prior to the required relocation work commencement date);

(ii) consult with the Permittee during the applicable period with respect to any changes or modifications proposed by the Permittee to improve the technological feasibility of the relocation and the suitability of the proposed alternative location, and during the aforesaid period, permit the Permittee to conduct any reasonably required tests in order to determine the most efficient technologically feasible means of performing such relocation, any such tests to be conducted by the Permittee so as to minimize interference with the regular operations of the Port Authority Facility in question; and

(iii) permit the Permittee to remove any affected portions of the System in the event the Port Authority intends to perform demolition work.

(c) The relocation work shall be commenced by the Permittee not later than the expiration of the aforesaid sixty (60)-day period, as the same may be extended as provided above in subparagraph (b)(ii), and shall be performed expeditiously by the Permittee and its agents and Port Authority-approved contractors (i) at the sole cost and expense of the Port Authority, (ii) in accordance with a Tenant Alteration Application and plans and

specifications prepared or approved by the Port Authority covering all phases of the relocation work and (iii) using Prudent Engineering and Operating Practices so as not to cause any permanent physical damage to, or unreasonable disruption or interference with the regular operations of, the Port Authority Facility in question.

(d) In the event the Port Authority exercises its right of relocation under this Section at any Port Authority Facility, the Minimum Fee payable by the Permittee under this Agreement shall be equitably abated based on the *pro rata* portion of System Operations conducted at such Port Authority Facility only for the period of any cessation of System Operations attributable solely to the performance of the relocation work.

(e) The provisions of subparagraph (b)(iii) of Section 7 of this Agreement shall be applicable with respect to the Permittee's performance of any relocation work and in performing any such relation work, the Permittee shall be required to comply with all requirements and obligations set forth in said subparagraph (b)(iii).

(f) The sixty (60)-day period and the thirty (30)- day period referred to above in subparagraph (b)(i) may be extended by an additional thirty (30) days upon the request of the Permittee and upon a reasonable showing of need therefor.

Section 16. In-Kind Services

(a) During the Term, the Permittee shall furnish to the Port Authority equipment and services (the "In-Kind Services") valued at Five Hundred Thousand Dollars and No Cents ($500,000.00) (the "In-Kind Services Budgeted Amount") to the extent the same are requested in writing by the Port Authority. The In-Kind Services shall consist either of equipment which is of a kind utilized in connection with the System or services which are furnished through use of the System and shall be subject to any limitations, conditions or restrictions imposed by any Laws. The cost of the In-Kind Services to be applied to the In-Kind Services Budgeted Amount shall be based on the actual out-of-pocket costs payable by the Permittee to unaffiliated third parties on an incremental cost basis but may include amounts representing the Permittee's internal overhead costs not

exceeding ten percent (10%) of the amount of the Permittee's actual out-of-pocket costs.

(b) The Permittee shall submit to the Port Authority on a quarterly basis, or more often if requested by the Port Authority in writing, a written report stating the cost of In-Kind Services expended to date in accordance with paragraph (a), above, setting forth in reasonable detail amounts actually paid to independent contractors and amounts properly allocated to In-Kind Services in accordance with such categories as may be established by the Port Authority from time-to-time by notice to the Permittee and having attached thereto reproduction copies of invoices of third parties and evidence of payment of said invoices.

Section 17. Limitation on Service by Others

Except as and to the extent the Port Authority has otherwise agreed, prior to June 30, 1998, with any lessee, permittee or other occupant at any Port Authority Facility, the Port Authority shall not permit the installation of any equipment which permits the transmission or reception, in the portions of any Port Authority Facility where any portion of the System is or may be installed pursuant to this Agreement, of voice, data or video by members of the public (but excluding therefrom any transmission or reception of voice, data or video among employees, contractors and agents of a lessee or permittee of the Port Authority) having customer relationships with any provider of Commercial Mobile Service, Personal Wireless Service, Local Multipoint Distribution Service or any Satellite-based Communications Service. The limitation contained in the foregoing sentence shall only be applicable in instances in which the final delivery to the end user at a Port Authority Facility is made on a wireless basis. The only radio spectra to which this limitation shall be applicable are those: (i) identified in Exhibit C or (ii) now or hereafter allocated or assigned under Federal Law to a Commercial Mobile Service, Personal Wireless Radio Service, Local Multipoint Distribution Service, or Satellite-based Communications Service. In no event shall the Permittee be afforded any rights to any rooftop areas, facilities, structures or installations at the World Trade Center and elsewhere at the World Trade Center, except (i) such point-to-point microwave transmitters, receivers and other equipment

installed by the Permittee that are necessary for, and used only in connection with the System and (ii) at the shopping concourse and PATH Station levels.

Section 18. 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, temporary or permanent, in all or any part of any Port Authority Facility in which a portion of the System 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 a "Taking or Conveyance") the Permittee 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 paid therefor, or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority for or on account of any such Taking or Conveyance, except for the possible claim to an award for trade fixtures constituting a portion of the System owned and installed by the Permittee and/or an award for moving expenses 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 the Port Authority in such proceeding and any such award to the Permittee will not directly or indirectly reduce the amount of any compensation payable to the Port Authority, it being understood and agreed between the Port Authority and the Permittee that the Port Authority shall be entitled to any and all other compensation or award made or to be made or paid, free of any claim or right of the Permittee. No taking by or delivery to any Governmental Authority under this paragraph (a) shall be or be construed to be an eviction of the Permittee or be the basis for any claim by the Permittee for damages, consequential or otherwise.

(b) In the event of a Taking or Conveyance by any governmental or other authorized agency or agencies which renders the System unusable at the Port Authority Facility where the Taking or Conveyance has occurred, then this Agreement shall, as of the date possession is taken from the Port Authority by such agency or agencies, cease and terminate with respect to such Port Authority Facility in the same manner and with the same effect as if the Term had on that date expired and the Minimum Fees under

this Agreement shall be equitably abated, unless the Permittee shall within thirty (30) days of the aforesaid effective date of such Taking or Conveyance notify the Port Authority that it intends to restore the System at the portion of such Port Authority Facility not subject to a taking or conveyance in accordance with the procedures set forth in Section 38 below and thereafter promptly commences and pursues to completion the installation of all equipment necessary. There shall be no adjustment of the fee payable under this Agreement in the event the Permittee elects to so restore the System.

(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 the Port Authority.

Section 19. Assignment and Sublease

(a) During the Term, the Permittee covenants and agrees that it will not sell, assign, transfer, mortgage, pledge, hypothecate, encumber, or in any way convey or dispose of the System, or this Agreement or any part thereof, or any rights created thereby, or any part thereof, or any license or other interest of the Permittee therein, except as provided in subparagraph (a)(v) of Section 20 and in Section 25, without the prior written consent of the Port Authority.

(b) The Permittee may, in the course of its business and the conduct of its operations hereunder permit the use of portions of the System by Carrier Users. All Carrier Users shall use the System for the purpose set forth in Section 2 of this Agreement and its Carrier User Agreement. Whether or not expressly set forth therein, all Carrier User Agreements shall in all respects be subject to the terms and conditions of this Agreement.

(c) Without in any way affecting the obligations of the Permittee under this Agreement, all acts and omissions of the Carrier Users and Paging Carrier Users shall be deemed acts and omissions of the Permittee hereunder, but notwithstanding the foregoing, the Permittee shall not be or be deemed to be in default to the extent that any of the foregoing shall constitute a breach hereof if the causes thereof are beyond the control of

the Permittee, or if the Permittee shall have commenced to remedy said default within twenty (20) days after receipt of notice thereof from the Port Authority and continues diligently to pursue such remedy without interruption.

(d) Except in accordance with the provisions of this Section, the Permittee shall not sublet or otherwise make available to any third party any of its rights under this Agreement.

Section 20. Termination

(a) If any one or more of the following events shall occur:

(i) The Permittee 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

(ii) By order or decree of a court the Permittee shall be adjudged bankrupt or an order shall be made approving a petition filed by any of the creditors or, if the Permittee is a corporation, by any of the stockholders of the Permittee, 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

(iii) 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 Permittee and shall not be dismissed or vacated within sixty (60) days after the filing thereof; or

(iv) Except to the extent permitted under Section 19 of this Agreement, the interest or estate of the Permittee under this Agreement shall be transferred to, pass to, or

devolve upon, by operation of law or otherwise, any other person, firm or corporation; or

(v) The Permittee, if a corporation, shall, without the prior consent of the Port Authority 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 a merger or dissolution has a financial standing as of the date of the merger or consolidation at least as good as that of the Permittee, by which is meant that its ratio of current assets to current liabilities, its ratio of fixed assets to fixed liabilities and its tangible net worth shall each be at least as favorable as that of the Permittee; or

(vi) 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 Permittee, or any execution or attachment shall be issued against the Permittee or any of its property, whereupon possession of any part of the System shall be taken by someone other than the Permittee, and any such possession or control shall continue in effect for a period of at least thirty (30) days; or

(vii) Any lien is filed against the System or any part thereof because of any act or omission of the Permittee and is not bonded or discharged within thirty (30) days; or

(viii) The Permittee shall fail, duly and punctually to pay the fees or to make any other payment required hereunder when due to the Port Authority and such failure continues for a period of ten (10) days after the Permittee's actual receipt of a notice of default thereof from the Port Authority; or

(ix) The Permittee 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, which failure has a material adverse effect on the System or the ability of the Port Authority to

operate the Port Authority Facilities and is not cured by the Permittee within thirty (30) days after actual receipt of notice of default thereof from the Port Authority (except where fulfillment of its obligation requires activity over a period of time, and the Permittee shall have commenced to perform whatever may be required for fulfillment within ten (10) days after receipt of notice and diligently 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, the Port Authority may by twenty (20) days' notice terminate this Agreement, such termination under this Section to be effective upon the date specified in such notice.

(b) No acceptance by the Port Authority of fees 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 Permittee shall be deemed a waiver of any right on the part of the Port Authority to terminate this Agreement.

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

(d) 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 the Port Authority would have at law or in equity consequent upon any breach of this Agreement by the Permittee, and the exercise by the Port Authority of any right of termination shall be without prejudice to any other such rights and remedies.

Section 21. Right of Use Upon Termination

(a) Subject to Section 25, in the event the Port Authority terminates this Agreement pursuant to Section 20 hereof during either the Initial Term or the Renewal Term, the Port

Authority shall, at no cost or expense to the Port Authority, either: (1) direct the Permittee to remove the System or the portions thereof designated by the Port Authority, or (2) operate the System or any portion or portions thereof as are not so removed free and clear of any claim of ownership by the Permittee including all the Permittee's rights to all Carrier Agreements, System software licenses, equipment warranties and service contracts.

(b) (i) The rights of the Port Authority under paragraph (a), above, to use the System shall not in any manner affect, alter or diminish any of the obligations of the Permittee under this Agreement, and shall in no event constitute an acceptance of surrender of this Agreement.

(ii) The rights of the Port Authority under paragraph (a), above, to use the System shall include the right of the Port Authority to use and\or operate the System or any portion thereof and the right to continue in effect the terms and provisions of the Carrier Agreements or to enter into a new agreement with any Person to use and\or operate the System or any portion thereof for a period of time the same as or different from the balance of the Term (including the Renewal Term) remaining under this Agreement, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination pursuant to the said Section 20, or otherwise upon the exercise of its rights pursuant to this Section, have the right to repair or to make physical or other changes in the System, including changes which alter its wireless telecommunications and other electronic characteristics, without affecting, altering or diminishing the obligations of the Permittee under this Agreement.

Section 22. Waiver of Redemption

The Permittee hereby waives any and all rights of redemption, granted by or under any present or future law, arising in the event in the event the Port Authority obtains or retains possession of the System in any lawful manner.

Section 23. 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 the Port Authority at law or in equity.

Section 24. Surrender

(a) Upon the expiration or termination of this Agreement, the Permittee covenants and agrees to yield and deliver the System peaceably to the Port Authority free and clear of any claim of ownership by the Permittee, including the rights to all Carrier Agreements, System software licenses, equipment warranties and service contracts, without any further act or deed by the Permittee. The Permittee shall promptly execute and deliver assignments, bills of sale and all other documents necessary or convenient in order to evidence the rights of the Port Authority therein, including title to all System software licenses, equipment warranties and service contracts. Such right to use the System shall not in any manner affect, alter or diminish any of the obligations of the Permittee under this Agreement. Upon the expiration or termination of this Agreement, the Permittee shall deliver the System to the Port Authority promptly and in good condition, such reasonable wear excepted as would not adversely affect or interfere with its proper operation under this Agreement.

(b) The Permittee shall have the right at any time during the Term to remove a portion or portions of the System consisting of its equipment or other personal property from the Port Authority Facility where the same has been installed provided that the Permittee shall install suitable replacements therefor as is necessary for System Operations. Furthermore, except as may otherwise be provided in Section 6(b), upon the expiration or sooner termination of this Agreement the Permittee shall promptly remove the System, if so directed by the Port Authority, and title thereto shall thereupon vest in the Permittee, including the rights to all System software licenses, equipment warranties and service contracts, without any further act or deed by the Permittee. The Port Authority shall promptly execute and deliver bills of sale and all other documents necessary or convenient in order to evidence any such transfer of title to the Permittee.

(c) If the Permittee shall fail to remove the System within 60 days after receiving written direction to do so from the Port Authority pursuant to the provisions of this Section, the Port Authority may remove the System or a portion or portions thereof to a public warehouse for deposit or retain the same in its own possession, and, in either event, may dispose of the same as waste material or sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second to any sums owed by the Permittee to the Port Authority, with any balance remaining to be paid to the Permittee; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Permittee shall pay such excess to the Port Authority on demand. Without limiting any other term or provision of this Agreement, the Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and contractors from all claims of third persons arising out of the Port Authority's removal and disposition of property pursuant to this Section, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise.

Section 25. Project Financing

For purposes of this Section, the following terms shall have the following meanings:

"Default Available Cash" shall mean, during any period commencing on the date on which the Project Lender gives a Project Lender Election Notice to the Port Authority and ending on the date on which all past due fees payable to the Port Authority shall have been paid in full, all Gross Receipts received or controlled by the Project Lender in lieu of their receipt by the Permittee with respect to the System or this Agreement, less the costs of operating the System and maintaining the System in good operating condition.

"Interim System Operator" shall mean any Person selected by the Project Lender and engaged under binding contract with the Project Lender to operate and maintain the System at the cost and expense of the Project Lender as provided in this Agreement,

provided, however, any Interim System Operator shall be subject to the prior written approval of the Port Authority, such approval not to be unreasonably withheld. In determining whether to issue such approval, the Port Authority shall only consider whether such Person has sufficient experience in operating and maintaining equipment similar to that utilized in the System on a basis consistent with the standards set forth in this Agreement, whether the scope of work of the engagement, including sufficiency of staffing levels, is reasonably appropriate and whether such Person has a reputation for honesty and integrity.

"Loan Agreement" shall mean a single agreement between the Permittee and the Project Lender for the borrowing of funds by the Permittee from the Project Lender for the purposes of financing the installation and operation of the System, the terms of which shall be on a commercially reasonable basis.

"Loan Amount" shall mean an amount not in excess of Seventeen Million Five Hundred Thousand Dollars and No Cents ($17,500,000.00) unless otherwise consented to by the Port Authority.

"Project Lender" shall mean any Person consisting of one or more of the following:

(i) Concourse Communications Group, LLC, a limited liability company formed under the laws of the State of Delaware, which, on or prior to the date of the execution and delivery of this Agreement, loans to or invests in the Permittee an amount not greater than the Loan Amount at an interest rate not in excess of Twelve Percent (12%) annually; or

(ii) SpectraSite Communications, Inc.; or

(iii) Canadian Imperial Bank of Commerce; or

(iv) any other Person consented to in advance by the Port Authority, including any Replacement Project Lender.

The Project Lender shall include with respect to any Person described above in clauses (ii), (iii) or (iv), (x) any purchaser of all or substantially all its assets or (y) any successor by merger or consolidation to such Person provided that such successor succeeds to all or substantially all of the assets of such Person.

"Qualified System Operator" shall mean any Person selected by the Project Lender to be an assignee of the Permittee under this Agreement, provided, however, any Qualified System Operator shall be subject to the prior written approval of the Port Authority, such approval not to be unreasonably withheld. In determining whether to issue such approval, the Port Authority shall only consider whether such Person has: (i) sufficient experience in operating and maintaining equipment similar to that utilized in the System on a basis consistent with the standards set forth in this Agreement, (ii) a reputation for honesty and integrity and (iii) the financial capability to operate and maintain the System on a basis consistent with the standards set forth in this Agreement, with such Person being deemed to have such requisite financial capability if such Person has or is projected to have sufficient capital (or access to capital), whether by virtue of cash on hand, sponsor support commitments, projected revenues, any combination thereof, or otherwise, to meet all of such Person's operations and maintenance expenses and obligations to make fee and other payments to the Port Authority in respect of the System for the one (1) year period following the date on which such Person would become a Qualified System Operator.

(a) (i) (1) Notwithstanding the provisions of Section 19 hereof, and without otherwise limiting the generality thereof, the Permittee may assign to a single Project Lender all of its right, title and interest in, to and under this Agreement pursuant to an assignment (the "Security Assignment") as security for the Permittee's obligations to the Project Lender under the Loan Agreement. Concourse Communications Group, LLC may assign to SpectraSite Communications, Inc. all of its right, title and interest in, to and under this Agreement as security for its obligations to Spectrasite Communications, Inc. The Loan Agreement shall be subject to the prior written consent of the Port Authority and shall not be assigned without the prior written consent of the Port Authority. The amount borrowed under the Loan Agreement shall not exceed the Loan Amount.

(2) The parties acknowledge and agree that it is the intent of the provisions of this Section and the Security Assignment to allow the Project Lender, subject to the terms and provisions of this Agreement, to effectuate, pursuant to a future assignment (the "Future Assignment"), the assignment of the

Permittee's interest under this Agreement in accordance with the Security Assignment and pursuant to the terms thereof and of this Agreement.

(3) The parties acknowledge and agree that it is the intent of the provisions of the Security Assignment and this Section to assure that this Agreement and the rights of the Permittee and its successors and assigns hereunder shall not be deemed terminated in the event that the Permittee shall cease to be entitled to use the System hereunder. Thereafter, at the election of the Project Lender in accordance with this Agreement, a successor or assignee of the Permittee shall be appointed for whose benefit this Agreement shall continue in full force and effect. The Port Authority agrees for the benefit of the Project Lender and any such successor or assignee of the Permittee's rights under this Agreement to enter into any document, instrument or other agreement as may be necessary or appropriate to evidence the continuation of this Agreement and any modification of the terms of this Agreement that are necessary to implement or reflect the provisions of this Section 25. Such provisions are a material inducement to the Project Lender to assure it that, at its election, the Permittee shall not terminate or cause the termination of this Agreement so as to make impossible the continuation of the rights of the Project Lender under the Security Assignment.

(ii) (1) If an assignee (the "Assignee") under any Future Assignment shall become the Permittee under this Agreement, such Permittee shall be subject to all the provisions of the Security Assignment and shall be bound (except as otherwise specifically set forth in this Agreement) by all of the terms and provisions of this Agreement including the provisions (x) concerning the payment of fees, (y) respecting the rights and obligations of the Assignee set forth in paragraph (j) below to, among other things, cure the defaults of the Permittee, and (z) restricting the right of the Permittee to transfer, sell or assign this Agreement and its rights to operate the System including, without limitation, the provisions of Section 19 and this Section 25.

(2) Upon the consummation of any Future Assignment, the Assignee shall execute in favor of the Project

Lender a subsequent security assignment substantially in the form of the Security Assignment entered into. Any security assignment in the form of the Security Assignment initially entered into which is entered into in substitution for the original Security Assignment shall for all purposes of this Agreement be deemed to be the Security Assignment. In no event shall a subsequent Security Assignment be entered into on more than two (2) occasions.

(iii) (A) The Project Lender may effectuate any Future Assignment upon the occurrence and during the continuance of an event upon the occurrence of which the Project Lender may effectuate the Security Assignment in accordance with its terms (a "Trigger Event") by giving to the Permittee and the Port Authority an Assignment Notice (as defined in the Security Assignment) in accordance with the Security Assignment. Upon the occurrence of a Trigger Event and the giving of an Assignment Notice and without further action on the part of the Project Lender, the parties agree that as between the Port Authority and either (x) the Project Lender or (y) a Qualified System Operator, the Permittee shall be deemed irrevocably to have assigned its rights hereunder to the Project Lender or such Qualified System Operator, the Project Lender or such Qualified System Operator shall be deemed to have assumed the Permittee's obligations hereunder as set forth in this Section and, except as modified or waived to the extent provided below, this Agreement shall remain in full force and effect as between the Project Lender or such Qualified System Operator and the Port Authority. Upon the Project Lender's election pursuant to this subparagraph (iii) (as evidenced by the giving of the Assignment Notice), the Port Authority, in any action seeking enforcement of the termination provisions of this Agreement pursuant to Section 20, shall, instead, seek a judgment compelling the assignment of the Permittee's rights hereunder to the Project Lender or such Qualified System Operator, and any rejection or deemed rejection of this Agreement under the U.S. Bankruptcy Code shall not constitute a termination of this Agreement as between the Project Lender or such Qualified System Operator and the Port Authority, and the Permittee shall for all purposes be deemed to have assigned its rights hereunder to the Project Lender or such Qualified System Operator without any need of any further instrument of assignment or transfer from the Permittee. At the

option of the Port Authority, or of the Project Lender or such Qualified System Operator, the Project Lender and the Port Authority shall confirm such Future Assignment by the execution of a written assignment and assumption agreement and the Port Authority and the Project Lender or such Qualified System Operator shall enter into any document or instrument that may be appropriate to amend, supplement, or otherwise effectuate the continuation of this Agreement and any appropriate modifications of the terms hereof to implement such assignment.

(B) Any action that the Project Lender may take under this Section 25 may be taken by the Project Lender or a nominee designated by the Project Lender, provided the Project Lender enters into an agreement with the Port Authority, in form satisfactory to the Port Authority, pursuant to which the Project Lender agrees that during the period of such nominee's interest in this Agreement it will make available to such nominee sufficient funds as to enable such nominee to comply with all of the obligations to be undertaken by the Project Lender pursuant to the provisions of this Section 25. No designation of a nominee shall afford the Project Lender any greater rights under this Agreement with respect to Interim System Operators or Qualified System Operators than otherwise provided in this Agreement with respect to the Project Lender itself.

(iv) (1) In the event of the transfer of the interest of the Permittee under this Agreement under any Future Assignment to any Qualified System Operator pursuant to the exercise of remedies by the Project Lender in accordance with the Security Assignment and this Agreement, provided that any assignment of the character of the Future Assignment shall have previously occurred on not more than two prior occasions, such Qualified System Operator shall have the right to assign as collateral its interest as the Permittee under this Agreement to any "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act of 1933) which lends funds to such Qualified System Operator (any such lender being herein referred to as the "Replacement Project Lender") as may reasonably be approved by the Port Authority. Such assignment shall be in form and substance substantially equivalent to the Security Assignment. Such Replacement Project Lender shall have substantially the same rights and benefits relating to the exercise of remedies,

including cure periods and notice provisions with respect to defaults, which are afforded to the Project Lender under this Agreement and the Security Assignment.

(2) Any such new security assignment referred to in clause (1) above, shall constitute the "Security Assignment" for purposes of this Agreement. If two (2) Security Assignments in addition to the initial Security Assignment under this Agreement (to Concourse Communications Group, LLC, SpectraSite Communications, Inc. and Canadian Imperial Bank of Commerce) shall have occurred, no subsequent Future Assignment or exercise of similar rights under such Security Assignment by the Replacement Project Lender shall entitle any subsequent lender to another Security Assignment.

(b) (i) Notwithstanding anything contained in the Security Assignment, it is understood and agreed that as between the Project Lender and the Port Authority, all rights of the Project Lender under the Loan Agreement and the Security Assignment shall be subject and subordinate to the terms, covenants, conditions and provisions of this Agreement. Notwithstanding any provisions of the Loan Agreement and the Security Assignment to the contrary, the Permittee shall be deemed to be the only party under this Agreement other than the Port Authority unless and until termination of the interest of the Permittee pursuant to a Notice of Termination hereunder or the effectuation of a Future Assignment.

(ii) (1) The Permittee shall have full and complete control of the operation and use of the System, and, except as set forth in this Agreement, the Security Assignment or as otherwise agreed by the Permittee in writing with the consent of the Port Authority, the Permittee shall have full power and authority to give waivers of, and to consent to variations from, the rights of the Permittee under this Agreement and to negotiate and enter into supplements and amendments to this Agreement, and, except as aforesaid, the Port Authority may deal directly with the Permittee in the negotiation and procurement of such waivers, variations, supplements and amendments and in all other matters involving the Permittee under this Agreement or the operation and use of the System, without any consultation with or approval by the Project Lender.

(2) Nothing contained in this Agreement, or the Security Assignment shall require the Port Authority to exercise any remedy or restrict the Port Authority from waiving any default or alleged default of the Permittee under this Agreement or otherwise.

(c) The Loan Agreement shall require the Project Lender to send to the Port Authority a copy of each notice of default or termination under the Security Assignment within five (5) business days following the date any such notice of default or termination shall have been sent to the Permittee. The Loan Agreement shall also require the Permittee to send to the Project Lender a copy of each such notice of default or termination given to the Permittee by the Port Authority, within five (5) business days following the date any such notice of default or termination shall have been sent by the Port Authority to the Permittee.

(d) (i) Subject to subparagraph (ii) hereof, notwithstanding any other term or provision hereof or of the Security Assignment, no Person, other than a Qualified System Operator, Project Lender or Replacement Project Lender (provided that the Project Lender or Replacement Project Lender shall be itself qualified as an Interim System Operator or shall have at all times retained an Interim System Operator from and after any Future Assignment) shall be entitled to acquire the interest of the Permittee in this Agreement as the Assignee. The foregoing provision is of the essence of this Agreement and the Security Assignment and it is only upon this basis that the Port Authority has agreed to enter into this Agreement and to consent to the Security Assignment.

(ii) Nothing herein shall be deemed to preclude either the Port Authority or the Project Lender (provided that the Project Lender shall have at all times qualified as an Interim System Operator or retained an Interim System Operator from and after any failure by the Permittee to perform the operations and maintenance obligations of the Permittee under this Agreement) from bidding for or from becoming, at any foreclosure sale or proceeding similar thereto, the owner of the Permittee's rights under this Agreement free from any claims, equities or rights of redemption of the Permittee. The Port Authority and the Project Lender shall have the right to bid for

the Permittee's rights under this Agreement at any sale, public or private, whether held pursuant to a judgment of assignment or otherwise.

(e) (i) If the Port Authority shall elect to terminate this Agreement pursuant to Section 20 of this Agreement, then, at the time of service of a Notice of Termination upon the Permittee, the Port Authority shall give a copy of such Notice of Termination to the Project Lender. The Project Lender shall have the right to extend the effective date of termination specified in any such Notice of Termination, for a period of sixty (60) days or such lesser period as may be specified by the Project Lender (the "Initial Project Lender Extension Period"), provided the Project Lender shall give notice (the "Project Lender Extension Notice") of such extension to the Port Authority at any time on and after the date of the Notice of Termination but not later than the effective date of termination stated in the Notice of Termination.

(ii) The Project Lender shall exercise all reasonably available legal remedies to permit the Project Lender, by itself, provided the Project Lender is itself qualified as an Interim System Operator, or through the retention of an Interim System Operator, during the Initial Project Lender Extension Period referred to above in subparagraph (g)(i) and any Second Project Lender Extension Period referred to below in subparagraph (g)(iii)(1) to keep the System operational and in a state of good repair.

(iii) (1) At the end of the sixty (60) day period following receipt by the Port Authority of a Project Lender Extension Notice, this Agreement and the rights of the Permittee hereunder shall be terminated unless within such time the Project Lender shall have given the Port Authority notice (the "Project Lender Election Notice") of its intention to seek or effectuate a Future Assignment, in which case the Port Authority shall not have the right to terminate this Agreement so long as the Project Lender is in compliance with the terms set forth below. During the Initial Project Lender Extension Period, and any further period (the "Second Project Lender Extension Period") up to the Future Assignment, the Project Lender, for the purposes of protecting and preserving its security under the

Security Assignment and for meeting the obligations of the Permittee for the operation, care and maintenance of the System to the extent provided below, shall (x) continue to perform its obligations to the Port Authority in accordance with subparagraph (g)(ii) above, and (y) shall perform, provided the Project Lender is itself qualified as an Interim System Operator, or shall appoint an Interim System Operator to perform the operating responsibilities of the Permittee for the operation, care and maintenance of the System to the extent the Permittee shall fail to do so, but only to the extent of Default Available Cash and to the extent that the Project Lender or the Interim System Operator has access to the System.

(2) Nothing herein shall be construed to require the Project Lender to take any action that would constitute breach of peace or otherwise be unlawful, and the Project Lender's obligations hereunder which require access to or possession of the System shall be suspended and relieved to the extent that the Project Lender shall not be lawfully granted the right of access or possession for such purposes.

(f) If the Permittee defaults under this Agreement and fails to cure the same within the time allotted therefor, if any, then the Permittee directs that the Port Authority accept and permit, and the Port Authority agrees to accept and permit, the curing of any default under this Agreement by the Project Lender as if and with the same force and effect as though cured by the Permittee.

(g) No sale, transfer or assignment by the Permittee of its interest in this Agreement to the Port Authority or the Project Lender (or its designee) shall create a merger between the interests of the Port Authority and the Permittee or that of the Permittee and the Project Lender unless the Port Authority, the Permittee and the Project Lender shall specifically consent to such merger in writing.

(h) In the event of a Future Assignment to a Qualified System Operator, such Qualified System Operator shall assume all of the Permittee's obligations hereunder arising from and after the date of such Future Assignment (except as otherwise expressly provided in this Agreement). In addition, such

Qualified System Operator shall agree to cure, within ten (10) days, any defaults that would constitute grounds for termination by the Port Authority pursuant to Section 20 (except when fulfillment of such obligation requires activity over a period of time and the Qualified System Operator shall have commenced to perform whatever may be required for fulfillment within ten (10) days after receipt of notice and diligently continues such performance without interruption except for causes beyond its control) and, in addition, the Qualified System Operator shall use commercially reasonable efforts to cure any failure by the Permittee to keep, perform and observe each and every other promise, covenant and agreement on its part to be kept, performed and observed under this Agreement.

(i) In the event the Project Lender requests that the Port Authority approve any Person as a Qualified System Operator or an Interim System Operator, the Port Authority shall within ten (10) days following its receipt of such request (together with appropriate supporting information) notify the Project Lender as to whether the Person is acceptable as a Qualified System Operator or an Interim System Operator. In the event the Port Authority notifies the Project Lender that the Person does not qualify as a Qualified System Operator or an Interim System Operator, the Project Lender shall be given a reasonable additional time to either resolve any differences with the Port Authority or to locate a different Person to be a Qualified System Operator or an Interim System Operator.

(j) The Project Lender shall have the right to be a Qualified System Operator under a Future Assignment provided that it shall at all times during such period be or otherwise engage an Interim System Operator to operate the System and the parties further acknowledge and agree that the Project Lender shall have the right to continue to remain as the Permittee as provided in paragraph (j) above throughout the balance of the Term, it being understood that the Project Lender shall be obligated to perform all the obligations of the Permittee under this Agreement until such time as it shall have assigned this Agreement to a Qualified System Operator.

(k) From time-to-time during the Term, the Permittee shall have the right to refinance the then-outstanding principal

balance of the loan as set forth in loan agreements entered into between the Permittee and Concourse Communications Group, LLC and between Concourse Communications Group, LLC and SpectraSite Communications, Inc., respectively, (the "Outstanding Balance") only in accordance with the following requirements:

(i) The Permittee may at any time refinance the Outstanding Balance with a new Project Lender with the prior written approval of the Port Authority, such refinancing to include the assignment of a Security Assignment to such Project Lender;

(ii) From and after the second anniversary of the Commencement Date, the Permittee may refinance the Outstanding Balance with a new Project Lender, including the assignment of a Security Assignment to such Project Lender, that is a Qualified Institutional Buyer and under a Loan Agreement as both may reasonably be approved by the Port Authority; and

(iii) Both on the date of notification of the Port Authority that the Permittee intends to refinance the Outstanding Balance and on the effective date thereof, the Permittee shall not be under notice of default or notice of termination from the Port Authority.

The Permittee, at least thirty (30) business days prior to the proposed effective date of a proposed refinancing of the Outstanding Balance, shall notify the Port Authority, in writing, of the identity of the proposed new Project Lender and shall submit to the Port Authority for its approval a copy of the form of the proposed Loan Agreement and accompanying note or bond. The Port Authority will advise the Permittee in writing within fifteen (15) business days after receipt of such notification and submission whether or not the Port Authority will consent to such proposed Project Lender and such proposed note or bond. On the date of its execution, or within five (5) days thereafter, the Permittee shall deliver to the Port Authority a true copy of the executed Loan Agreement and accompanying executed note or bond.

Section 26. Disputes

(a) In the event of any dispute between the Port Authority and the Permittee regarding any matter related to this Agreement, either the Permittee or the Port Authority may request that a meeting be held between the parties to discuss the matter. The parties shall each send at least two (2) representatives to such meeting, one individual who is fully familiar with the issue in dispute and the other who is a member of senior management authorized either to settle the matters in dispute or to make recommendations for the settlement thereof.

(b) If the dispute is as to whether or not any Construction Application submitted by the Permittee should be approved by the Port Authority, and the parties cannot achieve a settlement of the matter following the meeting described in subparagraph (a) above, the matter shall be submitted for resolution to the Chief Engineer of the Port Authority, acting personally and in accordance with Prudent Engineering and Operating Practice.

(c) If the issue in dispute is not an issue covered by subparagraph (b), above, and the parties cannot achieve a settlement of the matter following the meeting described in subparagraph (a), above, the parties shall each be free to pursue any available legal or equitable remedies.

Section 27. Carrier Agreement

The Port Authority shall act in a commercially reasonable manner with respect to Carrier Users' requests pursuant to the Carrier Agreement, as follows:

(a) Any request for its approval of the Carrier User's corporate guarantee or surety bond pursuant to Section 3.2 of the Carrier Agreement;

(b) Any request for its approval of the Carrier User's general liability insurance coverage amounts pursuant to Section 6.8 of the Carrier Agreement;

(c) Any requested approval of an assignment of a Carrier Agreement to a successor to the business operations of the Carrier User; and

(d) Any request made in accordance with Section 33 of this Agreement with respect to approval of advertising, sales promotion, press releases and other publicity materials submitted by the Carrier User under Section 14.9 (a) of the Carrier Agreement.

Section 28. Payments

(a) All payments required of the Permittee by this Agreement shall be mailed to the Port Authority, P.O. Box 17309, Newark, New Jersey 07194 or to such other office or address as may be substituted therefor by the Port Authority.

(b) No payment by the Permittee or receipt by the Port Authority of a lesser fee payment 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 fee payment 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 the Port Authority may accept such check or payment without prejudicing in any way its right to recover the balance of such fee or to pursue any other remedy provided in this Agreement or by law.

Section 29. Recording

The Permittee may, at its sole cost and expense, record a memorandum of this Agreement, prepared by it at its sole cost and expense, reasonably satisfactory to the Port Authority, and the Port Authority agrees to execute such memorandum within fifteen (15) business days after request therefor. If the Permittee so records such memorandum, it shall, at its sole cost and expense, record in timely fashion a memorandum satisfactory to the Port Authority of each and every modification, extension, supplement, assignment, surrender, or other amendatory agreement relating thereto, which memorandum shall be prepared by and at the sole cost and expense of the Permittee.

Section 30. Quiet Enjoyment

The Port Authority covenants and agrees that as long as it is owner or lessee of the particular Port Authority Facility where a portion or portions of the System is installed and operated, the Permittee, upon paying all fees hereunder and performing, in all material respects, all the covenants, conditions and provisions of this Agreement on its part to be performed, shall and may peaceably and quietly conduct System Operations free of any act or acts of the Port Authority except as expressly permitted in this Agreement. The provisions of this Section 30 shall not be deemed to modify the rights expressly granted to the Port Authority under this Agreement including, without limitation, the rights under Section 20 to terminate this Agreement and/or exercise any other remedies which it may have in the event of a default by the Permittee in its obligations hereunder following the giving of any required notice by the Port Authority and the expiration of any applicable cure period.

Section 31. 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 32. Performance of Permittee's Obligations

(a) Whenever in this Agreement the Permittee 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 Permittee's obligations shall be performed or its rights or privileges shall be exercised only by its officers and employees. The provisions of the previous sentence shall not in any way be taken to alter, amend or diminish any obligation of the Permittee assumed in relation to its invitees, customers, agents, representatives, contractors or other persons, firms or corporations doing business with it.

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

(c) This Agreement does not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever, nor does it constitute the Port Authority the agent or representative of the Permittee for any purpose whatsoever.

(d) No greater rights or privileges with respect to the use of the System or any portion or portions thereof or with respect to any Port Authority Facility are granted or intended to be granted to the Permittee by this Agreement, or by any provision thereof, than the rights and privileges expressly granted hereby.

Section 33. Publicity and Advertising

The Permittee shall not issue or permit to be issued any press or publicity release, advertisement, or literature of any kind which refers to the Port Authority or the System or any portion thereof installed at any Port Authority Facility pursuant to this Agreement, without first obtaining the written approval of the Port Authority. Such approval shall be granted unless the Port Authority reasonably believes, in good faith, that the publication of such information would be harmful to its interests or to the public interest or would not be in compliance with contemporary advertising and marketing standards for the telecommunications industry.

Section 34. Renewal Term

Upon the condition that the Permittee shall not be in default under any term or provision of this Agreement or under any notice of default from the Port Authority, the Permittee, by notice given to the Port Authority at least one (1) year but not more than eighteen (18) months prior to the expiration date of the Initial Term, may extend the Term of this Agreement for a period commencing on the day following the expiration date of the Initial Term and continuing through the date preceding the tenth (10th) anniversary of the expiration date of the Initial Term (such extended period, the "Renewal Term").

Section 35. Manner of Operation

In connection with the exercise of the privilege granted hereunder, the Permittee shall:

(i) Use commercially reasonable efforts in every proper manner to develop and increase the business conducted by it hereunder;

(ii) Not divert, and use commercially reasonable efforts not to cause or allow to be diverted, any business from any Port Authority Facility where System Operations are conducted, it being acknowledged that the Permittee shall not be deemed to be in violation of this subparagraph (ii) with respect to wireless communications services provided by Carrier Users through telecommunications systems other than the System, provided that neither the Permittee nor any affiliate of the Permittee has any ownership interest in such other systems;

(iii) To the extent available technology permits at a commercially reasonable cost, periodically monitor existing wireless base stations operated by Carrier Users at locations other than Covered Facilities which may provide such Carrier Users with coverage in or otherwise overlap areas of Covered Facilities to ensure that a Carrier User does not intentionally avoid the System through additions to such Carrier User's existing system;

(iv) Maintain, in accordance with accepted accounting practice, during the Term and for one (1) year after the expiration or earlier termination of this Agreement, and for a further period extending until the Permittee shall receive written permission from the Port Authority to do otherwise, records and books of account regarding all transactions of the Permittee at, through or in any way connected with any Port Authority Facility, which records and books of account shall be kept at all times within the Port of New York District;

(v) Permit, upon reasonable prior notice, in ordinary business hours during the Term of this Agreement, and for one (1) year thereafter, and during the further period described in subparagraph (iii), above, the examination and audit by the officers, employees and representatives of the Port Authority of such record and books of account and also any records and books of account of any Person which is owned or controlled by the Permittee, or which owns or controls the Permittee, if said Person performs services, similar to those performed by the Permittee, anywhere in the Port of New York District;

(vi) Install and use all equipment reasonably available and necessary to accurately determine Gross Receipts;

(vii) Permit the inspection, upon reasonable prior notice, by the officers, employees and representatives of the Port Authority of all equipment used by the Permittee to collect data to determine Gross Receipts;

(viii) Require each Carrier User, including each Paging Carrier User, to permit the officers, employees and representatives of the Port Authority, upon reasonable prior notice, to inspect and copy all books and records of such Carrier Users relating to the determination of payments by such Carrier User to the Permittee and all equipment owned or controlled by such Carrier Users and used by the Permittee or such Carrier User to collect data to determine Gross Receipts, it being understood that the obligations hereunder imposed on the Permittee shall be applicable only as and to the extent that the Permittee itself has such rights of inspection and copying in a particular Carrier User agreement; and

(ix) Subject to the prior approval of the Port Authority, use its best efforts to establish and implement a methodology for the measurement of wireless telecommunications traffic volume on the System, whether on a MOU or "per bit" basis or otherwise, throughout the Term of this Agreement.

Section 36. Termination Without Cause - Renewal Term

(a) At any time during the Renewal Term, and without limiting any other rights of the Port Authority under this Agreement, including, without limitation, the rights set forth in Section 20, the Port Authority shall have the right to terminate this Agreement without cause on ninety (90) days' prior written notice to the Permittee. Upon the effective date of such termination this Agreement shall be terminated with the same force and effect as if such date were the date originally set for its expiration, except as provided in paragraph (b), below.

(b) Within ten (10) days following the effective date of termination without cause as provided in paragraph (a), above, the Port Authority shall pay a "Termination Amount" to the Permittee, to be determined as follows:

(i) The sum of the Adjusted Gross Receipts plus the Tower Gross Receipts and the World Trade Center Towers and Airports Adjusted Gross Receipts, less the sum of the Minimum Fee plus the Variable Fee payable to the Port Authority, in each case, for the last full Annual Period prior to the effective date of termination without cause shall be calculated, such calculation to take into account only those Port Authority Facilities which comprise facilities owned by or leased to the Port Authority as of the effective date of termination.

(ii) The sum calculated in subparagraph (i), above, shall be divided into four (4) equal payments which shall be deemed to be made on a quarterly basis on the last day of each January, April, July and October, with respect to the immediately preceding calendar quarter, in each Annual Period or portion thereof which would have occurred prior to the expiration date of this Agreement if this Agreement had not been terminated without cause. In the event the expiration date of this Agreement in effect prior to its termination without cause was not scheduled

to occur on the last day of a calendar quarter, the last such imputed payment shall be appropriately prorated based on a ninety-one (91) day calendar quarter.

(iii) The present value of the stream of payments described in subparagraph (ii), above, on the date of termination without cause by the Port Authority shall be determined using a discount rate of ten percent (10%) per year (the "Base Net Present Value Amount").

(iv) The portion of the Initial System Capital Cost plus the capital cost of any additions to the System approved by the Port Authority as constituting an additional capital investment in the System which in each case constituted actual payments to unaffiliated third parties for the acquisition and installation of the System (less any part of this Initial System Capital Cost incurred with respect to the construction and installation of any portions of the System installed at Port Authority Facilities which no longer comprise facilities owned by or leased to the Port Authority as of the effective date of termination) shall be determined and the amount so determined shall be multiplied by a fraction the denominator of which is the number of days in the Term (including the Renewal Term) originally contemplated under this Agreement but for its termination without cause by the Port Authority and the numerator of which is the number of days from the date of the termination of this Agreement without cause by the Port Authority to the expiration date originally contemplated under this Agreement (the "Base Unamortized Capital Amount").

(v) The "Termination Amount" shall be the greater of (i) the Base Net Present Value Amount (as defined in subparagraph (iii), above) or (ii) the sum of Seventy-five percent (75%) of the Base Net Present Value Amount plus the Base Unamortized Capital Amount (as defined in subparagraph (iv), above).

(c) In the event the Port Authority terminates this Agreement during the Renewal Term pursuant to the provisions of this Section, the Port Authority shall, upon payment of the Termination Amount, have the right to (1) direct the Permittee to remove the System or the portions thereof designated by the Port Authority, at the Port Authority's expense, and (2) to use the

System or any portion or portions thereof as are not so removed free and clear of any claim of ownership by the Permittee including all the Permittee's rights to all System software licenses, equipment warranties and service contracts. Title to the portion or portions of the System as are not so removed shall thereupon vest in the Port Authority without any further act or deed by the Permittee if title thereto is not already in the Port Authority.

Section 37. Late Charges

If the Permittee should fail to pay any amount required under this Agreement when due to the Port Authority including without limit any payment of any Minimum Fee or Variable Fee 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, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) 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 the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date any unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority 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 the Port Authority in the same manner and with like remedies as if it were originally a part of the fee payments set forth in Section 4. Nothing in this Section is intended to, or shall be deem to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including without

limitation, the Port Authority's rights set forth in Section 17 or (ii) any obligations of the Permittee 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 38. Other Construction by the Lessee

Following the completion of the Initial System Construction Work by the Permittee, and except as may otherwise provided under this Agreement, the Permittee shall not significantly alter the System, do any construction or modify or make any additions or improvements at any Port Authority Facility without the prior written approval of the Port Authority, and in the event any alteration, construction, modification, addition, or improvement is performed without such approval, then upon reasonable notice to do so, the Permittee will remove the same, or at the option of the Port Authority, will cause the same to be changed to the satisfaction of the Port Authority. In case of any failure by the Permittee to comply with such notice, the Port Authority may effect the removal or change and the Permittee shall pay the cost thereof to the Port Authority.

Section 39. Force Majeure

Neither the Port Authority nor the Permittee shall be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. Further, neither the Port Authority nor the Permittee shall be liable unless the said failure, delay or interruption shall result from the failure on the part of such party to use reasonable care to prevent such failure, delay or interruption or reasonable efforts to cure such failure, delay or interruption.

Section 40. Liability Insurance

(a) The Permittee, in its own name as assured and at its sole cost and expense, shall secure and keep in full force and effect throughout the Term, a policy of commercial general liability insurance for such coverage as may reasonably be required from time-to-time by the Port Authority covering the Permittee's operations hereunder, including but not limited to

Premises-Operations, Products-Completed Operations and broad form property damage coverage, and further including a contractual liability indemnity endorsement covering the Permittee's obligations under this Agreement, which shall initially be in a combined single limit of $2,000,000 for liability for bodily injury, for wrongful death and for property damage arising from any one occurrence.

(b) The Permittee, in its own name as assured and at its sole cost and expense, shall secure and keep in full force and effect throughout the Term of this Agreement, a policy of comprehensive automobile liability insurance for such coverage as may reasonably be stipulated by the Port Authority, covering all of the Permittee's owned, non-owned and hired vehicles, which shall be in a combined single limit of $2,000,000 per occurrence for bodily injury and property damage liability.

(c) The Port Authority shall be named as an additional insured in each policy of liability insurance required by this Section. The Port Authority, in its sole discretion, may impose increased insurance requirements as to coverage limits or types of coverage, or both, with respect to any System Operation which requires the Permittee to gain access to or utilize in any manner any portion of the aircraft ramps at any Port Authority airport.

(d) As to any insurance required by this Section, a certified copy of each of the policies or a certificate or certificate evidencing the existence thereof, or binders, shall be delivered to the Port Authority Manager, Risk Management within twenty (20) days prior to the commencement date of this Agreement. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certified copy of the policy or certificate. 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 the Port Authority Manager, Risk Management. A renewal policy or certificate or certificates evidencing the existence thereof shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy. If at any time any of policies shall be or become unsatisfactory to the Port Authority as to form or substance, acting in a non-arbitrary and non-capricious manner, or if the Port Authority shall

determine that any of the carriers issuing such policies shall be or become unsatisfactory to the Port Authority, acting in a non-arbitrary and non-capricious manner, the Permittee 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 the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

Section 41. Non-Discrimination

(a) Without limiting the generality of any of the provisions of the Agreement, the Permittee, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (i) no person, on the grounds of race, creed, color, sex or national origin, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the System by the Permittee, (ii) in the construction of the System and the furnishing of services thereon by the Permittee, no person, on the ground of race, creed, color, sex or national origin, shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (iii) the Permittee shall use the System in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United States of America with respect thereto which from time-to-time may be applicable to the Permittee's operations at any Port Authority Airport, whether by reason of agreement between the Port Authority and the United States Government or otherwise.

(b) The Permittee shall include the provisions of paragraph (a) of this Section in every agreement it may make pursuant to which any Person, other than the Permittee, operates any facility at any Port Authority airport providing services to the public and shall also include therein a provision granting the Port Authority a right to take such action as the United States may direct to enforce such covenant.

(c) The Permittee's non-compliance with the provisions of this Section shall constitute a material breach of this Agreement. In the event of the breach by the Permittee of any of the above non-discrimination provisions, the Port Authority may take appropriate action to enforce compliance; or in the event such noncompliance shall continue for a period of twenty (20) days after receipt of written notice from the Port Authority, the Port Authority shall have the right to terminate this Agreement with the same force and effect as a termination under the Section 20, or may pursue such other remedies as may be provided by law; and as to any or all the foregoing, the Port Authority may take such action as the United States may direct.

(d) The Permittee shall indemnify and hold harmless the Port Authority from any claims and demands of third persons, including the United States of America, resulting from the Permittee's noncompliance with any of the provisions of this Section, and the Permittee shall reimburse the Port Authority for any loss or expense incurred by reason of such noncompliance.

(e) Nothing contained in this Section shall grant or shall be deemed to grant to the Permittee the right to transfer or assign this Agreement, to make any agreement or concession of the type mentioned in paragraph (b) hereof, or any right to perform any construction at any Port Authority Facility.

Section 42. Affirmative Action

In addition to and without limiting any other term or provision of this Agreement, the Permittee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Permittee assures that no

person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart. The Permittee assures that it will require that its covered suborganizations provide assurances to the Permittee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

Section 43. Permittee's Additional Ongoing Affirmative Action - Equal Opportunity Commitment

(a) In addition to and without limiting any other term or provision of this Agreement, the Permittee shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and shall undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal employment opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(b) In addition to and without limiting the foregoing, and without limiting the provisions of Sections 41 and 42, the Permittee, in connection with its continuing operation, maintenance and repair of the System, or any portion thereof, as provided in this Agreement, shall throughout the Term, commit itself to and use good faith efforts to implement an extensive program of affirmative action, including specific affirmative action steps to be taken by the Permittee, to ensure maximum opportunities for employment and contracting by minorities and women, and by Minority Business Enterprises and Women-owned Business Enterprises. In meeting the said commitment, the Permittee agrees to submit to the Port Authority for its review and approval the Permittee's said extensive affirmative action program, including the specific affirmative action steps to be taken by the Permittee to meet the aforesaid commitment, within sixty (60) days after the execution of this Agreement. The Permittee shall incorporate in its said program such revisions and changes which the Port Authority initially or from time-to-

time may reasonably require. Throughout the Term, the Permittee shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Permittee's progress in implementing the said program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority may from time-to-time and at any time request, including but not limited to annual reports.

(c) (i) "Minority" as used in this Section includes:

(1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(2) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race);

(3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(ii) "Minority Business Enterprise" (MBE) as used herein shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing.

(iii) "Women-owned Business Enterprise" (WBE) as used herein shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing.

(iv) Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(1) Dividing the work to be subcontracted into smaller portions where feasible.

(2) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Permittee shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation as called for in paragraph (b), above, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(3) Making plans and specifications for prospective work available to MBEs and WBEs in sufficient time for review.

(4) Utilizing the list of eligible MBEs and WBEs maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(5) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Permittee will meet its obligations hereunder.

(6) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(7) Submitting quarterly reports to the Port Authority (Office of Business and Job Opportunity) detailing its compliance with the provisions hereof.

(d) The Permittee's non-compliance with the provisions of this Section shall constitute a material breach of this Agreement. In the event of the breach by the Permittee of any of

the above provisions the Port Authority may take any appropriate action to enforce compliance; or in the event such non-compliance shall continue for a period of twenty (20) days after receipt of written notice from the Port Authority, the Port Authority shall have the right to terminate this Agreement with the same force and effect as a termination under the provisions of Section 20, or may pursue such other remedies as may be provided by law.

(e) In the implementation of this Section, the Port Authority may consider compliance by the Permittee with the provisions of any federal, state or local law concerning affirmative action-equal employment opportunity which are at least equal to the requirements of this Section, as effectuating the provisions of this Section. If the Port Authority determines that by virtue of such compliance with the provisions of any such federal, state or local law, the provisions hereof duplicate or conflict with such law, the Port Authority may waive the applicability of the provisions of this Section to the extent that such duplication or conflict exists.

(f) Nothing herein provided shall be construed as a limitation upon the application of any laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents.

Section 44. Electricity

(a) Subject to all the terms and conditions of this Agreement, including without limitation the provisions of Section 6 with respect to portions of Port Authority Facilities leased to or otherwise made available to lessees or permittees, the Port Authority will furnish electricity to the Permittee for System Operation, the quantity of such electricity supplied to the Permittee to be in accordance with the design criteria and capacity of each of the Port Authority Facilities and to be paid for by the Permittee as follows:

(i) With respect to Port Authority Facilities or portions thereof that are located in the State of New York, the Port Authority shall periodically throughout the Term, at such times as the Port Authority may elect, arrange for a survey of the Permittee's equipment by the Port Authority's Engineering Department or by an independent utility consultant to be selected

by the Port Authority for the purpose of establishing the Permittee's annual consumption of and demand for electricity (such consumption of and demand for electricity being hereinafter referred to as "Consumption and Demand"). Such Consumption and Demand shall be based on the Permittee's electrical equipment and the frequency and duration of the use thereof by the Permittee. The Permittee's annual Consumption and Demand shall be divided by the number of "Billing Periods" per year established by the public utility company supplying electricity in the vicinity of the Port Authority Facility so as to determine the Permittee's Consumption and Demand per Billing Period. The Port Authority shall compute the cost of such Consumption and Demand as determined by the survey based on the greater of: (1) the rates (including the fuel or other adjustment factor if any) which the Permittee at the time of such purchase and under the service classification then applicable to it would have to pay for the same quantity of electricity to be used for the same purposes under the same conditions if it received the electricity directly from the public utility supplying the same to commercial buildings in the vicinity, or (2) the Port Authority's cost of obtaining and supplying the same quantity of electricity. The Permittee shall pay the cost of such Consumption and Demand for each such billing period to the Port Authority at the time the next fee payment following the close of such Billing Period is due and the same shall be deemed fees collectible in the same manner and with like remedies as if it were a part of the Minimum Fee hereunder. The determination of Consumption and Demand by survey shall be effective until the next succeeding survey and shall be binding and conclusive on both the Permittee and the Port Authority as to all matters, including but not limited to the frequency and duration of use of the Permittee's electrical equipment at the Port Authority Facility by the Permittee. The cost of each such survey shall be borne by the Port Authority, provided that if the Permittee makes any alterations or improvements at the Port Authority Facility in accordance with the provisions of this Agreement or otherwise which may result in greater Consumption or Demand, the Port Authority may direct a new survey to establish the Permittee's Consumption and Demand for electricity at the Port Authority Facility in question and the cost thereof shall be borne by the Permittee. Any method of measurement used herein shall not preclude the Port Authority from reverting to the use of any prior method. In lieu of a determination of Consumption and Demand by survey, the same may

be measured by meter which the Port Authority may install at its option, exercised at any time during the Term, and if for any reason any meter fails to record the consumption of electricity, the consumption of electricity during any such period that the meter is out of service will be considered to be the same as the consumption for a like period either immediately before or immediately after the interruption as selected by the Port Authority.

(ii) With respect to Port Authority Facilities or portions thereof that are located in the State of New Jersey, the Port Authority shall periodically throughout the Term, at such times as the Port Authority may elect, arrange for a survey of the Permittee's equipment by the Port Authority's Engineering Department or by an independent utility consultant to be selected by the Port Authority for the purpose of establishing the Permittee's annual Consumption and Demand. The Port Authority shall divide the total cost of electricity consumption and demand furnished to the Port Authority Facility for each Billing Period, as billed by the public utility supplying electricity to the Port Authority Facility, by the total number of kilowatt hours shown on the statement for the Port Authority Facility for that Billing Period in order to arrive at the cost per kilowatt hour charged by the public utility supplying electricity to the Port Authority Facility for consumption and demand at the Port Authority Facility. The Permittee shall pay to the Port Authority at the time the next fee payment following the close of such Billing Period is due, as and for the Permittee's Consumption and Demand, an amount determined by multiplying the cost per kilowatt hour charged by the public utility supplying electricity to the Port Authority Facility for consumption and demand at the Port Authority Facility by the number of kilowatt hours of electrical consumption by the Permittee for that Billing Period as determined by the electrical survey of the Permittee's equipment conducted by the Port Authority. Such amount as is determined to be due to the Port Authority for each such Billing Period shall be deemed fees collectible in the same manner and with like remedies as if it were a part of the Minimum Fee hereunder. In the event the laws of the State of New Jersey hereafter provide that the Port Authority may resell or submeter electricity to the Permittee, the Port Authority hereby reserves the right at its option exercised at any time during the Term, and at its cost and expense, to install meters to measure the Permittee's Consumption

and Demand and, in such event, the Permittee shall pay to the Port Authority for each Billing Period the cost of such Consumption and Demand as measured by meter based on the greater of (1) the rates (including the fuel or other adjustment factor if any) which would be charged to the Permittee by the public utility company supplying electricity in the vicinity at the time of such purchase and under the service classification then applicable to the Permittee for the same quantity of electricity to be used for the same purposes under the same conditions if the Permittee purchased such electricity directly from such public utility company, or (2) the Port Authority's cost of obtaining and supplying the same quantity of electricity, and if for any reason any meter fails to record the consumption of electricity, the consumption thereof during any such period that the meter is out of service will be considered to be the same as the consumption for a like period either immediately before or immediately after the interruption as selected by the Port Authority.

(b) Notwithstanding that the Port Authority has agreed to supply electricity to the Permittee, the Port Authority shall be under no obligation to provide or continue such service if the Port Authority is prevented by law, agreement or otherwise from metering or measuring electrical consumption as set forth in paragraph (a) of this Section, or elects not to so meter or measure consumption of the same, and in any such event, the Permittee shall make all arrangements and conversions necessary to obtain electricity directly from the public utility. Also in such event, the Permittee shall perform the construction necessary for conversion and if any lines or equipment of the Port Authority are with the consent of the Port Authority used therefor, the Permittee shall pay to the Port Authority its pro rata share of the reasonable costs and expenses for the said lines and equipment.

(c) The supply of electricity shall be made by the Port Authority to the Permittee at such points as are designated on the final plans covering the Permittee's Initial System Construction Work approved by the Port Authority for connection of the electrical distribution systems to be installed by the Permittee with the Port Authority's lines and conduits, and the Port Authority shall have no responsibility for the distribution of electrical current beyond the points of connection to the System.

(d) If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, make or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future supplied to the Permittee or to any of its Carrier Users, then, at the option of the Port Authority exercised at any time and from time-to-time by notice to the Permittee, the Permittee shall pay, in accordance with said notice, such charge, fee or rent or increase thereof (or the portion thereof equitably allocated by the Port Authority to the Permittee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

(e) The Port Authority shall have the right to discontinue temporarily the supply of any of the above services when necessary or desirable in the reasonable opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the premises or elsewhere at the Port Authority Facility including but not limited to all systems for the supply of services. Except in cases of emergency, the Port Authority shall give the Permittee reasonable prior notice before discontinuing the supply of services pursuant to the provisions of this paragraph.

(f) No failure, delay, interruption or reduction in any service or services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees payable hereunder, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the gross negligence or willful misconduct of the Port Authority, its employees or agents.

(g) The Port Authority shall be under no obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the use of any component necessary therefor shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith, even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency.

Section 45. Suitability of Port Authority Facilities

The Permittee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Directors, officers, employees or agents as to the suitability of any Port Authority Facilities to be utilized by the Permittee for System Operations. Without limiting any obligation of the Permittee to commence operations hereunder at the time and in the manner stated elsewhere in this Agreement, the Permittee agrees that no portion of any Port Authority Facilities to be utilized by the Permittee for System Operations will be used initially or at any time during the Term which is in a condition unsafe or improper for the conduct of System Operations so that there is possibility of injury or damage to life or property. Except as expressly provided in Section 44, the Port Authority shall have no responsibility with respect to the furnishing or supplying of any utilities whatsoever.

Section 46. Objectionable Interference

(a) In the event that the operation of any of the Permittee's or a Carrier User's or a Paging Carrier User's transmitting and receiving equipment, or associated antennas, lines, cables, and wires causes Objectionable Interference, as defined in paragraph (d) below, to any communications activity conducted as of the date of this Agreement at any Port Authority Facility by the Port Authority or a third party pursuant to agreement between such third party and the Port Authority, the Permittee shall take all steps necessary to remove the cause of the Objectionable Interference.

(b) If such Objectionable Interference relates to a communications activity at such Port Authority Facility conducted by the Port Authority or a third party pursuant to agreement between such third party and the Port Authority which commences after the commencement of the Permittee's operations at the Port Authority Facility pursuant to the terms of this Agreement, the Permittee shall cooperate with the Port Authority and any such third party in a commercially reasonable effort to remove the cause of the Objectionable Interference. If such communication activity conducted by the Port Authority or such third party causes Objectionable Interference to Carrier Users or to Paging Carrier Users, the Port Authority shall take commercially

reasonable steps, and shall use commercially reasonable efforts to require the third party to take commercially reasonable steps, to remove the cause of the Objectionable Interference.

(c) If the Permittee believes that the cause of such Objectionable Interference does not relate to the operation of its transmitting and receiving equipment, or associated antennas, lines, cables, and wires, the matter shall be submitted to an engineering committee consisting of one engineer selected by the Permittee, one engineer selected by the Port Authority, and a third engineer selected by the two engineers previously selected. If such engineers can not agree on a third engineer, then the third engineer shall be selected by an officer of the American Arbitration Association. It shall be the duty of the members of the engineering committee to determine whether in their opinion the Objectionable Interference results from the operation of the Permittee's transmitting and receiving equipment, or associated antennas, lines, cables, and wires. If a majority of the committee shall so determine, and such Objectionable Interference relates to an existing communications activity at such Port Authority Facility, the Permittee shall remove the cause of the Objectionable Interference.

(d) Objectionable Interference to a communications activity shall be deemed to exist for the purposes of this Section if:

(i) The construction or operation, maintenance, or repair of a Person's transmitting and receiving equipment or associated antennas, lines, cables, and wires causes a condition to exist which would constitute interference within the meaning of the rules and regulations of the Federal Communications Commission at the time then in effect; or

(ii) The construction, operation, maintenance, or repair of a Person's transmitting and receiving equipment or associated antennas, lines, cables, and wires causes a material impairment of the quality of either sound or picture signals of a communications activity being conducted at a Port Authority Facility during the period of operation of such communications activity, as compared with that which would be obtained if such transmitting and receiving equipment or associated antennas, lines, cables, and wires were not in operation, or under construction, maintenance, or repair; or

(iii) The construction, operation, maintenance, or repair of a Person's transmitting and receiving equipment or associated antennas, lines, cables, and wires prevents a third party conducting a communication activity at such Port Authority Facility from using or having access to its equipment, or associated antennas, lines, cables, and wires at reasonable and usual times to an extent which interferes to a material degree with the construction, operation, maintenance, or repair thereof, it being understood that a reasonable temporary interference which does not materially interfere with the construction, operation, maintenance, or repair of such third party's equipment, or associated antennas, lines, cables, and wires and which is occasioned by construction, operation, maintenance, or repair of or to such equipment, or associated antennas, lines, cables, and wires shall not be considered Objectionable Interference.

(e) All agreements to which the Port Authority shall hereafter become a party and pursuant to which the Port Authority shall grant or otherwise provide rights, licenses or permission to engage in communications activities at any Port Authority Facilities shall contain the agreement of the other party to such agreement, expressed to be for the benefit of and enforceable by the Port Authority and the Permittee, to accept and be bound by the provisions of this Section 46, unless, in the reasonable opinion of the Port Authority, such communications activities would not cause Objectionable Interference to System Operations.

Section 47. Non-Liability of Individuals

Neither the Commissioners of the Port Authority nor the Members of the Permittee, nor any of them, nor any officer, agent or employee of the Port Authority or of the Permittee shall be charged personally by either party hereto with any liability or shall be held personally liable to the other party 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 48. Existing Wireless Agreements

The Port Authority hereby assigns to the Permittee all of the Port Authority's right, title and interest in its existing

lease and permit agreements with wireless carriers at Covered Facilities, including but not limited to those lease and permit agreements listed on Schedule A attached to Exhibit E, described below. The Permittee shall pay any costs incurred by it or by the Port Authority in connection with any termination or revocation of such agreements. Total payments by the Permittee to the Carrier Users pursuant to this Section shall not exceed One Million Six Hundred Thousand Dollars and No Cents ($1,600,000.00) in the aggregate. Any such payments made by the Permittee to the Carrier Users shall comprise a portion of the Initial System Capital Cost. The assignment by the Port Authority to the Permittee provided for above shall be further evidenced by execution and acknowledgment of an "Assignment and Assumption Agreement" in the form attached hereto, hereby made a part hereof and marked "Exhibit E" and by the transmittal by the Port Authority and the Permittee of a letter notifying such wireless carrier under any such existing agreement of the assignment of same.

Section 49. Non-Disturbance

So long as this Agreement has not been terminated on account of a default by the Permittee that has continued beyond any applicable cure period, no mortgagee or assignee of, or successor to, the Port Authority, or any Person holding any liens on or security interests in any equipment or fixtures owned by the Port Authority that form a part of the System (a "Successor"), upon taking title to any such fixtures or equipment shall terminate or disturb the Permittee's use and operation of such equipment and fixtures in connection with the operation of the System pursuant to this Agreement, except in accordance with the terms of this Agreement. A Successor shall be bound to the Permittee under the terms of this Section 49.

Section 50. Labor Harmony Obligation

The Permittee shall use reasonable efforts, taking all measure 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 Permittee recognizes the essential necessity of the continued and full operation of each Port Authority Facility.

Section 51. Brokerage

The Permittee represents and warrants that it has not had any contacts, dealings, acts or conversations with any broker except TREGA Securities, LLC or BancBoston Robertson Stephens Inc. (assuming, but without acknowledging, that either of said entities is a "broker") in connection with the negotiation of this Agreement or in connection with the rights and permissions granted to the Permittee hereunder. The Permittee shall indemnify and save harmless the Port Authority from any and all claims for brokerage or commission made by any Person, including but not limited to TREGA Securities, LLC and BancBoston Robertson Stephens Inc., for services in connection with the negotiation and execution of this Agreement or in connection with the rights and permissions granted to the Permittee hereunder arising out of the contacts, dealings, acts or conversations of the Permittee, except for claims arising solely out of any contacts, dealings, acts or conversations of the Port Authority.

Section 52. 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 personally delivered to the party or to the duly designated officer or representative of such party at the location provided pursuant to this Section or forwarded to such party, officer or representative at the location provided pursuant to this Section, by a nationally-recognized overnight courier service or sent by registered or certified mail. The Port Authority and the Permittee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director and the Permittee 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 the Port Authority designates its office at One World Trade Center, New York, New York 10048, and the Permittee 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, upon the event of a refusal by the addressee, upon the first tender of the notice to the addressee or at the designated address.

Section 53. Severability

In the event that any of the terms, covenants or conditions hereof or the application of any such term, covenant or condition shall be held invalid as to any party or circumstance by any court or regulatory body having jurisdiction, the remainder of such terms, covenants or conditions shall not be affected thereby and shall remain if full force and effect, and the parties shall negotiate in good faith to substitute a term or condition in this Agreement to replace the one held invalid.

Section 54. Counterparts

This Agreement may be executed in any number of counterparts, and each counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

Section 55. Rules of Interpretation

Except as otherwise expressly provided herein: the singular includes the plural and the plural includes the singular; "or" is not exclusive; "include" and "including" are not limiting; a reference to any agreement or other contract includes permitted supplement and amendments; a reference to a law includes only such law as in effect on the date of execution and delivery hereof and any rules or regulations issued thereunder and in effect on the date of the execution and delivery hereof; a reference to a Person includes its permitted successors and assigns; a reference to a Section or any Exhibit is to the Section or Exhibit which constitutes a part of this Agreement unless otherwise specified; in case of any conflict between the provisions of this Agreement and any Exhibit, the provisions of this Agreement shall take precedence; any right may be exercised at any time and from time to time; all obligations under this Agreement of any party are continuing obligations throughout the Term and the fact that counsel to any party shall have drafted this Agreement shall not affect the interpretation

of any provision of this Agreement in a manner adverse to any party or otherwise prejudice or impair the rights of any such party.

Section 56. Third Party Beneficiaries

It is not intended that this Agreement make any Person a third party beneficiary hereof, notwithstanding the fact that Persons other than the Permittee and the Port Authority may be benefitted hereby.

Section 57. Governing Law

This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 58. Entire Agreement

This Agreement consists of the following: pages 1 through 98, inclusive, and Exhibits A, B, C, D and E and Schedule E. 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 Port Authority and the Permittee. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority 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:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: [signature]

Title: CHIEF TECHNOLOGY OFFICER

APPROVED	
FORM	TERMS
RW	FAM

ATTEST:

Name: Philip E. Deck

Title: Technical Director

NEW YORK TELECOM PARTNERS, LLC

By: [signature]

Name: Richard J. DiGeronimo

Title: President

EXHIBIT A

PORT AUTHORITY FACILITIES

I. Basic Port Authority Facilities

A. Holland Tunnel

B. Lincoln Tunnel

C. John F. Kennedy International Airport

D. Newark International Airport

E. LaGuardia Airport

II. Additional Port Authority Facilities

A. PATH Stations and tubes

B. Port Authority Bus Terminal

C. World Trade Center Concourse

(Other Port Authority Facilities, such as the George Washington Bridge Bus Station, may be added to the System upon the request of the Permittee and with the written consent of the Port Authority in its sole and absolute discretion.)

CARRIER ACCESS AGREEMENT

THIS CARRIER ACCESS AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 1999, by and between NEW YORK TELECOM PARTNERS, LLC ("NYTP"), a Delaware limited liability company with a principal office at _____ World Trade Center, New York, New York 10048, and _____ (the "Carrier"), a _____ corporation with a principal office at _____.

WITNESSETH:

WHEREAS, the Port Authority of New York and New Jersey (the "Port Authority") has selected NYTP to build and operate a Telecommunications Network Access System ("TNAS"), as described on Exhibit "A" attached hereto, whereby providers of Personal Wireless Services (as hereinafter defined) may elect to have seamless wireless access to certain tunnels, concourses and buildings, airports and other facilities operated by the Port Authority;

WHEREAS, the Port Authority and NYTP have agreed upon the terms and conditions pursuant to which NYTP will build and operate the TNAS and, in connection therewith, the Port Authority and NYTP have entered into a TNAS Agreement dated _____, 1999 (the "TNAS Agreement"); and

WHEREAS, NYTP has agreed to make the TNAS available to the Carrier in the Lincoln Tunnel and the Holland Tunnel (collectively, the "Tunnels"), as well as in any other Port Authority Facility (hereinafter defined) in which the Carrier desires TNAS coverage, in accordance with the terms and conditions set forth herein, and the Carrier has agreed to participate in and use the TNAS in the Tunnels and, if the Carrier desires, other Port Authority Facilities, and to make payments to NYTP, all in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the parties agree as follows:

AGREEMENT

1. DEFINITIONS. For purposes of this Agreement, the following capitalized words and phrases, in the absence of clear implication otherwise, shall be given the following respective meanings:

"Access Fee" shall have the meaning given that term in Section 3.1.

"Assignee" shall mean a Person to whom rights hereunder have been assigned, including any trustee designated in connection with the Project Financing.

"Baseline MOUs" shall mean the MOUs for each Covered Facility set forth on the Schedule for such Covered Facility, as increased by any additional Baseline MOUs purchased by the Carrier pursuant to Section 3.1(c).

"Carrier Agreements" shall mean this Agreement and all other similar agreements with Participating Carriers pursuant to which Participating Carriers and NYTP agree on the terms and conditions under which such Participating Carriers will have access to the TNAS.

"Carrier L/C" shall have the meaning given that term in Section 3.6.

"Carrier Equipment" shall mean the Carrier's equipment for the provision of telecommunications services.

"Change in Law" shall mean (i) any change in, or adoption of, any constitution, charter, act, statute, law, ordinance, code, rule, regulation or order, or other legislative or administrative action of the United States of America, the State of New York,

or the State of New Jersey, or any agency, department, authority, political subdivision or other instrumentality of any of them (collectively, a "Law"), (ii) a final decree, judgment, or order of a court or any such agency which is legally binding and enforceable, or (iii) the suspension, termination, interruption, denial, failure to renew, or imposition of conditions not previously imposed with respect to the issuance of any permit, license, consent or authorization, or any change in judicial or administrative interpretation of any Law with which, in each case, in the mutual opinion of the parties, NYTP must at such time comply in connection with the design, construction or operation of the TNAS, having a material adverse effect on the performance of any of the obligations of NYTP hereunder or of any other obligation of a party pursuant to this Agreement, occurring subsequent to the date hereof, and which has not been principally caused by, nor significantly contributed to by, and is beyond the reasonable control of, the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Agreement.

"Contractor" shall mean, collectively, the general contractors that NYTP selects to construct all or any portion of the TNAS.

"Construction Contract" shall mean, with respect to any Contractor, every agreement between NYTP and such Contractor with respect to the TNAS.

"Construction Costs" shall mean, with respect to any Covered Facility, all costs attributable solely to such Covered Facility that may be incurred by NYTP (including any such costs incurred by any of its contractors or agents) during the Construction Period with respect to the completion of the TNAS at such Covered Facility.

"Construction Date" shall mean, with respect to any Covered Facility, the date that construction of the TNAS commences in such Covered Facility.

"Construction Period" shall mean, with respect to any Covered Facility, the time period beginning on the Construction Date and ending on the date set forth

in the Schedule 2.7 for such Covered Facility, or as may be further extended pursuant to Section 2.7(a).

"Consulting Engineer" shall have the meaning given to such term in Section 2.7

"Contractor" shall mean each general contractor that NYTP selects to construct the TNAS, or any portion thereof.

"Covered Facility" shall mean each Port Authority Facility with respect to which the Carrier has elected to participate in the TNAS and receive TNAS coverage pursuant to the procedures in Section 2.7.

"Date of TNAS Operation" shall mean, with respect to each Covered Facility, the later to occur of (i) the end of the Construction Period, or (ii) the date on which the Carrier has complied with the terms of Sections 2.7(a), 3.1(a) and (b) and 3.2 with respect to such Covered Facility.

"Entrance Fee" shall have the meaning given that term in Section 3.1.

"Equivalent Measurement of Use" or "EMU" shall have the meaning given to that term under the definition of MOU.

"Estimated Construction Costs" shall have the meaning given to that term in Section 3.6.

"Excess MOUs" shall mean, with respect to each Covered Facility, all MOUs sent or received by Carrier's customers over the TNAS in an operating year in excess of Baseline MOUs.

"Existing Contracts" shall mean the existing contracts regarding wireless services within Port Authority Facilities described on Exhibit "B" attached hereto.

"GAAP" shall mean generally accepted accounting principles applied on a consistent basis.

"Initial Term" shall have the meaning given that term in Section 4.1.

"MOU" and, collectively, "MOUs," shall mean a "Minute of Use," which shall refer to each minute, or portion thereof, of airtime that a customer of a Participating Carrier sends or receives transmissions over the TNAS. In addition, the Carrier acknowledges that methods of measuring use or volume in the wireless communications industry are constantly evolving, and that NYTP may in the future use a different methodology for measuring use of the system by the Carrier and the other Participating Carriers (e.g., measurement based on bits through digital packet switch data). In the event that NYTP converts the methodology of measuring use of the TNAS from minutes of use to an equivalent measurement of digital information wireless traffic use (an "Equivalent Measurement of Use" or "EMU"), the defined term MOU used throughout this Agreement shall mean and refer to such EMU. The parties acknowledge that a change in the methodology used to measure use of the TNAS will require the consent of the Port Authority in accordance with the terms of the TNAS Agreement.

"Operating Year" means a calendar year during the term of this Agreement or, as applicable, and pro rated, the portion of the year beginning on the Date of TNAS Operation and ending on December 31 of the same calendar year or, in the case of the last Operating Year hereunder, the portion of the year beginning on January 1 thereof and ending on the Termination Date of this Agreement.

"Overlay" means, with respect to certain Covered Facilities, access to structures or property on or at such Covered Facility by the Carrier for the installation of Carrier Equipment.

"Participating Carriers" shall mean, with respect to each Covered Facility, the providers of Personal Wireless Services who have entered into or at any time hereafter enter into an agreement with NYTP allowing such provider access to the TNAS in such Covered Facility.

"Person" shall mean any individual, firm, partnership, corporation, association, institution, cooperative enterprise, trust, municipal authority, federal institution or agency, state institution or agency, municipality, other governmental agency or any other legal entity or any group of such persons whatsoever which is recognized by law as the subject of rights and duties.

"Personal Wireless Services" shall mean commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

"Points of Interface with TNAS" shall mean the locations at which the Carrier's equipment interfaces with the TNAS.

"Port Authority" shall mean the Port Authority of New York and New Jersey, a body corporate and politic created by Compact between the states of New York and New Jersey with the consent of the Congress of the United States of America.

"Port Authority Facilities" or "Facilities" shall mean those areas owned or controlled by the Port Authority as described on Exhibit "C" attached hereto.

"Project" shall mean the development, financing, construction, operating and maintaining of the TNAS, all as described in the TNAS Agreement and herein.

"Project Financing" shall mean the obligations of NYTP pursuant to the indebtedness incurred and all other funds raised by NYTP to finance the development, construction, equipping and operation of the TNAS and any payments made in connection with the Existing Contracts.

"Schedules" shall mean the Schedules attached (or, with respect to subsequent Covered Facilities, to be attached) to this Agreement and made a part of this Agreement and containing the terms and conditions on which the Carrier shall have the right to use the TNAS in each Covered Facility. Each such Schedule is referred to and described in Section 2.7, and is designated Schedule 2.7. There shall be a separate Schedule 2.7 for each Covered Facility.

"System Capacity" shall mean the specifications and minimum system capacity described in Exhibit "D" attached hereto.

"Technical Standards" shall mean the technical standards for the TNAS for each Port Authority Facility as set forth on Exhibit "E" attached hereto.

"Termination Fee" shall have the meaning given that term in Section 14.3.

"TNAS" shall mean each telecommunications network access system to be owned by NYTP and constructed by each Contractor on the Port Authority Facilities in accordance with the TNAS Agreement, whereby providers of Personal Wireless Services will gain seamless wireless access to certain Port Authority facilities, which network access system is fully described and detailed on Exhibit "A" attached hereto.

"TNAS Agreement" shall mean the agreement between the Port Authority and NYTP dated _____, 1999, pursuant to which NYTP and the Port Authority have agreed upon the terms and conditions under which NYTP will build and operate the TNAS.

"Uncontrollable Circumstances" shall mean acts, events, or conditions hereafter occurring or existing, whether affecting the TNAS or NYTP, having a material adverse effect on any obligation under this Agreement, if such act, event or condition has not been principally caused by, nor significantly contributed to by, and is beyond the reasonable

control of, the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Agreement, of the following kinds:

(i) An act of God, war, embargo, insurrection, strike, riot, sabotage, fire, demonstrations, civil disturbance, national emergency, flood, explosion, earthquake, lightning or similar circumstances;

(ii) the entry of a valid and enforceable injunctive or restraining order or judgment of any federal or state, administrative agency or governmental officer or body, having jurisdiction thereof if such order or judgment is not the result of the negligent or willful act, or failure to act of the non-performing party. The contesting in good faith of any order or judgment shall not constitute or be construed as a willful or negligent act; or

(iii) Change in Law.

"Underlay TNAS" means, with respect to certain Covered Facilities, access by the Carrier to the NYTP internal building network coverage equipment at such Covered Facilities.

"Usage Fee" shall have the meaning given that term in Section 3.1.

2. ESTABLISHMENT OF TNAS

2.1 Obligation of NYTP To Establish TNAS. NYTP and the Port Authority have entered into the TNAS Agreement and NYTP shall use reasonable efforts to implement the TNAS Agreement, cause the TNAS to be constructed, and operate the TNAS, all in accordance with the terms and conditions of the TNAS Agreement and the Carrier Agreements. On or before the Date of TNAS Operation in each Covered Facility, NYTP shall cause the TNAS to be fully operational in such Covered Facility in accordance with the

terms of the System Capacity and Technical Standards for that Covered Facility. NYTP, through its own personnel, the Contractor, and other Persons shall provide all labor and materials necessary to build, own, operate, repair and maintain the TNAS. The Carrier shall be solely responsible for the installation, maintenance, repair, replacement and operation of the Carrier Equipment in the TNAS.

2.2 Administration of TNAS. NYTP will administer and operate all aspects of the TNAS. Following the Date of TNAS Operation in each Covered Facility, NYTP shall keep the TNAS operating and available continuously in each Covered Facility seven days per week, 24 hours per day, every day of the year. NYTP shall maintain the TNAS in good operating condition, and shall manage the TNAS with sound engineering practices. Subject to the Carrier's base station and customer unit specifications, NYTP shall, in accordance with the Technical Standards, cause to be accepted and/or delivered, in each Covered Facility, wireless communications signals within the TNAS originating from or to be delivered to customers of the Carrier. The Carrier shall develop a system, reasonably acceptable to NYTP and to the Port Authority, capable of measuring wireless communications signal volume in each Covered Facility in consultation with, and based on reasonable standards adopted by, NYTP (and approved by the Port Authority), and shall report such volume to NYTP on a monthly basis. The Port Authority, from time to time, may inspect the Carrier's Equipment for measuring wireless communications signal volume. In the event that the Carrier refuses or is unable to develop a system capable of measuring its wireless communications signal volume in each Covered Facility, the parties acknowledge that NYTP may, at its discretion, develop, implement and install a system (on the Carrier's equipment, if necessary) capable of measuring wireless communications signal volume originating or terminating on, or otherwise using, the TNAS; provided that any such system shall be developed in consultation with the Participating Carriers, and the costs to develop and implement such system shall be [_____].

2.3 Carrier Commitment. Commencing on the Date of TNAS Operation and during the term of this Agreement, all Personal Wireless Services provided by the Carrier to its customers within each Covered Facility's TNAS coverage area shall be

provided through NYTP and the TNAS, and the Carrier shall not use any other means or method of transmitting wireless communications signals in any Covered Facility. This Section 2.3 shall not prohibit the Carrier from using, and shall not restrict or limit the Carrier's use of, those portions of the Carrier's existing telecommunications system located outside the Covered Facilities that may provide coverage in or otherwise overlap areas of a Covered Facility serviced by the TNAS. The Carrier acknowledges that NYTP may measure baseline existing telecommunications signals levels to establish existing levels of overlap, and that NYTP may monitor future signals levels to ensure that the Carrier does not intentionally avoid the TNAS through additions to its existing system.

2.4 System Capacity. It is acknowledged and understood by the parties that the TNAS will be designed and constructed to handle, process and complete wireless transmission signals in accordance with the Technical Standards and the System Capacity.

2.5 Shutdown. On fourteen (14) days prior written notice to the Carrier, NYTP may partially or completely reduce the capacity of the TNAS for a scheduled overhaul, provided that no later than seven (7) days prior to any such reduction of capacity, NYTP shall present to the Carrier a contingency plan (a "Shutdown Contingency Plan"), acceptable to the Carrier in the Carrier's reasonable discretion, to notify the Carrier's customers of the anticipated shutdown and alternate means of providing service to such customers, which contingency plan shall include, but not be limited to, notices posted in the Covered Facility to be affected, and provided further that if the proposed Shutdown Contingency Plan is not acceptable to the Carrier, NYTP shall work with the Carrier to develop a revised Shutdown Contingency Plan acceptable to the Carrier in the Carrier's reasonable discretion prior to any such reduction of capacity. NYTP shall select overhaul or shutdown periods when low call volume may be expected. Except in cases of emergency or Uncontrollable Circumstances, the TNAS shall not be shutdown for a period in excess of six (6) hours unless NYTP and the Carrier have agreed on a Shutdown Contingency Plan that provides for a greater shutdown period.

2.6 Equivalent Measurement of Use (EMU). NYTP may, in its reasonable discretion, change the methodology used to measure wireless communications signal volume on the TNAS from MOU to an EMU, and the Carrier shall cooperate with NYTP and take all steps necessary to assist NYTP in completing any such change in methodology and to change the Carrier's system of measuring its use of the TNAS to comport with such change; provided that any such conversion by NYTP shall not be implemented by NYTP until NYTP has received the consent of a majority of the Participating Carriers to such conversion, which consent shall not be unreasonably withheld or delayed.

2.7 Carrier's Participation in a Covered Facility.

(a) The Carrier and NYTP each acknowledge and agree that the Port Authority Facilities known as the Holland Tunnel and the Lincoln Tunnel are Covered Facilities. The Access Fee, Usage Fee, Baseline MOU, Construction Date, Construction Period and other information for, and applicable solely to, such Covered Facilities are set forth on Schedules 2.7(a) and 2.7(b), respectively. The Carrier shall not participate in the TNAS or otherwise receive TNAS coverage in any other Port Authority Facility and no other Port Authority Facility shall be subject to this Agreement, unless and until (i) the Carrier notifies NYTP in writing that it desires to participate in the TNAS in such Port Authority Facility, which notice shall include the specifications of the Carrier's desired participation in such Facility; (ii) the Carrier agrees to pay all of NYTP's costs to design and construct that portion of the TNAS that is necessary in order to permit the Carrier's desired use of such Facility (the "Construction Costs"); (iii) if all or any portion of the Construction Costs have been paid for by another Participating Carrier or NYTP, the Carrier pays to such Participating Carrier or NYTP, as the case may be, the Carrier's pro rata share of such Construction Costs (based on the number of Participating Carriers using such constructed portion as of the date of such payment); (iv) prior to commencement of construction, the Carrier pays to NYTP the Estimated Construction Costs for such Facility; (v) the Carrier executes the Schedule 2.7 for such new Covered Facility in

the form required by NYTP, which Schedule 2.7 shall be deemed incorporated in, and a part of, this Agreement; and (vi) the Carrier pays the Access Fee due for such Facility. Upon the Carrier's written request, NYTP may, in its sole discretion and in lieu of requiring the Carrier to pay to NYTP the Estimated Construction Costs for any such Facility under clause (a)(iv) above, finance the Construction Costs for such Facility, in which case the Carrier shall, prior to the commencement of the construction of the TNAS in such Facility, (A) pay a portion (determined by NYTP) of the Estimated Construction Costs for such Facility, (B) promise to pay the remaining Construction Costs over time, on terms and with interest at a rate determined by NYTP in its reasonable discretion, and (C) execute any and all promissory notes and other documents to evidence the foregoing that NYTP deems necessary in its reasonable discretion. The Carrier acknowledges that NYTP intends to construct the TNAS in JFK, LaGuardia and Newark Airports, and that the Carrier, if it elects to obtain use of the TNAS in such Facilities, will be responsible for payment of the Construction Costs for such Facilities in accordance with clause (a)(iii) above.

(b) Within thirty (30) days after receipt by NYTP of the notice specified in clause 2.7(a)(i) above, NYTP shall deliver to the Carrier the Schedule 2.7 for such Facility. Such Schedule 2.7 shall set forth, among other things, the Construction Date and the Construction Period, and shall be accompanied by the information relating to Estimated Construction Costs and amounts payable by the Carrier as described in Section 3.6. Upon completion of construction of the TNAS in such Facility, the Carrier shall be permitted to inspect and test the TNAS in the Facility for a period of ten (10) days after the Carrier has completed the installation of its equipment in the Facility; provided that the Carrier covenants and agrees to adhere to NYTP's requirements with respect to the scheduling for and installing of the Carrier's equipment at the Facility. Such testing shall be performed at the Carrier's expense to confirm compliance with the Technical Standards for such Facility. The Carrier agrees that no construction and installation work may be performed by the Carrier or NYTP without the prior written approval of the Port

Authority. If the TNAS in such Facility is not reasonably satisfactory to the Carrier, the Carrier shall notify NYTP in writing prior to the end of the Construction Period, which notice shall set forth any deficiencies in the TNAS with reasonable specificity, and the Construction Period shall be extended by NYTP so as to permit NYTP to correct such deficiencies. NYTP shall promptly notify the Carrier in writing as to the revised Construction Period, and the Carrier shall be permitted to inspect and test the TNAS in the Facility during the last ten (10) days of the revised Construction Period. If prior to the completion of the revised Construction Period, the Carrier notifies NYTP in writing that the deficiencies in the TNAS in such Facility have not been remedied so as to make the TNAS reasonably satisfactory for its intended use, NYTP shall be permitted to further remedy such deficiencies in accordance with the foregoing procedures unless (i) the Carrier states in such notice that the Carrier believes that such deficiencies cannot be remedied by NYTP, or (ii) NYTP notifies the Carrier in writing that NYTP believes that such deficiencies have been remedied so as to make the TNAS in the Facility reasonably satisfactory for its intended use. If events (i) or (ii) occur, the parties agree that the matter will be submitted to the Chief Engineer of the Port Authority to assist the parties in resolving the matters in dispute, if the Chief Engineer is willing to act in such capacity. If the parties are unable to resolve the matter in accordance with the foregoing, the matter shall be submitted to a reputable engineering firm with specific expertise in telecommunications matters mutually selected by the parties or, if the parties are unable to agree, selected by the Chief Engineer of the Port Authority, or, if the Chief Engineer is unwilling to make such selection, by the American Arbitration Association, for review and resolution by such engineering firm (the "Consulting Engineer"). The parties agree to each pay one-half of any costs or expenses of the Port Authority's Chief Engineer, the American Arbitration Association and the Consulting Engineer. If the Consulting Engineer determines that such deficiencies cannot be remedied by NYTP, all amounts paid by the Carrier to NYTP as Estimated Construction Costs (and any other sums paid to NYTP by the Carrier with respect to such Facility, if any) shall be refunded by NYTP to the Carrier. If the Consulting Engineer determines that such deficiencies can be remedied, NYTP shall proceed to remedy such deficiencies immediately in

accordance with the procedures set forth in this Section 2.7(b). If the Consulting Engineer determines that such deficiencies have been remedied so as to make the TNAS in the Facility reasonably satisfactory for its intended use, the Carrier shall immediately comply with its obligations under Section 2.7(a).

(c) NYTP and the Carrier expressly acknowledge and agree that the Carrier is not required to participate in the TNAS at all Port Authority Facilities.

(d) The Carrier acknowledges that NYTP may impose, and the Carrier will be responsible for paying, a surcharge to cover (without limitation) increased administration costs and fees, implementation costs and fees, and interest if the Carrier (i) signs this Agreement after the Construction Date for the TNAS in the Holland and Lincoln Tunnels, or (ii) elects to participate in a Covered Facility after the Construction Date of the TNAS in such Covered Facility.

3. CHARGES AND PAYMENTS

3.1 Fees Generally. The Carrier will be responsible for payment of three (3) separate types of fees, as set forth below, in exchange for participation in the TNAS or any Covered Facility or Facilities: an Entrance Fee, Access Fees, and a Usage Fee.

(a) The Entrance Fee shall be Five Hundred Thousand Dollars ($500,000) and shall be payable on or before the date of execution of this Agreement by the Carrier. Payment of the Entrance Fee shall cover part of the initial development start-up costs and the Port Authority Fees payable during the Construction Period. The Carrier shall be required to pay only one Entrance Fee during the term of this Agreement.

(b) An Access Fee for each Covered Facility will be payable quarterly in advance beginning on the Date of TNAS Operation for such Covered Facility (pro rated, if necessary) and continuing on each January 1, April 1, July 1, and October 1 thereafter for the entire term of this Agreement. The Access Fee for each Covered Facility will be set forth on the Schedule 2.7 for such Covered Facility. Each Access Fee set forth in the Schedules shall increase by three percent (3%) on January 1 of each year.

(c) The Usage Fee will be a per MOU charge payable by the Carrier only after the Carrier's use of the TNAS in any Covered Facility during an Operating Year has exceeded the Baseline MOUs for such Covered Facility. The Usage Fee for all Excess MOUs during any month shall be payable within forty-five (45) days from the last day of such month. The amount of the initial Usage Fee for each Covered Facility is set forth on the Schedule 2.7 for such Covered Facility. The Carrier's Usage Fee per excess MOU for each Covered Facility shall be adjusted on January 1 of each year so that it equals twenty-five percent (25%) of the average converted flat rate charged by all Participating Carriers to end-users during the immediately preceding year (as determined in good faith by NYTP), per Excess MOU; provided, however, that the Usage Fee per Excess MOU shall not be less than $0.015 nor greater than $0.05. Notwithstanding the foregoing, the Carrier and NYTP may agree at any time on a fixed rate per MOU for the Usage Fee, which fixed rate shall remain effective with respect to the Carrier for such period as the parties shall agree.

(d) The Carrier shall be offered an opportunity to purchase additional Baseline MOUs annually in advance at a price to be determined by NYTP and the Port Authority which, on a per Excess MOU basis, will be less than the Usage Fee per Excess MOU. These additional Baseline MOUs may be used by the Carrier to increase, for the year in which they are used, the Baseline MOUs established for any Covered Facility in the Schedule therefor, thereby reducing the number of Excess MOUs for such Covered Facility in such year. The Carrier must

purchase separate additional MOUs for each Covered Facility, and additional Baseline MOUs may not be reused (i.e., after use, the Baseline MOUs for the Covered Facility in question automatically reduce to the amount set forth in the Schedule 2.7 for such Covered Facility unless new additional Baseline MOUs are purchased and used for such Covered Facility by the Carrier).

(e) The Carrier shall not be responsible for paying a Usage Fee in any Calendar Year until the amount of the Usage Fee for such Calendar Year, calculated as set forth in Section 3.1(c) above, exceeds the dollar amount of the three percent (3%) increase in the Access Fee for such Calendar Year provided for in Section 3(b) above, and the Carrier shall only be responsible for that portion of the Usage Fee in excess of such dollar amount.

[3.2 Letter of Credit [or other Collateral Security - to be discussed]. To secure its obligations to pay the Usage Fee and Access Fee as provided herein, the Carrier shall provide to NYTP a letter of credit or similar credit enhancement acceptable to NYTP (which similar credit enhancement may include a corporate guaranty or surety bond as long as such guaranty or surety bond is in form and substance reasonably acceptable to NYTP and the Port Authority), which letter of credit or similar credit enhancement shall be in an amount not less than five (5) times the amount of the parties' good faith estimate of the sum of the annual Usage Fees and Access Fees payable under this Agreement (the "Carrier L/C"). Each time the Carrier elects to make a Port Authority Facility a Covered Facility, the face amount of the Carrier L/C shall be increased by the Carrier, in accordance with the formula set forth in the previous sentence, to cover the estimated Usage Fees and Access Fees for such new Covered Facility. The Carrier L/C shall be assignable by NYTP to NYTP's institutional lender or lenders.]

3.3 [Keep as Section 3.3] Uniformity. The Entrance Fee, Access Fees and Usage Fees as determined by NYTP pursuant to this Agreement and the fees payable under agreements with other Participating Carriers shall be based on the same criteria for each Participating Carrier. All Carrier Access Agreements shall contain

substantially similar terms and conditions, and if any Participating Carrier obtains access to the TNAS on terms more favorable than those contained in this Agreement, the Carrier shall be entitled to the benefit of such favorable terms granted to such other Participating Carrier (provided that the Carrier acknowledges that (a) certain payments and obligations of the Participating Carriers are based on usage of the TNAS and choices made by the Participating Carriers, which may result in different obligations and rights of the Participating Carriers, and (b) NYTP may impose a surcharge on Participating Carriers as described in Section 2.7(d).

3.4 Interest. In the event that any payment required under the terms of this Agreement is not paid by the date specified hereunder and such failure continues for five (5) days after written notice from NYTP, interest shall be charged by NYTP on such unpaid amount at an interest rate equal to one and one-half percent (1.5%) per month until such payment is received by NYTP.

3.5 Usage Fee Calculation Records.

(a) NYTP shall maintain all books, records and accounts necessary to record all matters affecting the amounts payable by the Carrier. All such books, records and accounts will be maintained in accordance with GAAP, shall accurately, fairly and in reasonable detail reflect all of NYTP's dealings and transactions under this Agreement, and shall be sufficient to enable such dealings and transactions to be audited in accordance with GAAP. All such books, records and accounts (other than books, records and accounts relating solely to another Participating Carrier) will be available for inspection and photocopying by the Carrier, at the Carrier's cost, on reasonable notice, and shall be maintained by NYTP for at least seven (7) years.

(b) The Carrier shall maintain all books, records and accounts necessary to record all matters affecting or relating to the Carrier's use of the TNAS. All such books, records and accounts will be maintained in accordance

with GAAP, shall accurately, fairly and in reasonable detail reflect all of the Carrier's dealings and transactions under this Agreement, and shall be sufficient to enable such dealings and transactions to be audited in accordance with GAAP. All such books, records, and accounts will be available for inspection and photocopying by NYTP and the Port Authority, at NYTP's cost or at the Port Authority's cost, as the case may be, on reasonable notice, and shall be maintained by the Carrier for at least seven (7) years.

(c) Each party shall treat all information relating to the other party and obtained under the provisions of this Section 3 as confidential information and each party shall not use or disseminate any such information except for the purposes of this Agreement; provided, however, that the Carrier acknowledges and agrees that all such information may be provided to the Port Authority in accordance with the TNAS Agreement.

3.6 Estimated and Actual Construction Costs. Within thirty (30) days after the Carrier delivers to NYTP a notice under Section 2.7 that Carrier desires to participate in any Covered Facility, NYTP shall deliver to the Carrier in writing (i) a good faith estimate of the Construction Costs to be incurred by NYTP for such Covered Facility and described in Section 2.7 (the "Estimated Construction Costs") and (ii) a full accounting of (A) all Construction Costs in connection with such Covered Facility incurred prior to the date of such notice, (B) all amounts paid to or owed to NYTP by any other Participating Carrier in connection with such Covered Facility; and (C) the amount the Carrier owed to any other Participating Carriers or NYTP, if any, representing the Carrier's pro rata share of any previously incurred Construction Costs, as described in Section 2.7. In accordance with Section 2.7, the Carrier must, among other things, pay such amounts prior to participating in the TNAS in such Facility and, in the case of Estimated Construction Costs, prior to the commencement of construction (unless NYTP and the Carrier agree that NYTP will finance such Construction Costs in accordance with Section 2.7). The Estimated Construction Costs shall not be binding on NYTP and NYTP's delivery of the Estimated Construction Costs shall not affect or alter the Carrier's obligation to pay all of NYTP's actual Construction

Costs in accordance with Section 2.7. NYTP shall allow the Carrier the opportunity to participate in and make recommendations with respect to the TNAS and the Estimated Construction Costs for a Covered Facility. Further, the Carrier shall be allowed the right to review and comment upon estimates, bids, work orders, and other documentation relating to the Estimated Construction Costs and the actual Construction Costs to be incurred in connection with a Covered Facility and the design, construction and implementation of the TNAS in such Covered Facility, and the Carrier shall have the right to approve the Estimated Construction Costs for such Covered Facility, which approval shall not be unreasonably withheld or delayed. Notwithstanding such approval, the Carrier acknowledges that the actual Construction Costs with respect to a Covered Facility may exceed the Estimated Construction Costs (including, without limitation, for reasons based on Uncontrollable Circumstances), and that the Carrier shall nevertheless remain liable for payment of all sums due under Section 2.7.

4. TERM

4.1 Initial Term. The initial term of this Agreement (the "Initial Term") shall be from the date hereof until August 25, 2014, unless sooner terminated as provided herein.

4.2 Renewal. This Agreement shall automatically extend for an for an additional five (5) year period (the "First Renewal Term"), commencing at the end of the Initial Term, upon the same terms and conditions as set forth herein, and this Agreement also shall automatically renew for an additional five (5) year period (the "Second Renewal Term"), commencing at the end of the First Renewal Term, unless either party, by notice delivered in writing to the other party at least one hundred eighty (180) days prior to the end of the Initial Term or the First Renewal Term, as applicable, notifies the other party of its intention to terminate this Agreement at the end of the Initial Term or the First Renewal Term, as applicable. In the event of such renewal, the Termination Fee determined by reference to Section 13.3 shall continue in effect for the renewal term in question, and shall be calculated based on the number of years remaining in such renewal term.

5. CONDITIONS TO PARTIES' OBLIGATIONS

5.1 Conditions. The obligations of the parties hereunder are subject to satisfaction or waiver of the following conditions:

(a) NYTP's receipt of all necessary or appropriate building and construction permits and all licenses, permits approvals and consents from all applicable governmental authorities necessary or appropriate for NYTP to operate the TNAS in the initial Covered Facilities and for the Carrier to install its Carrier Equipment in, have access to, and use the initial Covered Facilities; and

(b) Acceptance by NYTP of the TNAS in the initial Covered Facilities in accordance with the terms and conditions of the Construction Contract between NYTP and the Contractor for such Covered Facility.

5.2 Failure of Conditions. In the event that the conditions set forth in Section 5.1 above are not met and NYTP terminates this Agreement, or the Carrier terminates this Agreement based on such failure (but subject to the cure rights in favor of NYTP set forth in Section 13.3) prior to the Carrier obtaining use of the TNAS, all amounts paid by the Carrier to NYTP under this Agreement shall be refunded by NYTP to the Carrier.

6. COVENANTS OF THE CARRIER

6.1 Commitment. Provided that the TNAS is ready and available to service the Carrier's customers on the Date of TNAS Operation, the Carrier's obligations to make the payments called for under this Agreement to NYTP, in the amounts stated and when due, are absolute and unconditional and shall not be subject to any delay or diminution by right of any set-off, counterclaim, abatement or any other right which the Carrier may have against NYTP, the Port Authority or any other Person whatsoever. The Carrier recognizes that the current structure of the TNAS includes a risk of Uncontrollable

Circumstances, including but not limited to, a Change in Law, resulting in the shutdown or cessation of operations of the TNAS after completion. The Carrier's obligations under this Agreement shall continue unabated notwithstanding such event; provided, however, that the parties acknowledge and agree that to the extent a complete shutdown or cessation of operations of the TNAS in any Covered Facility would constitute an NYTP Event of Default, the Carrier shall have the rights and remedies provided in Section 13 of this Agreement. The Carrier acknowledges and agrees that the Carrier will not use any technology or system, whether now existing or hereafter developed, other than the TNAS, that will enable the Carrier to provide Personal Wireless Services to its customers at or on any Covered Facilities, subject, however, to the penultimate sentence of Section 2.3 of this Agreement, which acknowledges that the Carrier is not prohibited, restricted or limited in using the Carrier's existing telecommunications system located outside the Covered Facilities even if such use may overlap with coverage areas within the TNAS.

6.2 Existing Contracts. The Carrier shall cooperate with NYTP in assigning to NYTP or terminating any Existing Contracts between the Carrier and the Port Authority relating to the Carrier's use of transmission equipment and/or services within any Covered Facilities, and, in connection therewith, the Carrier shall at the request of NYTP deliver, transfer and convey to NYTP all rights and interests of the Carrier under any Existing Contract. Upon termination of any Existing Contracts between the Carrier and the Port Authority, all remaining obligations of the Carrier under such Existing Contracts shall also terminate (including non-monetary duties and obligations).

6.3 Disclosure of Information. The Carrier agrees that, in connection with the Project Financing, (a) the Carrier will furnish such information regarding the Carrier as NYTP may reasonably request, and (b) the Carrier will furnish such certificates with respect to organization, authorization and capacity of its officers as NYTP or the Person providing the Project Financing may reasonably request; provided that NYTP acknowledges that the Carrier shall not be obligated to furnish financial information that is not otherwise disclosed or disseminated to the public by the Carrier.

6.4 Status. The Carrier shall at all times maintain its status and rights as a bona fide provider of Personal Wireless Services and shall maintain its ability and authority to engage in business in the States of New York and New Jersey.

6.5 Compliance with Laws. The Carrier covenants and agrees to comply with all applicable present and future governmental laws, rules, regulations and orders respecting the Covered Facilities and the TNAS and its use thereof, including but not limited to those of the Port Authority, the Federal Communications Commission, the United States Environmental Protection Agency, state environmental agencies, and the Occupational Safety and Health Administration.

6.6 Environmental Indemnity. The Carrier will indemnify, protect, defend and hold harmless NYTP and the Port Authority from and against all claims, suits, actions, causes of action, assessments, losses, penalties, costs, damages and expenses, including, without limitation, attorneys' fees, sustained or incurred by NYTP or the Port Authority pursuant to any federal, state or local laws, implementing regulations, common law or otherwise dealing with matters relating to the environment, hazardous substances, toxic substances and/or contamination of any type whatsoever brought by the Carrier to, in, upon or beneath any Covered Facilities or released or disturbed by the Carrier in connection with its activities at any Covered Facility if the Carrier was provided written notice of the existence of hazardous or toxic substances within such Covered Facility.

6.7 Liens. The Carrier shall keep all Covered Facilities and the TNAS therein free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of the Carrier and shall indemnify, defend and hold NYTP and the Port Authority harmless from all claims, costs and liabilities, including reasonable attorneys' fees and costs, in connection with or arising out of any such lien or claim of lien. The Carrier shall cause any such lien imposed on any Covered Facilities or the TNAS therein to be released of record by payment or posting of a proper bond within thirty (30) days after written request by NYTP. Nothing in this Section 6.7 shall be deemed

an acknowledgement by the Port Authority that any Covered Facilities are subject to the placement of any such liens.

6.8 Insurance.

(a) The Carrier shall carry or cause to be carried general liability insurance and comprehensive automobile liability insurance in an amount not less than $2,500,000 from an insurance company with an "A" rating or greater from A.M. Best and a deductible not greater than $100,000, which insurance shall name NYTP and the Port Authority as additional insureds and shall affirmatively hold harmless NYTP and the Port Authority for any activity by the Carrier in any Covered Facility or anyone acting on behalf of the Carrier in connection with the TNAS in any Covered Facility, and shall submit evidence thereof to NYTP and the Port Authority. In lieu of the foregoing, the Carrier shall provide evidence reasonably satisfactory to NYTP of general liability insurance coverage and comprehensive automobile liability insurance in amounts and with carriers reasonably acceptable to NYTP and the Port Authority, which insurance shall name NYTP and the Port Authority as additional insureds and shall affirmatively hold NYTP and the Port Authority harmless for any activity by the Carrier in any Covered Facility or anyone acting on behalf of the Carrier in connection with the TNAS in any Covered Facility.

(b) The said policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Carrier thereunder with respect to any claim or action against the Carrier by a third person shall pertain and apply with like effect to (i) any claim or action against the Carrier by the Port Authority and (ii) any claim or action against the Port Authority by the Carrier, in each case as though the Port Authority were a named insured, but such endorsement shall not limit, vary, change or effect the protection afforded the Port Authority thereunder as an additional insured.

(c) 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 the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority or its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

6.9 Indemnification.

(a) The Carrier shall protect, indemnify and hold NYTP, the Assignee and the Port Authority harmless from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and attorneys' fees, and will defend NYTP, the Port Authority and the Assignee in any suit, including appeals, arising out of information regarding and supplied by the Carrier which is furnished in connection with the Project Financing. This indemnification provision is for the protection of NYTP, the Port Authority and the Assignee, and shall not establish any liability to any other third parties.

(b) If so directed by the Port Authority, the Carrier 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 the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

6.10 Dealings With Third Parties. The Carrier shall not have any dealings with any other Person with respect to the TNAS other than NYTP, and all contacts, communications, requests, demands, and other matters regarding the TNAS and the Carrier

shall be solely with NYTP shall all go through NYTP. Notwithstanding the foregoing, if the Carrier has made a written request or demand of NYTP and NYTP fails to respond to such written request within thirty (30) days of additional written notice from the Carrier asserting that NYTP has failed to respond to such request, the Carrier shall have the right to communicate with a third party to the extent required to obtain the information, rights or relief requested or demanded in such notice.

7. COVENANTS OF NYTP

7.1 Interference. NYTP will not permit or suffer the installation and existence of any improvement, equipment, and antenna or broadcast facility (including, without limitation, transmission or reception devices) upon any Covered Facility and/or the TNAS therein, if such improvement interferes with the use of the TNAS by the Carrier in a Covered Facility. The Carrier agrees to promptly resolve any interference problem which its individual equipment or personalty shall cause to any other users of the Covered Facilities and/or the TNAS therein. NYTP shall promptly use commercially reasonable efforts to resolve any interference problems suffered by the Carrier in any Covered Facility as a result of (a) any Participating Carrier's change in its individual equipment or personalty, (b) any Participating Carrier's failure to adhere to the Technical Standards, or (c) subsequent additions to the TNAS in the Covered Facilities. The Carrier shall not be responsible for resolving interference problems caused by its individual equipment or personalty as long as such interference problems (i) relate to a Participating Carrier that obtains access to the TNAS in such Covered Facility after the Carrier obtained access, and (ii) the Carrier is operating its equipment in accordance with the Technical Standards.

7.2 Deliveries. Within (30) days following the last date of execution of this Agreement, NYTP shall, to the extent available, deliver to the Carrier an accurate copy of all current engineering reports, audits, surveys, plats, plans, blueprints and other drawings relating to the Covered Facilities and/or the TNAS therein.

7.3 Compliance. NYTP covenants that all operations conducted by NYTP in connection with the TNAS in all Covered Facilities will materially comply in all material respects with all applicable state, federal, county and local laws, codes, rules, regulations, orders and directions. NYTP covenants and agrees that it will conduct its operations in the future materially in accordance with all applicable laws, codes, rules, regulations, orders and directions.

7.4 Uniformity of Payments. NYTP shall not accept payments in kind or any other non-cash payments from any Participating Carriers with respect to the fees payable by such Participating Carriers. NYTP shall deal with the Carrier and the Participating Carriers in good faith and on an arm's-length basis, and shall not provide discounts, allowances, credits or other non-cash benefits to the Participating Carriers on a discriminatory basis.

7.5 Enjoyment. The Carrier, upon payment of all fees payable hereunder and the performance of all of the covenants and provisions of this Agreement, shall and may peaceably have, hold and enjoy its rights to use of the TNAS in the Covered Facilities under this Agreement free of any act or claim of NYTP or anyone claiming by or through NYTP.

7.6 Equipment. NYTP covenants and agrees that title to all of the Carrier's equipment installed at Points of Interface with TNAS in the Covered Facilities shall be and remain in the Carrier. Within thirty (30) days of expiration or earlier termination of this Agreement, the Carrier shall, under the supervision of NYTP, remove all of the Carrier's equipment from such Points of Interface with TNAS in the Covered Facilities at its own cost and expense and shall restore any area affected by such removal to its pre-existing condition. Notwithstanding the foregoing, the Carrier shall not remove any equipment, the removal of which would, in NYTP's reasonable opinion, damage or adversely interfere with or affect any Participating Carrier's participation in the TNAS.

7.7 Environmental Indemnity. NYTP will indemnify, protect, defend and hold harmless the Carrier from and against all claims, suits, actions, causes of action, assessments, losses, penalties, costs, damages and expenses, including, without limitation, attorneys' fees, sustained or incurred by the Carrier pursuant to any federal, state or local laws, implementing regulations, common law or otherwise dealing with matters relating to the environment, hazardous substances, toxic substances and/or contamination of any type whatsoever released, disturbed or brought by NYTP to, in, upon or beneath the Covered Facilities.

7.8 Insurance. NYTP shall carry or cause to be carried general liability insurance in an amount not less than Two Million Five Hundred Thousand Dollars ($2,500,000) from an insurance company with an "A" rating or greater from A.M. Best and a deductible not greater than One Hundred Thousand Dollars ($100,000).

7.9 Maintenance of TNAS. NYTP covenants and agrees that it will maintain the TNAS in each Covered Facility in accordance with the Technical Standards and with Section 2.2 of this Agreement. Prior to the Date of TNAS Operation in each Covered Facility, NYTP shall provide the Carrier with a schedule of routine maintenance and repair with respect to the TNAS in such Covered Facility. NYTP shall schedule future maintenance of the TNAS between the hours of 1:00 a.m. and 5:00 a.m. In the event that NYTP fails to adhere to the maintenance and repair schedule provided to the Carrier, the Carrier shall be entitled to perform, subject to the prior approval of the Port Authority, routine maintenance and repair with respect to the TNAS, at the Carrier's sole cost and expense.

8. ACCESS AND UTILITIES

8.1 Access at All Times. The Carrier and its employees, agents, and contractors shall have access to the Carrier's equipment located at or on the TNAS in the Covered Facilities twenty-four (24) hours per day, seven (7) days per week, subject, however, to the rules and regulations of the Port Authority.

8.2 Utilities. The Carrier shall be solely responsible for and shall promptly pay all charges for gas, electricity, telephone service, and any other utility service used by the Carrier in connection with the TNAS in the Covered Facilities. If required by NYTP, the Carrier will have a meter (or meters) installed at an appropriate area (or areas) of the Covered Facilities for the Carrier's utility use, and the cost of such meter (or meters) and of installation, maintenance, and repair thereof will be the sole responsibility of the Carrier.

8.3 Installation of Equipment. The Carrier shall be responsible for the installation and maintenance of equipment necessary to interface with the TNAS in the Covered Facilities. NYTP shall provide the Carrier with space at the Covered Facilities sufficient to allow for the installation, operation and maintenance of the Carrier's equipment, and NYTP shall provide the Carrier with access to such space and to such utility services as may be necessary in connection with the operation of the TNAS.

8.4 Relocation. Upon NYTP's request and at NYTP's cost, the Carrier shall relocate the Carrier's equipment in the event that NYTP deems it necessary to use the area on which the Carrier's equipment is located for another purpose; provided that the Carrier shall be provided with a comparable quality of coverage at such relocated space. NYTP shall not request relocation of the Carrier's equipment solely for the benefit of another Participating Carrier, except upon the request of the Port Authority. The site of such relocation shall be by mutual agreement between NYTP and the Carrier. NYTP shall not exercise its right to relocate the Carrier's equipment more than three (3) times during the term of this Agreement unless such additional relocations are made necessary by Uncontrollable Circumstances.

9. REPRESENTATIONS AND WARRANTIES

9.1 Mutual Representations and Warranties. NYTP and the Carrier represent and warrant as to itself and to one another that:

(a) Each has all requisite power and authority to enter into this Agreement, to engage in the transactions contemplated hereby, and to perform its obligations hereunder in accordance with the terms hereof.

(b) The execution, delivery and performance of this Agreement by it has been duly authorized by all necessary action, and its undersigned representatives or officers have been authorized by all necessary action to execute and deliver this Agreement on its behalf.

(c) This Agreement constitutes a legal, valid and binding obligation, enforceable against it in accordance with the terms hereof.

(d) There are no legal or arbitral proceedings or any proceedings by or before any governmental body, now pending or threatened against it which, if adversely determined, could have a material effect on its financial condition or operations, or could reasonably be expected to have a materially adverse effect on its ability to perform its obligations under this Agreement.

(e) The execution, delivery and performance by it of this Agreement do not and will not (i) require any consent or approval of any person or entity which has not been duly obtained, (ii) violate any provision of any statute, regulation or rule presently in effect having applicability to it, (iii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other material agreement, lease or instrument to which it is a party or by which it or its properties may be bound or affected, or (iv) result in, or require, the creation or imposition of any lien upon or with respect to any of the properties now owned or hereafter acquired by it.

(f) The financial statements provided by each party to the other party are true, correct and accurate in all material respects, fairly present each party's properties, assets, liabilities, financial position and results of operation as of

the respective dates and for the respective periods then ended, and have been prepared pursuant to and in accordance with generally accepted accounting principles, subject, in the case of interim financial statements, to normal recurring year-end adjustments applied on a consistent basis.

9.2 Representations and Warranties of the Carrier. The Carrier represents and warrants to NYTP that except as disclosed on Exhibit "B", the Carrier is not a party to any agreements, written or oral, with the Port Authority relating to or concerning the providing of Personal Wireless Services by the Carrier.

10. CHANGES TO TNAS

10.1 Proposals. Either party may propose changes in the design or construction of the TNAS in any Covered Facilities by written notice to the other party. Implementation of any change proposed by NYTP shall not require the prior approval of the Carrier unless such change would have a material adverse effect on the Carrier, the compatibility of its equipment with the TNAS, or its use of the TNAS in the Covered Facilities, in which event such change shall not be implemented without the prior consent of the Carrier (and the Carrier shall not unreasonably withhold or delay its consent). Upon receipt of a proposed change order from a Carrier, NYTP shall assess the cost and feasibility of implementing the proposed change. If the cost and feasibility are acceptable to NYTP and the Carrier, then upon execution of an agreement providing for such change and for the payment by the Carrier of capital and operating costs associated with the proposed change order, NYTP shall, upon receipt of a notice to proceed from the Carrier, perform or supervise the agreed upon change in accordance with the plans, specifications and schedule approved by the Carrier and NYTP. NYTP shall not unreasonably withhold or delay its consent to any change proposed by the Carrier. The parties acknowledge that all such proposed changes to the TNAS will require the prior consent of the Port Authority in accordance with the TNAS Agreement, and NYTP shall use its commercially reasonable efforts to assist the Carrier in obtaining the consent of the Port Authority with respect to any such requested change.

11. CONDEMNATION OF PREMISES

If any governmental, public body or other condemning authority takes, or if NYTP transfers in lieu of such taking, all of the Covered Facilities and/or the TNAS therein making it physically or financially infeasible for the Covered Facilities and/or the TNAS therein to be used in the manner intended by this Agreement, the Carrier shall have the right to terminate this Agreement effective as of the date of the taking by the condemning party and the fees required hereunder shall be prorated appropriately. If only a portion of the Covered Facilities and/or the TNAS therein is taken, then this Agreement shall continue and the fees required under this Agreement shall be equitably adjusted.

12. LIABILITY AND INDEMNITY

12.1 NYTP Indemnity. NYTP shall indemnify and save the Carrier harmless from all claims (including costs or expenses of defending against such claims) arising from any breach of this Agreement by NYTP or any negligent act, negligent omission or intentional tort of NYTP or NYTP's agents, employees, contractors, invitees or licensees occurring during the term of this Agreement.

12.2 Carrier Indemnity. The Carrier shall indemnify and save NYTP and the Port Authority harmless from all claims (including costs and expenses of defending against such claims) arising from any breach of this Agreement by the Carrier, or any negligent act, negligent omission or intentional tort of the Carrier or the Carrier's agents, employees, contractors, invitees or licensees occurring during the term of this Agreement.

12.3 TNAS Liability. NYTP's sole and exclusive obligation with respect to the TNAS in the Covered Facilities shall be to repair or replace any defective portion or component of such TNAS. NYTP shall use commercially reasonable efforts to repair or replace any defective portion or component of the TNAS within twenty-four (24) hours of notice from the Carrier. NYTP's obligation with respect to the TNAS shall not extend to defects or damages caused by Uncontrollable Circumstances, and NYTP's

obligation to repair or replace any defective components or portions is in lieu of any and all warranties, written or oral, statutory, express or implied, including without limitation any warranty of merchantability or fitness for a particular purpose. In no event shall NYTP be liable to the Carrier under this Agreement (including under Section 12 and this Section 12.3) for incidental, special or consequential damages from any cause whatsoever unless such damages are directly and solely caused by the willful and intentional misconduct of NYTP.

12.4 Survival. The provisions of this Section 12 shall survive the expiration or termination of this Agreement.

13. DEFAULT

13.1 Effect of Breach by the Carrier.

(a) The Carrier specifically recognizes that NYTP is entitled to bring suit for injunctive relief or specific performance or to exercise other legal or equitable remedies to enforce the obligations and covenants of the Carrier. It is recognized that it is important to the successful operation of the TNAS in the Covered Facilities that the Carrier fully comply with the terms and conditions of this Agreement.

(b) In addition to, and without limitation of the rights of NYTP under clause (a) above, upon the occurrence and during the continuance of a Carrier Event of Default (as defined below), NYTP may, by notice to the Carrier, terminate this Agreement and declare all amounts payable by the Carrier under this Agreement to be forthwith due and payable without presentment, demand, protest or other formalities of any kind (except as expressly provided in Section 13.1(c) below), all of which are hereby expressly waived by the Carrier. [Upon such termination by NYTP, NYTP may draw upon the full amount of the Carrier L/C, it being understood by the parties that termination of this Agreement by NYTP following an Event of Default will not relieve the Carrier of its obligations hereunder, and NYTP

shall be entitled to draw upon and retain the full amount of the Carrier L/C as partial compensation for the damages suffered by NYTP as a result of the Carrier's breach of this Agreement. The Carrier expressly acknowledges and agrees that the Carrier shall have no right, claim or interest in or to the funds, if any, received by NYTP under the Carrier L/C and that, notwithstanding NYTP's receipt of funds under the Carrier L/C, the Carrier shall remain liable for its remaining obligations under this Agreement and for the damages suffered by NYTP as a result of the Carrier's breach of this Agreement.]

(c) Each of the following events shall constitute an event of default ("Carrier Event of Default") on the part of the Carrier:

(i) The persistent or repeated failure or refusal by the Carrier to fulfill, substantially in accordance with this Agreement, all or any of its obligations, except payments of money, under this Agreement, provided:

(A) NYTP shall have given written notice to the Carrier specifying such failure or refusal to fulfill such obligations; and

(B) the Carrier shall not have remedied such failure within thirty (30) days from the date of such notice, or if such failure is not capable of being remedied within such thirty (30) day period, the Carrier shall not have commenced such remedy within such period and diligently pursued such remedy until such obligation or obligations have been fulfilled but, in any case, such failure shall become a Carrier Event of Default within ninety (90) days after such notice; or

(ii) Failure on the part of the Carrier to pay any amount required to be paid to NYTP under this Agreement within ten (10) days after receipt of notice from NYTP that such amount is due and payable; or

(iii)(A) the Carrier's being or becoming bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property; or

(B) a bankruptcy, winding-up, reorganization, insolvency, arrangement or similar proceeding instituted by or against the Carrier under the laws of any jurisdiction, which proceeding has not been dismissed within ninety (90) days, or

(C) any action or answer by the Carrier approving of, consenting to, or acquiescing in, any such proceeding.

13.2 Effect of Breach by NYTP.

(a) NYTP specifically recognizes that the Carrier is entitled to bring suit for injunctive relief or specific performance or to exercise other legal or equitable remedies to enforce the obligations and covenants of NYTP. It is recognized that it is important to the successful operation of the TNAS in the Covered Facilities that NYTP fully comply with the terms and conditions of this Agreement.

(b) In addition to, and without limitation of the rights of the Carrier under clause (a) above, upon the occurrence and during the continuance of an NYTP Event of Default (as defined below), the Carrier shall be entitled to take any actions as may be reasonably necessary or appropriate to cause NYTP to become in compliance with the terms of this Agreement.

(c) Each of the following events shall constitute an event of default ("NYTP Event of Default") on the part of NYTP:

(i) The persistent or repeated failure or refusal by NYTP to fulfill, substantially in accordance with this Agreement, all or any of its obligations under this Agreement, provided:

(A) The Carrier shall have given written notice to the NYTP specifying such failure or refusal to fulfill such obligations; and

(B) NYTP shall not have remedied such failure within thirty (30) days from the date of such notice, or if such failure is not capable of being remedied within such thirty (30) day period, NYTP shall not have commenced such remedy within such period and diligently pursued such remedy until such obligation or obligations have been fulfilled; or

(ii) (A) NYTP's being or becoming bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property; or

(B) a bankruptcy, winding-up, reorganization, insolvency, arrangement or similar proceeding instituted by or against NYTP under the laws of any jurisdiction, which proceeding has not been dismissed within ninety (90) days, or

(C) any action or answer by NYTP approving of, consenting to, or acquiescing in, any such proceeding.

13.3 Termination Rights.

(a) The Carrier may, upon not less than ninety (90) days written notice to NYTP and the Port Authority, terminate this Agreement following an NYTP Event of Default (provided that all applicable notice requirements have been met, and all applicable cure periods have expired without cure, as set forth in Section 13.2(c) above), effective as of the date specified in such notice. Upon termination by the Carrier, all obligations and liabilities of the parties under this Agreement shall cease and terminate, and neither party shall have any further duty, obligation or liability under this Agreement, provided, however, that NYTP shall have a continuing obligation to insure that the Carrier can recover its equipment from each of the Covered Facilities within ninety (90) days of termination by the Carrier.

(b) At any time during the term of this Agreement, the Carrier shall have the right to terminate this Agreement, without regard to whether an NYTP Event of Default has occurred, on not less than one hundred eighty (180) days prior written notice to NYTP and the Port Authority. Upon such termination without cause, the Carrier shall pay to NYTP a termination fee (the "Termination Fee"), calculated as follows:

(i) All fees payable by the Carrier under this Agreement during the prior twelve (12) month period shall be added together (or, if this Agreement has not been in effect for more than twelve (12) months, such amount shall be fixed at _____).

(ii) The amount determined in accordance with (b)(i) above shall be multiplied by the number of years remaining in the Initial Term of this Agreement (and pro-rated for any partial years).

(iii) The sum determined in accordance with (b)(ii) above shall be considered to be a series of equal payments to be made on a

quarterly basis on the last day of each January, April, July and September (and, in the event the expiration date of this Agreement in effect prior to its termination without cause is not scheduled to occur on the last day of one of the foregoing calendar quarters, the last such payment shall be appropriately pro-rated based on a ninety-one (91) day calendar quarter), and the present value of the series of payments shall be determined using a discount rate of five percent (5%) per year. The amount of the Termination Fee shall be a lump sum payment equal to the present value of such stream of payments.

(c) Within thirty (30) days of any termination of this Agreement for any reason whatsoever, the Carrier shall remove any of its equipment in any Covered Facilities pursuant to Section 7.6 hereof. Further, as of 5:00 p.m. on the date this Agreement is terminated, the Carrier shall not be permitted to participate in or offer Personal Wireless Services through the TNAS. Upon any violation of this provision by the Carrier, NYTP shall be entitled to liquidated damages in the amount of $0.20 per each MOU accruing after such time on the TNAS by a customer of the Carrier.

14. MISCELLANEOUS

14.1 Settlement of Disputes. The parties will attempt in good faith to resolve any and all controversies of every kind and nature between the parties to this Agreement arising out of or in connection with the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance or termination of this Agreement (each, a "Dispute") promptly by negotiations between senior executives of the parties who have authority to settle the Dispute (and who do not have direct responsibility for administration of this Agreement). The disputing party shall give the other party written Notice of the Dispute. Within twenty (20) days after receipt of said Notice, the receiving party shall submit to the other a written response. The Notice and response shall include (a) a statement of each party's position and a summary of the evidence and arguments supporting its position, and (b) the name and title of the

executive who will represent that party. The executives shall meet at a mutually acceptable time and place within thirty (30) days of the date of the disputing party's Notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the Dispute. If the matter has not been resolved within sixty (60) days of the disputing party's Notice, or if the party receiving said Notice will not meet within thirty (30) days, either party may initiate mediation of the controversy or claim in accordance with the Center for Public Resources Model Procedure for Mediation of Business Disputes. If the Dispute has not been resolved pursuant to the mediation procedure within sixty (60) days of the initiation of such procedure, or if either party will not participate in a mediation, the Dispute shall be submitted to arbitration in accordance with the rules of the American Arbitration Association. The parties further agree that any arbitration conducted pursuant to this Section 14.1 shall be held in New York, New York before a panel of three arbitrators, one selected by NYTP, one selected by the Carrier and the third selected by the arbitrators selected by the parties. Each such arbitrator shall be involved in and familiar with the telecommunications industry. Notwithstanding the above, the Carrier's obligations shall continue to be paid and the prohibition of the right of offset will continue to be in force. All deadlines specified in this Section 14.1 may be extended by mutual agreement. The prevailing party in any Dispute shall be entitled to reimbursement for its costs, including without limitation attorneys' fees and expenses. The parties shall allow the Port Authority, at the Port Authority's option, to participate in any Dispute resolution proceeding, but the Port Authority shall not be a party to any such proceeding and shall not be bound by any decision rendered. Notwithstanding the preceding binding arbitration provisions, the parties acknowledge and agree that either party shall have the right to proceed in any court of proper jurisdiction to exercise or prosecute equitable rights and remedies including injunctive relief, temporary restraining orders, and other remedies of an equitable nature.

14.2 Assignability and Transferability.

(a) No assignment of this Agreement for the purpose of administering the TNAS and no transfer of the obligations of any party shall be authorized or permitted, except that:

(i) NYTP, with the prior written consent of the Port Authority, may assign or pledge this Agreement to any Assignee in relation to the Project Financing and any such Assignee may assign or pledge the same in connection therewith;

(ii) NYTP may assign any or all of its rights and transfer any or all of its obligations hereunder to any Person who succeeds to the business operations of NYTP (provided that such assignment may not be to another Participating Carrier unless the Carrier has consented to such assignment); and

(iii) In accordance with Section 14.2(e) below, the Carrier may assign its rights under this Agreement, and, in addition, for collateral security purposes only, Carrier's primary secured lender, provided that any such assignment, and the exercise of any rights by such secured lender, shall not relieve the Carrier of any of its obligations under this Agreement, and all rights of and actions taken by such secured lender shall in all respects be under and subject to the TNAS Agreement, the rights of the Port Authority, and the rights of the provider(s) of the Project Financing.

(b) The Carrier hereby consents to (i) the assignment of this Agreement by NYTP to any Assignee, and by any Assignee to any other Assignee, as security in connection with the Project Financing and (ii) any subsequent assignment or transfer of this Agreement by any Assignee upon and after the exercise of its rights and enforcement of its remedies under any documents evidencing such Project Financing, at law, in equity or otherwise.

(c) In the event of any such assignment, the Carrier agrees that, following written notice from any Assignee that an event of default by NYTP shall have occurred and be continuing under the documents evidencing the Project Financing, the Carrier (i) shall make all payments, if any, due and to become due

from it to NYTP, under or in connection with this Agreement directly to such Assignee at such address as may be specified in writing by such Assignee, (ii) shall perform all terms and conditions of this Agreement for the benefit of such Assignee, (iii) agrees that such Assignee shall be entitled to exercise any and all rights of NYTP, in accordance with the terms of this Agreement, and the Carrier shall comply in all respects with such exercise and (iv) agrees that all representations made by the Carrier are for the benefit of, and may be relied upon by, such Assignee; provided that the foregoing obligations of the Carrier are conditioned and contingent upon any such Assignee agreeing to recognize and not disturb the Carrier's rights under this Agreement as long as the Carrier complies with its obligations and duties hereunder. In addition, in such an event of default under the project financing documents, the Carrier and NYTP agree that (x) this Agreement shall not be amended, supplemented or otherwise modified without the prior written consent of the Assignee and (y) any matter requiring the consent of NYTP under this Agreement shall also require the consent of the Assignee.

(d) Promptly at NYTP's request, the Carrier shall execute and deliver, and shall assist in facilitating the execution and delivery of, all documents reasonably requested by NYTP or any of its lenders, including but not limited to estoppel certificates and subordination and nondisturbance agreements.

(e) The Carrier shall not assign or transfer this Agreement or any of the Carrier's rights, duties or obligations hereunder without the prior written consent of NYTP and the Port Authority, which consent shall not be unreasonably withheld or delayed; provided, however, that the Carrier shall be permitted to assign this Agreement to any parent, subsidiary, or affiliate under common control, or to any entity that acquires fifty-one percent (51%) or more of the Carrier's outstanding capital stock or of the Carrier's assets, as long as the Carrier remains bound by all of the Carrier's duties and obligations under this Agreement following such assignment. Notwithstanding the foregoing, in the event of an assignment of this Agreement to a successor to the business operations of the Carrier,

the Carrier shall be released from further liability under this Agreement at the end of the three (3) year period following assignment of this Agreement as long as (i) the assignee has been approved by NYTP and the Port Authority (which approval shall not be unreasonably withheld or delayed), and (ii) such assignee has complied with all of its duties, obligations and liabilities under this Agreement during the three (3) year period following such assignment. The Carrier acknowledges and agrees that any fundamental transaction involving the Carrier, including a merger, consolidation or similar transaction, will not operate to affect in any way the Carrier's obligations under this Agreement, regardless of the entity surviving such transaction. The Carrier further acknowledges and agrees that any fundamental transaction involving the Carrier and another Participating Carrier, including a merger, consolidation or similar transaction, likewise will not affect or impair in any manner the Carrier's duties and obligations under this Agreement, nor will it affect or impair any similar agreement to which such other Participating Carrier is a party.

14.3 Waiver Not to be Construed. No waiver by NYTP or the Carrier of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition, whether the same or of a different section, subsection, paragraph, clause or other provision of this Agreement. The failure of either party to insist in any one or more instances, upon strict performance of any of the terms, covenants, agreements or conditions in this Agreement shall not be considered to be a waiver or relinquishment of such term, covenant, agreement or condition, but the same shall continue in full force and effect.

14.4 Amendments. This writing represents the entire agreement between the parties. The terms and provisions of this Agreement may not be amended, supplemented, modified or waived, except by an instrument in writing, authorized and executed by NYTP and the Carrier and consented to by the Port Authority. Any such amendment, supplement, modification or waiver entered into, executed and delivered in accordance with the provisions of this Section shall be binding upon the parties to this Agreement.

14.5 Duplicate Originals. This Agreement may be executed in separate counterparts, any of which shall be regarded for all purposes as duplicate originals.

14.6 Severability. In the event any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, provided it does not materially alter the substance of the agreement between the parties, such holding shall not invalidate or render unenforceable any other provision or part of a provision hereof.

14.7 Notices. All notices or demands are deemed to have been given or made when delivered in person or mailed by certified, registered, or express mail, return receipt requested or provided, or when delivered by overnight courier service providing verification of delivery, postage prepaid, and addressed to the applicable party as follows:

NYTP: New York Telecom Partners, LLC
_____ World Trade Center
New York, New York 10048
Attention: Mr. Richard J. DiGeronimo,
President

Carrier: _____
_____
_____
Attention: _____

A party may change the address to which any notice or demand may be given, by written notice to the other party.

14.8 Use of Confidential Information. Any specifications, drawings, sketches, tapes, models, samples, tools, computer programs, technical information, or confidential business information or data, written, oral or otherwise (hereinafter called "Information") furnished by the parties to one another hereunder shall remain the property of the supplier of such Information. All copies of such Information in written, graphic or other tangible form shall be returned to the supplier upon request, except for a single archival

copy. If clearly marked as confidential, and unless such Information was previously known to the recipient to be free from any obligation to keep it confidential or until it has been or is subsequently made public by the supplier or a third party, without breach of any obligation of confidentiality, it shall be treated as confidential by the recipient, and shall be used by the recipient only in connection with fulfilling the obligations of the recipient that arise pursuant to this Agreement, unless the prior written consent of the supplier is obtained. Orally disclosed Information shall be reduced to writing within twenty (20) days of disclosure and marked as confidential. Such Information shall only be distributed to those employees who have a need to know. Each party shall treat the other's Information in accordance with a standard of care reasonably calculated to prevent inadvertent or accidental disclosure and consistent with the level of care provided by the recipient with respect to its own confidential information. Each party shall promptly notify the other party upon receipt of any subpoena, order, or other judicial notice with respect to any Information and shall allow the other party to become involved in any proceeding relating to the disclosure of any such Information. Nothing herein shall be construed as waiving the right of any party to require the other party to execute a written non-disclosure agreement, containing reasonable additional terms and conditions, prior to the supplying of particular confidential Information from time-to-time. The parties acknowledge that Information furnished to the Port Authority in connection with this Agreement or the TNAS Agreement may be subject to disclosure under the Port Authority's freedom of information policy.

14.9 Publicity.

(a) The Carrier agrees to submit to NYTP and to the Port Authority for written approval all advertising, sales promotion, press releases and other publicity matters relating to the products furnished or the services performed by the Carrier pursuant to this Agreement or relating to the Carrier's participation in the TNAS or the Carrier's offering of Personal Wireless Service to its customers in the Covered Facilities, or whereby NYTP's name or marks are mentioned or language from which the connection of said name or marks may be inferred or implied, and the Carrier further agrees not to publish or use such advertising, sales promotions, press

releases, or publicity matters that mention NYTP or the Port Authority without such prior written approval. Such approval shall not be unreasonably withheld or delayed by NYTP.

(b) NYTP agrees to submit to the Carrier for written approval all advertising, sales promotion, press releases and other publicity matters relating to the TNAS in the Covered Facilities whereby the Carrier's name or marks are mentioned or language from which the connection of said name or marks may be inferred or implied, and NYTP further agrees not to publish or use such advertising, sales promotions, press releases, or publicity matters without such prior written approval. Such approval shall not be unreasonably withheld or delayed by the Carrier.

14.10 Uncontrollable Circumstances. NYTP shall not be liable for any delays in performing its obligations under this Agreement if such delays are due to Uncontrollable Circumstances. In the event of any such delay, NYTP shall be given a reasonable period of time in which to complete the performance of its obligations.

14.11 Affirmative Action. The Carrier assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Carrier assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Carrier assures that it will require that its covered suborganizations provide assurances to the Carrier that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

14.12 Non-Discrimination.

(a) Without limiting the generality of any of the provisions of the Agreement, the Carrier, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (i) no person, on the grounds of race, creed, color, sex or national origin, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the System by the Carrier, (ii) in the construction of the System and the furnishing of services thereon by the Carrier, no person, on the grounds of race, creed, color, sex or national origin, shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (iii) the Carrier shall use the System in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United States of America with respect thereto which from time-to-time may be applicable to the Permittee's operations at any Port Authority airport, whether by reason of agreement between the Port Authority and the United States Government or otherwise.

(b) The Carrier shall include the provisions of paragraph (a) of this Section in every agreement it may make pursuant to which any Person, other than the Carrier, operates any facility at any Port Authority airport providing services to the public and shall also include therein a provision granting the Port Authority a right to take such action as the United States may direct to enforce such covenant.

(c) The Carrier's non-compliance with the provisions of this Section shall constitute a material breach of this Agreement. In the event of the breach by the Carrier of any of the above non-discrimination provisions, the Port Authority may take appropriate action to enforce compliance; or in the event such noncompliance shall continue for a period of twenty (20) days after receipt of written notice from the Port Authority, the

Port Authority shall have the right to direct NYTP to terminate this Agreement with the same force and effect as a termination under Section 13.1, or may pursue such other remedies as may be provided by law; and as to any or all the foregoing, the Port Authority may take such action as the United States may direct.

(d) The Carrier shall indemnify and hold harmless the Port Authority from any claims and demands of third persons, including the United States of America, resulting from the Carrier's non-compliance with any of the provisions of this Section, and the Carrier shall reimburse the Port Authority for any loss or expense incurred by reason of such non-compliance.

(e) Nothing contained in this Section shall grant or shall be deemed to grant to the Carrier the right to transfer or assign this Agreement, to make any agreement or concession of the type mentioned in paragraph (b) hereof, or any right to perform any construction at any Port Authority Facility.

14.13 Third Party Beneficiary. It is hereby acknowledged and agreed that the Port Authority shall be a third party beneficiary of this Agreement, including, without limitation, those provisions of this Agreement containing specific references to the Port Authority

14.14 Port Authority. The covenants set forth in Section 6.5 and 7.3 of this Agreement shall not be construed as a submission or admission by the Port Authority that any of the governmental laws, rules, regulations and orders referred to therein are or shall be applicable to the Port Authority.

14.15 Governing Law and Remedies. This Agreement will be governed by the laws of the State of New York. The rights and remedies stated in this

Agreement are not exclusive and the parties, in the event of a breach of this Agreement or a dispute, are entitled to pursue any of the remedies provided in this Agreement, by law or by equity.

IN WITNESS WHEREOF, the Carrier and NYTP have signed this Agreement as of the date and year first above written.

NEW YORK TELECOM PARTNERS, LLC

By_____
Name: Richard J. DiGeronimo
Title: President
Tax ID No.: 13-3965047

[NAME OF CARRIER]

By_____
Name:
Title:

Exhibits

Exhibit "A" - Description of TNAS

Exhibit "B" - Existing Contracts

Exhibit "C" - Port Authority Facilities

Exhibit "D" - Specifications and Minimum System Capacity

Exhibit "E" - Technical Standards

Schedules

Schedule 2.7(a) - Holland Tunnel
Schedule 2.7(b) - Lincoln Tunnel
Schedule 2.7(c) - JFK Airport
Schedule 2.7(d) - LaGuardia Airport
Schedule 2.7(e) - Newark Airport
Schedule 2.7(f) - World Trade Center Concourse
Schedule 2.7(g) - Port Authority Bus Stations
Schedule 2.7(h) - PATH Stations

EXHIBIT A

Description of TNAS

Telecommunications Network Access System (TNAS) Description

Introduction

In response to a Port Authority request for proposals ("RFP") to develop their wireless rights-of-way, NYTP has proposed a wireless Telecommunications Network Access System. The TNAS has been designed to serve wireless communications services currently in use and emerging wireless services planned for use in the areas of New York and New Jersey served by the Port Authority. In the process of implementation, the TNAS will enhance certain existing wireless services and provide a platform for the introduction of new services, as well as providing the opportunity to facilitate in-kind services to the benefit of the Port Authority. The TNAS is designed to provide a single, comprehensive wireless-communications access system for the Port Authority and commercial service providers to better serve tenants, patrons and visitors as they inhabit, roam or are transported through the Port Authority facilities.

The Essential Requirements

Subscriber satisfaction is the fundamental and essential requirement. Above ground, meeting that requirement is the sole responsibility of the service providers where they coexist in and share the same natural RF environment, i.e. the service providers have a "level playing field". The essential requirement of the provider of the artificially created RF environment required to serve the underground and enclosed areas of the Port Authority's facilities is to maintain that level playing field. To do that, the distribution backbone for the Port Authority's enclosed areas must be broadband and wireless communications technology neutral.

This distribution backbone must provide cost effective, equal access to multiple service providers of current and emerging RF technologies, and also must be able to accommodate usage growth projections (capacity). In addition, the artificial creation of a broadband RF environment that will support multiple services in confined areas requires RF isolation between services to avoid generating unwanted inter-service interference. Furthermore, service users must be able to traverse the Port Authority's facilities without interruption of communications service (hand off).

The elements of technology neutral, service isolation, and seamless hand off combined with being broadband and capable of adding capacity are the resulting essential requirements for the TNAS. Satisfying those requirements will yield customer satisfaction at both the service provider and user levels, resulting in the optimization of revenue potential. The bottom line is that better service leads to more customers that yield greater revenue.

EXHIBIT B

1. Space Permit, made as of May 1, 1993, by and between the Port Authority and New York SMSA Limited Partnership, predecessor-in-interest to Bell Atlantic Mobile Inc., bearing Port Authority Permit No. WT-TC-P-88-C 000, granting a privilege to use and occupy space in the World Trade Center.

2. Agreement of Lease, made as of June __, 1994, by and between the Port Authority and Cellular Telephone Company d/b/a Cellular One, predecessor-in-interest to AT&T Wireless Services, bearing Port Authority Lease No. LT-211, for premises in the Lincoln Tunnel.

3. Agreement of Lease, made as of September 30, 1994, by and between the Port Authority and New York SMSA Limited Partnership, predecessor-in-interest to Bell Atlantic Mobile Inc., bearing Port Authority Lease No. LT-212 for premises in the Lincoln Tunnel.

4. Agreement of Lease, made as of December 29, 1994, by and between the Port Authority and Cellular Telephone Company d/b/a Cellular One, predecessor-in-interest to AT&T wireless Services, bearing Port Authority Lease No. L-CM-118, for premises in the Holland Tunnel.

5. Agreement of Lease, made as of December 31, 1994, by and between the Port Authority and New York SMSA Limited Partnership, predecessor-in-interest to Bell Atlantic Mobile Inc., bearing Port Authority Lease No. L-CM-119 for premises in the Holland Tunnel.

6. Agreement of Lease, made as of September 25, 1995, by and between the Port Authority and New York SMSA Limited Partnership, predecessor-in-interest to Bell Atlantic Mobile, bearing Port Authority Lease No. LBT-543 for premises in the Port Authority Bus Terminal.

EXHIBIT C

Port Authority Facilities

Survey List of Facilities Requiring Improved Wireless Coverage

- LaGuardia Airport: public terminal areas.
- JFK Airport: public terminal areas.
- Newark Airport: public terminal areas.
- Holland Tunnel: road tunnels.
- Lincoln Tunnel: road tunnels.
- GW Bridge Bus Station: public terminal areas.
- Port Authority Bus Station: public terminal areas.
- PATH Train: underground public station areas and train interiors (in tunnel).
- World Trade Center: Buildings, Concourse and public commercial areas.

Road Tunnels and Bus Terminals

PORT AUTHORITY OF NY & NJ FACILITY CHARACTERISTICS

Holland Tunnel

General	Traffic	
2 Tubes	43,327	Eastbound Weekday Average
20 Foot Roadway (each tube)	43,923	Eastbound Saturday Average
8,500 Feet Long	41,450	Eastbound Sunday Average

Structures	Length (Feet)	Cross Section (Sq. Feet)	
Eastbound Tube	8,500	531	
Westbound Tube	8,500	531	
Total Length	17,000	Feet	

Lincoln Tunnel

General	Traffic	
3 Tubes	55,545	Eastbound Weekday Average
21 Foot Roadway (each tube)	53,405	Eastbound Saturday Average
7,900 Feet Long	48,045	Eastbound Sunday Average

Structures	Length (Feet)	Cross Section (Sq. Feet)	
Eastbound Tube	7,900	616	
Westbound Tube	7,900	616	
Center Tube	7,900	616	
Total Length	23,700	Feet	

George Washington Bridge & Bus Station

General	Traffic	
2 Bridge Levels	129,509	Eastbound Weekday Average
1,019 Bridge Width (Feet)	121,222	Eastbound Saturday Average
4,760 Bridge Length (Feet)	119,124	Eastbound Sunday Average
Bus Station	12,500	Typical Weekday Bus Passengers

Structures	Length (Feet)	Width	Shape	Area (Sq. Feet)
Bridge Upper Level	4,760	12 Lanes		
Bridge Lower Level	4,760	12 Lanes		
Bus Station	400	185 Feet	3 Level	222,000

Port Authority Bus Terminal

General	Traffic	
8 Terminal Levels	178,000	Typical Weekday Bus Passengers
800 Feet Long	1,300,000	Annual Outbound Telephone Calls
450 Feet Wide	2,000,000	Annual Bus Movements
30 Retail, Eating, Public Services	188,000	Annual Automobile Parking
24 Hour Closed Circuit TV		

Levels	Length (Feet)	Width (Feet)	Shape	Area (Sq. Feet)
3 Parking (1080 Spaces)	800	450		1,080,000
2 Passenger Mixing	800	450		720,000
3 Bus Operating	800	450		1,080,000
		Total Area		2,880,000

PORT AUTHORITY OF NY & NJ FACILITY CHARACTERISTICS

LaGuardia Airport

General		Traffic
650 Acres		20,730,000 1994 Passenger Traffic (Entire Year)
2 7000 Ft. Runways	=>	56,795 Average Passenger Trips Daily (In & Out)
6 Hangers	+	20,000 Visitor Trips Daily (In & Out)
135 Tenants	+	10,000 Employees (In & Out)
70 Consumer Services	=	86,795 Total Daily Traffic (In & Out)

Structures	Area (SF)	Location	Shape	Serves	Gates
Central Terminal	750,000	South (Central)	6 Blocks Long	Most Domestic	37
Air Shuttle Terminal				U.S. Air	8
Air Shuttle Terminal				Delta	6
Delta Terminal					10
U.S. Air Terminal		East End			12
Marine Air Terminal		West End	2 Story Building	Commuter	
				Air Taxi	
				Private	
				Delta	6
				Total Gates	79

Parking	3000 Spaces in a 5 Level Structure

JFK International Airport

General		Traffic
880 Acres		28,810,000 1994 Passenger Traffic (Entire Year) [16M Int'n'l]
4 Major Runways	=>	78,932 Average Passenger Trips Daily (In & Out)
16 Hangers	+	50,000 Visitor Trips Daily (In & Out)
300 Tenants	+	35,000 Employees (In & Out)
125 Consumer Services	=	163,932 Total Daily Traffic (In & Out)

Structures	Area (SF)	Location	Shape	Serves	Gates
#1 Passenger Terminal					^
#2 Passenger Terminal					|
#3 Passenger Terminal					|
#4 Passenger Terminal					133
#5 Passenger Terminal					|
#6 Passenger Terminal					|
#7 Passenger Terminal					|
#8 Passenger Terminal					v
IAB International Arrivals				40 Int'n'l Flag	45
New IAB		Same Location	3 Level		3
New Passenger Terminal		Old Eastern Terminal			?
				Total Gates	181

Parking	Existing	1400 Spaces	Near IAB
	New	Garage	TBD

Newark Airport

General		Traffic
425 Acres		28,020,000 1994 Passenger Traffic (Entire Year)
3 Runways	=>	76,767 Average Passenger Trips Daily (In & Out)
3 Hangers	+	40,000 Visitor Trips Daily (In & Out)
165 Tenants	+	17,000 Employees (In & Out)
70 Consumer Services	=	133,767 Total Daily Traffic (In & Out)

Structures	Area (SF)	Location	Shape	Serves	Gates
Terminal A					^
Terminal B					93
Terminal C					v
New Int'n'l Airlines Facility					
				Total Gates	93

Parking

PATH & Journal Square

PORT AUTHORITY OF NY & NJ FACILITY CHARACTERISTICS

Port Authority Trans Hudson (PATH) Rapid Transit System

General		Traffic	
22.2 km Route (11.9 km in Tunnel		59,236,000	1994 Journies
4 Lines			
13 Stations (10 in Tunnel)		206,900	Passenger Weekday Average
342 Passenger Rail Cars		50,338	Passenger Weekend Daily Average
93 Member PA Police Unit			
152 Video Station Monitoring			

	Structures	Length (Feet)	Area (Sq. Feet)	Track	Construction
Tunnel	Newark - WTC Line			Single	Concrete &
Tunnel	Hoboken - WTC Line				Cast Iron
Tunnel	Journal Square - 33rd St. Line				
Tunnel	Hoboken - 33rd St. Line				
Station	Penn Station (NJ)				
Station	Harrison Station (NJ)				
Station	Journal Square Station (NJ)				
Station	Grove Street Station (NJ)				
Station	Exchange Place Station (NJ)				
Station	Pavonia Station (NJ)				
Station	Hoboken Station (NJ)				
Station	World Trade Center Station (NY)				
Station	Christopher Street Station (NY)				
Station	9th Street Station (NY)				
Station	14th Street Station (NY)				
Station	23rd Street Station (NY)				
Station	Penn Station at 33rd Street (NY)				
	Total Length	39,042			

Journal Square Transportation Center

General		Traffic	
Hudson County Transportation Hub		22,000	PATH weekday Ridership
Heart of the PATH Rail Transit System		9,000,000	Annual Bus Passengers
		75,000	Weekday Rail & Bus Trips Made

	Facilities	Length (Feet)	Width (Feet)	Shape
	PATH Rapid Transit Station			
	Consolidated Bus Station			
	Multi-Level Parking (600 Spaces)			
	PATH Headquarters			10 Story Building
	PATH's Operations Control Center			
2	Banks			
8	Retail Shops			
	Total Area		Square Feet	

World Trade Center

PORT AUTHORITY OF NY & NJ FACILITY CHARACTERISTICS

World Trade Center

General		Traffic
Seven Building Complex including	70,000	Daily Visitors
12,000,000 Square Feet Leased Space	50,000	WTC Tenant Employees
Housing 500 Businesses & Government		
Agencies from 60 Countries and the		
Port Authority of NY & NJ Administrative		
Headquarters		

Structures	Stories	Area (Sq. Feet)	Us
WTC PATH Rapid Transit Station			
WTC Concourse (Under Plaza)		5 Acres	60 Shop Mall
One WTC	11		
Two WTC	11		
Three WTC	2		825 Room Hotel
Four WTC			
Five WTC			
Six WTC			
Seven WTC	4		

Total Area 12,000,00 Square Feet

SCHEDULE 2.7(a)

Covered Facility:	Holland Tunnel
Access Fee:	Option 1: $150,000 annually (net\net\net). [Option 2: $150,000 in Year 1, $175,000 in Year 2, then increases by three percent (3%) (compounded) on January 1 of each Year beginning January 1, 2001 Payable quarterly in advance.]
Base Term:	_____, 1999 to December 31, 2015
Renewal Option:	See Section 4.2 of Carrier Access Agreement
Baseline MOUs Per Carrier:	Option 1: 0 (MOU charge is payable from inception). [Option 2: Baseline MOUs of 1,200,000 in Year 1. Baseline MOUs increases by five percent (5%) (compounded) on January 1 of each Year].
Initial Usage Fee:	$_____ per MOU [Option 2: $_____ per Excess MOU] (for Year ending December 31, 1999). Fee is revised each Year in accordance with Section 3.1(c) of the Carrier Access Agreement.
Construction Date:	
Construction Period:	
Other Terms and	

Conditions:

The undersigned, intending to be legally bound hereby, agree that this Schedule shall be incorporated in, become part of and be governed by the Carrier Access Agreement between NYTP, Inc. and _____ dated June __, 1999.

NYTP, INC.

By:_____

[NAME OF CARRIER]

By:_____

SCHEDULE 2.7(b)

Covered Facility:	Lincoln Tunnel
Access Fee:	Option 1: $150,000 annually (net\net\net). Payable quarterly in advance. [Option 2: $150,000 in Year 1, $175,000 in Year 2, then increases by three percent (3%) (compounded) on January 1 of each Year beginning January 1, 2001].
Base Term:	_____, 1999 to December 31, 2015
Renewal Option:	See Section 4.2 of Carrier Access Agreement
Baseline MOUs Per Carrier:	Option 1: *0* (MOU charge is payable from inception). [Option 2: Baseline MOUs of 1,200,000 in Year 1. Baseline MOUs increases by five percent (5%) (compounded) on January 1 of each Year].
Initial Usage Fee:	$_____ per MOU (for Year ending December 31, 1999). [Option 2: $_____ per Excess MOU]. Fee is revised each Year in accordance with Section 3.1(c) of the Carrier Access Agreement.
Construction Date:	
Construction Period:	

Other Terms and
Conditions:

The undersigned, intending to be legally bound hereby, agree that this Schedule shall be incorporated in, become part of and be governed by the Carrier Access Agreement between NYTP, Inc. and _____ dated June __, 1999.

NYTP, INC.

By:_____

[NAME OF CARRIER]

By:_____

SCHEDULE 2.7(c)

Covered Facility:	JFK Airport
Access Fee:	$125,000 annually (net\net\net) for both Overlay and Underlay, or $75,000 annually for either Overlay or Underlay. Payable quarterly in advance. Amount increases by three percent (3%) (compounded) on January 1 of each Year beginning January 1, 2000.
Base Term:	_____ to December 31, 2015
Renewal Option:	See Section 4.2 of Carrier Access Agreement
Baseline MOUs per Carrier:	3,000,000 in Year 1, then increases by five percent (5%) (compounded) on January 1 of each Year, beginning January 1, 2000.
Initial Usage Fee:	$_____ per Excess MOU (for Year ending December 31, 1999). Fee is revised each Year in accordance with Section 3.1(c) of the Carrier Access Agreement.
Construction Date:	
Construction Period:	
Other Terms and Conditions:	

The undersigned, intending to be legally bound hereby, agree that this Schedule shall be incorporated in, become part of and be governed by the Carrier Access Agreement between NYTP, Inc. and _____ dated _____, ____.

NYTP, INC.

By:_____

[NAME OF CARRIER]

By:_____

SCHEDULE 2.7(d)

Covered Facility:	LaGuardia Airport
Access Fee:	$125,000 annually (net\net\net) for both Overlay and Underlay, or $75,000 annually for either Overlay or Underlay. Payable quarterly in advance. Amount increases by three percent (3%) (compounded) on January 1 of each Year beginning January 1, 2000.
Base Term:	_____, to December 31, 2015
Renewal Option:	See Section 4.2 of Carrier Access Agreement
Baseline MOUs per Carrier:	3,000,000 in Year 1, then increases by five percent (5%) (compounded) on January 1 of each Year, beginning January 1, 2000.
Initial Usage Fee:	$_____ per Excess MOU (for Year ending December 31, 1999). Fee is revised each Year in accordance with Section 3.1(c) of the Carrier Access Agreement.
Construction Date:	
Construction Period:	
Other Terms and Conditions:	

The undersigned, intending to be legally bound hereby, agree that this Schedule shall be incorporated in, become part of and be governed by the Carrier Access Agreement between NYTP, Inc. and _____ dated _____, ____.

NYTP, INC.

By:_____

[NAME OF CARRIER]

By:_____

SCHEDULE 2.7(e)

Covered Facility:	Newark Airport
Access Fee:	$125,000 annually (net\net\net) for both Overlay and Underlay, or $75,000 annually for either Overlay or Underlay. Payable quarterly in advance. Amount increases by three percent (3%) (compounded) on January 1 of each Year beginning January 1, 2000.
Base Term:	_____ to December 31, 2015
Renewal Option:	See Section 4.2 of Carrier Access Agreement
Baseline MOUs per Carrier:	3,000,000 in Year 1, then increases by five percent (5%) (compounded) on January 1 of each Year, beginning January 1, 2000.
Initial Usage Fee:	$_____ per Excess MOU (for Year ending December 31, 1999). Fee is revised each Year in accordance with Section 3.1(c) of the Carrier Access Agreement.
Construction Date:	
Construction Period:	
Other Terms and Conditions:	

The undersigned, intending to be legally bound hereby, agree that this Schedule shall be incorporated in, become part of and be governed by the Carrier Access Agreement between NYTP, Inc. and _____ dated _____, ____.

NYTP, INC.

By:_____

[NAME OF CARRIER]

By:_____

SCHEDULE 2.7(f)

Covered Facility:	World Trade Center Concourse
Access Fee:	$25,000 annually (net\net\net). Amount increases by three percent (3%) (compounded) on January 1 of each Year beginning January 1, 2000.
Base Term:	_____ to December 31, 2015
Renewal Option:	See Section 4.2 of Carrier Access Agreement
Baseline MOUs per Carrier:	800,000 in Year 1, then increases by five percent (5%) (compounded) on January 1 of each Year, beginning January 1, 2000.
Initial Usage Fee:	$_____ per Excess MOU (for Year ending December 31, 1999). Fee is revised each Year in accordance with Section 3.1(c) of the Carrier Access Agreement.
Construction Date:	
Construction Period:	
Other Terms and Conditions:	

The undersigned, intending to be legally bound hereby, agree that this Schedule shall be incorporated in, become part of and be

governed by the Carrier Access Agreement between NYTP, Inc. and _____ dated _____, ____.

NYTP, INC.

By:_____

[NAME OF CARRIER]

By:_____

SCHEDULE 2.7(g)

Covered Facility:	Port Authority Bus Stations
Access Fee:	$25,000 annually (net\net\net). Payable quarterly in advance. Amount increases by three percent (3%) (compounded) on January 1 of each Year beginning January 1, 2000.
Base Term:	_____ to December 31, 2015
Renewal Option:	See Section 4.2 of Carrier Access Agreement
Baseline MOUs per Carrier:	800,000 in Year 1, then increases by five percent (5%) (compounded) on January 1 of each Year, beginning January 1, 2000.
Initial Usage Fee:	$_____ per Excess MOU (for Year ending December 31, 1999). Fee is revised each Year in accordance with Section 3.1(c) of the Carrier Access Agreement.
Construction Date:	
Construction Period:	
Other Terms and Conditions:	

The undersigned, intending to be legally bound hereby, agree that this Schedule shall be incorporated in, become part of and be

governed by the Carrier Access Agreement between NYTP, Inc. and _____ dated _____, ____.

NYTP, INC.

By:_____

[NAME OF CARRIER]

By:_____

SCHEDULE 2.7(h)

Covered Facility:	PATH Stations
Access Fee:	$120,000 annually (net\net\net) for all ten PATH Stations, or $15,000 annually (net/net/net) for each station if less than ten. Payable quarterly in advance. Amount increases by three percent (3%) (compounded) on January 1 of each Year beginning January 1, 2000.
Base Term:	_____ to December 31, 2015
Renewal Option:	See Section 4.2 of Carrier Access Agreement
Baseline MOUs per Carrier:	400,000 in Year 1, then increases by five percent (5%) (compounded) on January 1 of each Year, beginning January 1, 2000.
Initial Usage Fee:	$_____ per Excess MOU (for Year ending December 31, 1999). Fee is revised each Year in accordance with Section 3.1(c) of the Carrier Access Agreement.
Construction Date:	
Construction Period:	
Other Terms and Conditions:	

The undersigned, intending to be legally bound hereby, agree that this Schedule shall be incorporated in, become part of and be governed by the Carrier Access Agreement between NYTP, Inc. and _____ dated _____, ____.

NYTP, INC.

By:_____

[NAME OF CARRIER]

By:_____

EXHIBIT E (5 Pages)

ASSIGNMENT and ASSUMPTION AGREEMENT

THIS AGREEMENT made as of the 26th day of August, 1999 by THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States of America, having an office for the transaction of business at One World Trade Center, in the Borough of Manhattan, in the City, County and State of New York, and NEW YORK TELECOM PARTNERS, LLC. a limited liability company organized and existing under the laws of the State of Delaware with an office for the transaction of business at 158 Third Street, Mineola, New York 11501 (hereinafter called "NYTP"), the representative of which is Richard J. DiGeronimo,

WITNESSETH, THAT:

WHEREAS, the Port Authority and NYTP have entered into a certain Telecommunications Network Access Agreement ("TNAS") contemporaneously herewith, providing for the installation, maintenance and operation of a wireless telecommunications network access system at specified Port Authority facilities; and

WHEREAS, in connection with the transaction contemplated under the TNAS, the Port Authority is willing to assign to NYTP, and NYTP is willing to undertake and assume the obligations and liabilities under, certain agreements heretofore entered into by the Port Authority with wireless telecommunications carriers for the furnishing of telecommunications services at the said specified Port Authority facilities and listed on the schedule attached hereto, hereby made a part hereof and marked "Schedule A" (hereinafter, the Existing Agreements");

NOW, THEREFORE, in consideration of the covenants and mutual agreements herein contained, the Port Authority and NYTP hereby agree as follows:

1. Effective as of the date hereof, in accordance with Section 48 of the TNAS the Port Authority does hereby assign, transfer and convey all of its rights, title and interest in the Existing Agreements to NYTP, and its successors, to its and their own proper use and benefit, to have and hold the same for and during the duration of the terms under the Existing Agreements, subject nevertheless to all the covenants, conditions, terms and provisions contained in the Existing Agreements.

2. Effective as of the date hereof, NYTP does hereby assume the performance of and does hereby agree to perform, observe and be subject to all of the terms, provisions, covenants, conditions and obligations of the Existing Agreements that are to be performed by or are applicable to the Port Authority thereunder as though NYTP were a signatory to the Existing Agreements. The execution of this instrument by the Port Authority does not constitute a representation by it that the Port Authority has performed or fulfilled every obligation required of it by the Existing Agreements.

3. NYTP shall defend, indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, representatives and employees, from any and all claims, demands, actions and liabilities accruing or arising after the effective date of this Agreement with respect to the Existing Agreements. The Port Authority shall defend, indemnify and hold NYTP harmless from any and all claims, demands, actions and liabilities accruing or arising prior to the effective date of this agreement with respect to the Existing Agreements.

4. Neither the Commissioners of the Port Authority, nor the Members of NYTP, nor any of them, nor any officer, agent or employee of the Port Authority or of NYTP shall be charged personally by either party hereto with any liability or be shall held personally liable to the other party 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.

5. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without regard to its conflict of laws provisions.

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

ATTEST:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

_____
Secretary

By _____

(Title)_____

(Seal)

ATTEST:

NEW YORK TELECOM PARTNERS, LLC

_____

By_____

(Title)_____

SCHEDULE A

1. Space Permit, made as of May 1, 1993, by and between the Port Authority and New York SMSA Limited Partnership, predecessor-in-interest to Bell Atlantic Mobile Inc., bearing Port Authority Permit No. WT-TC-P-88-C 000, granting a privilege to use and occupy space in the World Trade Center.

2. Agreement of Lease, made as of June __, 1994, by and between the Port Authority and Cellular Telephone Company d/b/a Cellular One, predecessor-in-interest to AT&T Wireless Services, bearing Port Authority Lease No. LT-211, for premises in the Lincoln Tunnel.

3. Agreement of Lease, made as of September 30, 1994, by and between the Port Authority and New York SMSA Limited Partnership, predecessor-in-interest to Bell Atlantic Mobile Inc., bearing Port Authority Lease No. LT-212 for premises in the Lincoln Tunnel.

4. Agreement of Lease, made as of December 29, 1994, by and between the Port Authority and Cellular Telephone Company d/b/a Cellular One, predecessor-in-interest to AT&T wireless Services, bearing Port Authority Lease No. L-CM-118, for premises in the Holland Tunnel.

5. Agreement of Lease, made as of December 31, 1994, by and between the Port Authority and New York SMSA Limited Partnership, predecessor-in-interest to Bell Atlantic Mobile Inc., bearing Port Authority Lease No. L-CM-119 for premises in the Holland Tunnel.

6. Agreement of Lease, made as of September 25, 1995, by and between the Port Authority and New York SMSA Limited Partnership, predecessor-in-interest to Bell Atlantic Mobile, bearing Port Authority Lease No. LBT-543 for premises in the Port Authority Bus Terminal.

(Port Authority Acknowledgment)

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

On the day of August , 1999, before me personally came , to me known, who, being by me duly sworn, did depose and say that he resides at ; that he is the of the Port Authority of New York and New Jersey, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Commissioners of said corporation; and that he signed his name thereto by like order.

_____
(notarial seal and stamp)

(Limited Liability Company Acknowledgment)

STATE OF)
)ss.:
COUNTY OF)

On the day of August, 1999, before me personally came , to me known, who, being by me duly sworn, did depose and say that he resides at ; that he is the of New York Telecom Partners, LLC, the limited liability company described in and which executed the foregoing instrument; that he knows the seal of said company; that the seal affixed to said instrument is such company's seal; that it was so affixed by order of the Managers of said company; and that he signed his name thereto by like order.

_____
(notarial seal and stamp)

SCHEDULE E

AFFIRMATIVE ACTION-EQUAL OPPORTUNITY---MINORITY BUSINESS ENTERPRISES ---WOMEN-OWNED BUSINESS ENTERPRISES REQUIREMENTS

Part I. Affirmative Action Guidelines - Equal Employment Opportunity

I. As a matter of policy the Port Authority hereby requires the Permittee and the Permittee shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter in this Schedule E and in Sections 7 and 43 of the Telecommunications Network Access Agreement, dated as of August 26, 1999, (herein called the "Agreement"), by and between the Port Authority and New York Telecom Partners, LLC (herein and in the Agreement called the "Permittee"). The provisions set forth in this Part I are similar to the conditions for bidding on federal government contract adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

The Permittee as well as each bidder, contractor and subcontractor of the Permittee and each subcontractor of a contractor at any tier of construction (herein collectively referred to as the "Contractor") must fully comply with the following conditions set forth herein as to each construction trade to be used on the construction work or any portion thereof (said conditions being herein called "Bid Conditions"). The Permittee hereby commits itself to the goals for minority and female utilization set forth below and all other requirements, terms and conditions of the Bid Conditions. The Permittee shall likewise require the Contractor to commit itself to the said goals for minority and female utilization set forth below and all other requirements, terms and conditions of the Bid Conditions by submitting a properly signed bid.

II. The Permittee and the Contractor shall each appoint an executive of its company to assume the responsibility for the implementation of the requirements, terms and conditions of the following Bid Conditions:

(a) The goals for minority and female participation expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work are as follows:

(1) Minority participation

Minority, except laborers	30%
Minority, laborers	40%

(2) Female participation

Female, except laborers	6.9%
Female, laborers	6.9%

These goals are applicable to all the Contractor's construction work performed in and for the System.

The Contractor's specific affirmative action obligations required herein of minority and female employment and training must be substantially uniform throughout the length of the Contract, and in each trade, and the Contractor shall make good faith efforts to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the Contract. Compliance with the goals will be measured against the total work hours performed.

(b) The Contractor shall provide written notification to the Permittee and the Permittee shall provide written notification to the Manager of the Office of Business and Job Opportunity of the Port Authority within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

(c) As used in this Schedule E:

(1) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941:

(2) "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(d) Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the construction work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 those provisions which include the applicable goals for minority and female participation.

(e) The Contractor shall implement the specific affirmative action standards provided in subparagraphs (1) through (16) of Paragraph (h) hereof. The goals set forth above are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in connection with the System. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

(f) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations hereunder.

(g) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a

commitment to employ the apprentices and trainees at the completion of their training subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

(h) The Contractor shall take specific affirmative actions to ensure equal employment opportunity ("EEO").

The evaluation of the Contractor's compliance with these provisions shall be based upon its good faith efforts to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

(1) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each phase of the construction project. The Contractor, shall specifically ensure that all foremen, superintendents, and other supervisory personnel performing work in connection with the System are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at the premises.

(2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Maintain a current file of the names, addresses and telephone number of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

(4) Provide immediate written notification to the Permittee when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and training programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (2) above.

(6) Disseminate the Contractor's EEO Policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the Contractor's newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the Contractor's EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

(7) Review, at least every six months the Contractor's EEO policy and affirmative action obligations hereunder with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decision including specific review of these items with on-premises supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work in connection with the System. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media,

specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

(9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations and to State-certified minority referral agencies serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the premises and in areas of a Contractor's workforce.

(11) Tests and other selection requirements shall comply with 41 CFR Part 60-3.

(12) Conduct, at least every six months, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

(13) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations hereunder are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

(15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any

person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Permittee. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at least as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Permittee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) Nothing herein provided shall be construed as a limitation upon the application of any laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Permit, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

PART II. MINORITY BUSINESS ENTERPRISES/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Permittee and the Permittee shall itself and shall require the general contractor or other construction supervisor and each of the Permittee's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be as defined in paragraph II(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible.

(b) Actively and affirmatively soliciting bids for

subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Permittee and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

Certification of MBEs and WBEs hereunder shall be made by the Office of Business and Job Opportunity of the Port Authority. If the Contractor wishes to utilize a firm not already certified by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, the Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, New York 10048 or such other address as the Port Authority may specify by notice to the Permittee. Certification shall be effective only if made in writing by the Director in charge of the Office of Business and Job Opportunity of the Port Authority. The determination of the Port Authority shall be final and binding.

The Port Authority has compiled a list of the firms that the Port Authority has determined satisfy the criteria for MBE and WBE certification. This list may be supplemented and revised from time to time by the Port Authority. Such list shall be made available to the Contractor upon request. The Port Authority makes no representation as the financial responsibility of such, firms, their technical competence to perform, or any other performance-related qualifications.

Only MBE's and WBE's certified by the Port Authority will count toward the MBE and WBE goals.

Please note that only sixty percent (60%) of expenditures to MBE or WBE suppliers will count towards meeting the MBE and WBE goals. However, expenditures to MBE or WBE manufacturers (i.e. suppliers that produce goods from raw materials or substantially alter them before resale) are counted dollar for dollar.

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

On the 24th day of August, 1999 before me personally came Gregory Burhans to me known, who, being by me duly sworn, did depose and say that he resides in

that he is the Chief Technology Officer of The Port Authority of New York and New Jersey, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Commissioners of said corporation; and that he signed his name thereto by like order.

Ronald M. Senio

(notarial seal and stamp)

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

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

On the 26th day of AUGUST, 1999, before me personally came RICHARD DiGERONIMO to me known, who, being duly sworn, did depose and say, that he resides at

that he is the PRESIDENT of New York Telecom Partners, LLC, a Delaware limited liability company, the limited liability company described in and which executed the foregoing instrument; that he executed the same for and on behalf of said limited liability company; and that he is duly authorized and empowered to do so.

Ronald M. Senio

(notarial seal and stamp)

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

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of March 28, 2001 by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter called the "Port Authority") and **NEW YORK TELECOM PARTNERS, LLC** (hereinafter called the "Permittee"),

WITNESSETH, That:

WHEREAS, the Port Authority and the Permittee heretofore and as of August 26, 1999 entered into an agreement identified by the Port Authority as Agreement Number AX-713 (which agreement, as the same may have heretofore been and hereby is supplemented and amended is hereinafter called the "TNAS Agreement") covering certain privileges and obligations with respect to the installation, operation and maintenance of a wireless telecommunications network access system at Port Authority facilities as specified in the TNAS Agreement; and

WHEREAS, the TNAS Agreement grants the Permittee the right, on a non-exclusive basis, to install, operate and maintain an equal-access, in-building backbone facility in offices and nearby areas at the Port Authority World Trade Center towers (and elsewhere) for use by all interested wireless telecommunications service carriers (hereinafter, "Carrier Users") offering telecommunications services to end user customers using mobile, portable or fixed wireless devices; and

WHEREAS, the Port Authority and the Permittee desire to amend the TNAS Agreement to further and more specifically provide for the Permittee's implementation of the in-building backbone facility at the World Trade Center, to modify the permitted uses thereof and to otherwise amend the TNAS Agreement.

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, and effective as of the date first set forth above, the Port Authority and the Permittee hereby agree as follows:

Section 1. WTC Fiber Backbone System

(a) The description of the non-exclusive equal-access, in-building fiber optic backbone facility in paragraph (d) of Section 2 of the TNAS Agreement is hereby amended to cover the buildings in the Port Authority World Trade Center (the "World Trade Center") known as One World Trade Center (sometimes identified as the North Tower Building), Two World Trade Center (sometimes identified as the South Tower Building), Four World Trade Center

(sometimes identified as the Southeast Plaza Building) and Five World Trade Center (sometimes identified as the Northeast Plaza Building) (the said buildings herein referred to, collectively, as the "WTC Facility") and shall further be amended to include the capability to provide telecommunications services , including, without limitation, local and long distance telephone usage (including switched and dedicated outbound and toll-free calls, international calls, calling card calls and video services), T-1 line, T-3 line and OC 3 usage, internet port services, point-to-point circuit connections, asynchronous transfer mode and frame relay network port and circuit services and web hosting services, and other similar or related telecommunication services to end user World Trade Center office customers either as "WTC End Users" (as such term is defined below) or through Carrier Users, in either case using wired devices (as so modified, the backbone facility, for purposes of this Agreement, shall be referred to hereinafter as the "WTC Fiber Backbone System"). For all purposes of the TNAS Agreement except as hereinafter expressly provided, effective from and after the date first set forth above, the "System," described in subparagraph (a)(i) of the TNAS Agreement, shall be deemed to incorporate and include the WTC Fiber Backbone System, and the WTC Facility shall be deemed to be a Port Authority Facility. The installation, operation and maintenance of the In-Building System are hereinafter collectively referred to as the "In-Building System Operations."

(b) A "Summary Basis of Design" of the WTC Fiber Backbone System prepared by the Permittee and approved by the Port Authority describing the technical standards for and attributes and features of the WTC Fiber Backbone System is annexed to the WTC Fiber Backbone Agreement as Exhibit "D" thereto, and is hereby incorporated by reference herein and made a part hereof.

(c) The WTC Fiber Backbone System will be installed, operated and maintained by BRAM WTC, LLC (hereinafter, "BRAM"), a wholly owned subsidiary of Eureka Broadband Corporation ("EurekaGGN"), for the Permittee pursuant to the WTC Fiber Backbone Agreement (the "WTC Fiber Backbone Agreement") a true copy of which is annexed to this Agreement as Exhibit "A" and hereby made a part hereof. Capitalized terms that are used but not defined herein shall have the meaning given to such terms in the TNAS Agreement, or if not defined therein in the WTC Fiber Backbone Agreement. The Port Authority hereby consents to the WTC Fiber Backbone Agreement. The Permittee will not amend the WTC Fiber Backbone Agreement without the prior written consent of the Port Authority. In the event the WTC Fiber Backbone Agreement is terminated in accordance with its terms by either party thereto, the Port Authority shall have the right to terminate the TNAS Agreement solely with respect to the WTC Fiber Backbone System unless, in the case of any termination other than a termination pursuant to Section 19(g) thereof, within sixty (60) days following the effective date of the termination of the WTC Fiber Backbone Agreement the Port Authority shall have consented to either (i) the Permittee installing, operating and maintaining the WTC Fiber Backbone System itself or (ii) a replacement WTC Fiber Backbone Agreement between the Permittee and an entity which is technically and financially qualified to install, operate and maintain the WTC Fiber Backbone System, the Port Authority agreeing not to unreasonably withhold its consent to such a replacement WTC Fiber Backbone Agreement. The Port Authority acknowledges and agrees that the WTC Fiber Backbone Agreement itself and BRAM's operations and performance thereunder shall not constitute a breach or violation of Section 32 of the TNAS Agreement.

(d) The consent of the Port Authority to the WTC Fiber Backbone Agreement is expressly conditioned on the provision by the Permittee and BRAM throughout the WTC Term of a contract of absolute and unconditional guaranty by EurekaGGN to the Port Authority

of (i) the due and punctual payment of the fees and other monetary obligations of BRAM to the Permittee under the WTC Fiber Backbone Agreement and (ii) the full, faithful and prompt performance, observance and fulfillment of all the terms, covenants and conditions to be kept, observed, performed and fulfilled on the part of BRAM under the WTC Fiber Backbone Agreement. Such a contract of guaranty, in the form annexed to the WTC Fiber Backbone Agreement as Exhibit "J", shall be executed simultaneously with the execution of this Agreement by the Permittee and the execution of the WTC Fiber Backbone Agreement by BRAM.

(e) The Port Authority will make available to the Permittee two equipment rooms consisting of one equipment room on the seventh floor of the North Tower Building and one equipment room on the seventh floor of the South Tower Building collectively constituting approximately One Thousand Two Hundred (1,200) square feet (collectively the "Space" which shall be deemed to comprise a part of the System) at the World Trade Center for use solely in connection with the installation and operation of equipment for the WTC Fiber Backbone System at no rental charge throughout the Term. The Permittee shall accept the Space in its "as is" condition and shall promptly repair any damages thereto or to any other Port Authority property therein caused by its operations. The Port Authority shall have the right, upon forty-eight (48) hours notice to the Permittee or at any time in the case of an emergency, and as often as it considers necessary, to inspect the Space and (without any obligation to do so) to make repairs, and in the event of emergency to take such action as may be required for the protection of persons or property.

(f) The Port Authority, by its officers, employees, representatives, contractors, licensees, and their employees, shall have the right for the benefit of the Port Authority, or the Permittee and/or for the benefit of others than the Permittee to maintain existing and future heating, water, gas, electricity, sewerage, drainage, fire protection sprinkler, ventilating, refrigerating, fuel and communication systems and other such service systems including all tubes, pipes, lines, mains, wires, conduits and equipment on or about the Space and to enter upon the Space at all reasonable times and to make such repairs, replacements and alterations as may, in the reasonable opinion of the Port Authority, be deemed necessary or advisable, and, from time to time, to construct or install over, on, in or under the Space new tubes, pipes, lines, mains, wires, conduits and equipment, provided, however, that the same shall be done so as to interfere as little as reasonably possible with the Permittee's operations. Nothing in this Section shall or shall be construed to impose upon the Port Authority any obligations so to maintain or to make repairs, replacements, alterations or additions or any liability for failure so to do.

(g) In addition to the Space, the Permittee shall have the right and the obligation to install vertical runs of Sumitomo "FutureFlex" conduit for fiber optic cables at locations to be reasonably designated by the Port Authority, as well as such horizontal runs as are appropriate to connect the aforesaid vertical runs, in the quantities generally designated in the Summary Basis of Design. The Permittee's rights to the use of any area described in this paragraph (which areas are sometimes hereinafter referred to as the "common use areas") shall extend only to the space within such area as is actually physically occupied by such conduits of the Permittee as are installed therein. The Permittee's rights with respect to the WTC Fiber Backbone System shall constitute a license only and not an interest in real property, but such license shall continue in full force and effect throughout the term of this Agreement and shall expire without notice upon the expiration or sooner termination of this Agreement with respect to

the WTC Fiber Backbone System. The Permittee shall have no other license to use any other portion of the World Trade Center (including, without limitation, the roofs thereof or any other vertical or horizontal pathways) except as specified in the TNAS Agreement, without the prior written consent of the Port Authority. The Permittee shall have all the same obligations and liabilities with respect to those portions of the common use area made available to it by the Port Authority hereunder as it has with respect to the Space hereunder.

(h) The Port Authority shall use reasonable efforts to make its personnel available to assist the Permittee in gaining access to the common use areas of the WTC Facility made available by the Port Authority to the Permittee hereunder and the Port Authority shall not impose any charge to make such personnel available to the Permittee except that the Port Authority may impose a reasonable charge on the Permittee when it makes uniformed security guards available to the Permittee in connection with such access.

Section 2. Use of the WTC Fiber Backbone System

(a) The term "WTC System End-User" shall mean an entity who is not a Carrier User, having a lease, permit or other agreement with or consented to by the Port Authority for the occupancy of space or the exercise of privileges at the World Trade Center.

(b) In addition to the obligations imposed on the Permittee to operate the System pursuant to paragraph (a) of Section 3 of the TNAS Agreement, the Permittee shall operate the WTC Fiber Backbone System so as to accommodate all interested Carrier Users and WTC System End-Users on a non-discriminatory basis up to the design capacity of the WTC Fiber Backbone System.

(c) The limitation on the installation of voice, data or video transmission or reception equipment after June 30, 1998 set forth in the first sentence of Section 17 of the TNAS Agreement shall not be applicable to those portions of the World Trade Center served by the WTC Fiber Backbone System irrespective of whether any such third party telecommunications service provider furnishes telecommunications service through the use of the WTC Fiber Backbone System to WTC System End-Users on a wired or wireless basis.

(d) In addition to the rights granted to the Permittee pursuant to paragraph (b) of Section 19 of the TNAS Agreement with respect to the use of the System, the Permittee may also, in the course of its business and the conduct of its operations under this Agreement, permit the use of the WTC Fiber Backbone System by Carrier Users and/or WTC System End-Users for the purposes described in paragraph (d) of Section 2 of the TNAS Agreement, as amended by the provisions of Section 1(a) hereof. Whether or not expressly set forth therein, all agreements between the Permittee and Carrier Users with respect to the use of the WTC Fiber Backbone System shall be (i) subject to the terms and conditions of this Agreement and (ii) subject to the prior written approval of the Port Authority which shall not be unreasonably withheld. The Permittee shall use its best efforts to make available to the Port Authority for inspection, upon its request made from time to time, copies of all existing agreements between a Carrier User and a WTC System End-User. To the extent commercially reasonable, the Permittee shall cause BRAM to install and use all equipment reasonably available and necessary to accurately determine each Carrier User's gross receipts. It shall not be deemed discriminatory under the TNAS Agreement (i) to adjust the treatment of all Carrier Users prospectively, grandfathering the treatment of all Carriers Users who are parties to a Carrier Agreement at the time of such

adjustment or (ii) treat Carrier Users in accordance with the terms of the "most favored nations" provision in Section 7.6 of the Carrier Agreement dated the date hereof among the Permittee, BRAM and EurekaGGN.

(e) Subject to the provisions of Section 9(b) hereof, upon notice to the Permittee by the Port Authority that any of BRAM's operations unreasonably interferes with the operations of the WTC Facility, the Permittee shall cause BRAM to forthwith cease such operations or otherwise cure such interference.

Section 3. Term

The term of the permission granted hereunder to the Permittee to operate the WTC Fiber Backbone System shall commence on the date the Port Authority issues final approval of the Permittee's Construction Application and complete plans and specifications for the WTC Fiber Backbone System for the North Tower Building (the said date being hereinafter referred to as the "WTC Commencement Date") and shall, unless sooner terminated, expire on the first to occur of (i) the day preceding the fifteen (15th) anniversary of the WTC Commencement Date or (ii) December 31, 2016 (the said term sometimes in this Agreement called the "WTC Term"). Notwithstanding the provisions of Sections 4 and 34 of the TNAS Agreement, the Permittee shall not have any right to extend the term of the permission granted to the Permittee under this Agreement with respect to WTC Fiber Backbone System Operations.

Section 4. Fees

I. ACCESS FEE

The Permittee shall pay to the Port Authority a WTC Access Fee of One Hundred Twenty-five Thousand Dollars ($125,000) on the date of the full execution of this Agreement.

II. MINIMUM FEES

(a) Subject to Section 12 hereof in the case of New Competition, the Permittee shall pay to the Port Authority minimum fees (the "WTC Minimum Fees") separately for each Annual Period during the WTC Term for the privileges described in this Agreement at the annual rates set forth below, payable as follows:

(1) With respect to the First Annual Period of the WTC Term, no WTC Minimum Fees shall be payable.

(2) With respect to the portion of the WTC Term from and after the first anniversary of the WTC Commencement Date to the expiration date of this Agreement, in arrears, in quarterly installments commencing on the last day of the first month following the end of the calendar quarter in the calendar year 2002 during which quarter the first anniversary of the WTC Commencement Date occurs, and continuing on the last day of each January, April, July and October thereafter, including the first said date following the expiration date of this Agreement, in each case with respect to the calendar quarter ending on the last day of the preceding month. For example, the quarterly installment, if any, of the WTC Minimum Fees for the calendar quarter commencing January 1, 2003 and ending March 31, 2003 shall be payable on April 30, 2003. The TNAS Agreement is hereby amended to reflect that, solely with respect to the payment of the WTC Minimum Fee, it shall be an event under Section 20 of the TNAS

Agreement entitling the Port Authority to terminate same if the Permittee shall fail, duly and punctually to pay the WTC Minimum Fee when due to the Port Authority and such failure continues for a period of fifteen (15) days (rather than the 10 days set forth in the TNAS Agreement) after the Permittee's actual receipt of a notice of default thereof from the Port Authority.

(b) Subject to reduction pursuant to Section 12 hereof in the case of New Competition, the WTC Minimum Fees are as follows:

(i) For the Second Annual Period, in the sum of Two Hundred Fifty Thousand Dollars ($250,000), prorated for the period from the first anniversary of the WTC Commencement Date to December 31, 2002.

(ii) For the Third, Fourth, and Fifth Annual Periods, the sum of Two Hundred Fifty Thousand Dollars ($250,000) per period.

(iii) For the Sixth Annual Period, the sum of Two Hundred Fifty Thousand Dollars ($250,000) prorated for the period from January 1 of such calendar year to the day preceding the fifth anniversary of the WTC Commencement Date and Five Hundred Thousand Dollars ($500,000) prorated for the period from the fifth anniversary of the WTC Commencement Date to December 31 of such year.

(iv) For the Seventh, Eighth, Ninth, and Tenth Annual Periods, the sum of Five Hundred Thousand Dollars ($500,000) per Annual Period.

(v) For the Eleventh Annual Period, the sum of Five Hundred Thousand Dollars ($500,000) prorated for the period from January 1 of such calendar year to the day preceding the tenth anniversary of the WTC Commencement Date and Seven Hundred Fifty Thousand Dollars ($750,000) prorated for the period from the tenth anniversary of the WTC Commencement Date to December 31 of such year.

(vi) For the Twelfth and Thirteenth Annual Periods, the sum of Seven Hundred Fifty Thousand Dollars ($750,000) per Annual Period.

(vii) For the Fourteenth Annual Period, the sum of Seven Hundred Fifty Thousand Dollars ($750,000) prorated for the period from January 1 of such calendar year to the day preceding the thirteenth anniversary of the WTC Commencement Date and Eight Hundred Fifty Thousand Dollars ($850,000) prorated for the period from the thirteenth anniversary of the WTC Commencement Date to December 31 of such year.

(viii) For the Fifteenth Annual Period, the sum of Eight Hundred Fifty Thousand Dollars ($850,000).

(ix) For the Sixteenth Annual Period, the sum of Eight Hundred Fifty Thousand Dollars ($850,000) prorated for the period from January 1 of such calendar year to the end of the WTC Term.

(c) The Permittee shall not be personally liable for the payment of the WTC Minimum Fees and the Permittee's liability under the TNAS Agreement for payment of the WTC Minimum Fees shall be limited to and shall be enforceable only out of the WTC Gross

Receipts actually in the possession and control of the Permittee, including without limitation WTC Gross Receipts received by the Permittee after the accrual of the obligation to remit the WTC Minimum Fee to the Port Authority, or receivable by the Permittee. The lien of any judgment against the Permittee in any proceeding instituted on, under or on connection with the failure to pay all or any portion of the WTC Minimum Fees shall not extend to any property owned by the Permittee other than WTC Gross Receipts actually in the possession and control of the Permittee at or after the commencement of such proceeding or receivable by the Permittee at or after such time, provided that with respect to each WTC Minimum Fee then due and owing to the Port Authority, the Permittee has remitted to the Port Authority all Gross Receipts received by the Permittee during the One Hundred Twenty (120) day period prior to the date such WTC Minimum Fee was due and payable to the Port Authority (whether such remittance was applied to that WTC Minimum Fee installment or any other.

III. VARIABLE FEE

(a) The Permittee shall pay to the Port Authority a WTC Variable Fee for each Annual Period during the WTC Term. The WTC Variable Fee shall be determined by ascertaining separately for each Annual Period the WTC Adjusted Gross Receipts Fee Component and subtracting from the amount thus determined the WTC Minimum Fees payable for such Annual Period, including, without limitation, any applicable proration or equitable adjustment of such WTC Minimum Fees. No other proration of the WTC Variable Fee shall be applicable.

(b) (i) The WTC Variable Fee shall be payable in quarterly installments and computed, at the percentage rates set forth below, based on the reasonably determined projection of the amount to be due for the entire Annual Period prepared by the Permittee and approved by the Port Authority, such approval not to be unreasonably withheld, not later than sixty (60) days prior to the commencement of each Annual Period. The WTC Variable Fee shall be payable for each Annual Period in equal quarterly installments on the last day of January, April, July and October, in each case with respect to the calendar quarter ending on the last day of the immediately preceding calendar month (for example, the Variable Fee shall be payable on July 31 for the calendar quarter April 1 to June 30) and for every calendar quarter or part thereof thereafter in any Annual Period during the WTC Term. The TNAS Agreement is hereby amended to reflect that, solely with respect to the payment of the WTC Variable Fee, it shall be an event under Section 20 of the TNAS Agreement entitling the Port Authority to terminate same if the Permittee shall fail, duly and punctually to pay the WTC Variable Fee when due to the Port Authority and such failure continues for a period of fifteen (15) days (rather than the 10 days set forth in the TNAS Agreement) after the Permittee's actual receipt of a notice of default thereof from the Port Authority.

(ii) Within sixty (60) days following the end of each Annual Period, the Permittee shall compute the actual amount of the WTC Adjusted Gross Receipts Fee Component for the Annual Period and compute the WTC Variable Fee. In the event the actual WTC Variable Fee shall exceed the total of the quarterly installments actually paid by the Permittee with respect to such Annual Period, the Permittee shall pay to the Port Authority the difference between the actual WTC Variable Fee for the preceding Annual Period and the total of the said quarterly installments paid by the Permittee. In the event the total of the said quarterly installments paid by the Permittee to the Port Authority shall exceed the actual WTC Variable Fee for the preceding Annual Period, the Port Authority shall credit the amount of such

excess to the Permittee. In either such case, the required payment shall be made not later than ten (10) business days following the date of the notice from the Permittee to the Port Authority setting forth its computation of the actual WTC Variable Fee for the immediately preceding Annual Period.

IV. FEE RELATED DEFINITIONS

"Annual Period" shall mean as follows: the period from the WTC Commencement Date to the first anniversary thereof shall be the First Annual Period, the period from the first anniversary of the Commencement Date to the next occurring December 31 shall be the Second Annual Period, the period from the next occurring January 1 to December 31 shall be the Third Annual Period and the period from each next occurring January 1 to December 31 shall be the next occurring Annual Period.

"WTC Adjusted Gross Receipts" shall mean, for each Annual Period, Gross Receipts reduced by the sum of: (i) Five Percent (5%) of WTC Gross Receipts for such Annual Period (which represents an allowance for administrative costs), and (ii) the annual amortization (with an allowance for interest equal to 11% per annum), over the remainder of the WTC Term, of capital expenditures made by the Permittee or BRAM, in an aggregate principal amount not to exceed Two Million One Hundred Thousand Dollars ($2,100,000), which expenses shall be of the type and approximately within the estimated amounts set forth on the construction cost budget attached to the WTC Fiber Backbone Agreement as Exhibit "F".

"WTC Adjusted Gross Receipts Fee Component" shall mean:

(1) For the First Annual Period to and including the Eleventh Annual Period: Fifty-five Percent (55%) of WTC Adjusted Gross Receipts.

(2) For the Twelfth Annual Period, the Thirteenth Annual Period and the Fourteenth Annual Period, the Fifteenth Annual Period and the Sixteenth Annual Period: Sixty Percent (60%) of WTC Adjusted Gross Receipts.

"WTC Gross Receipts" shall mean all monies received or receivable in an Annual Period by the Permittee (unless and until any amount is deemed by BRAM to be uncollectible in accordance with generally accepted accounting principles) for the use, as provided in Section 1 of this Agreement, of the WTC Fiber Backbone System to be installed by the Permittee, pursuant to the provisions of Section 2, in the WTC Facility, including, without limitation, any monies received or receivable by the Permittee or BRAM relating to the use of, entrance to, or access to the WTC Fiber Backbone System or the fiber optic cable installation related thereto, and the proceeds from any sale by the Permittee of the Warrant (as defined in Section 10) or the common stock underlying the Warrant less the applicable exercise price, sales commissions and related charges, but excluding the NYTP Minimum Fee and the BRAM Shortfall Payment, each as defined in the WTC Fiber Backbone Agreement. WTC Gross Receipts shall include all revenues from the use of the WTC Fiber Backbone System as aforesaid except for (i) any fees received by BRAM or the Permittee from tenants at the WTC as payment for services rendered connecting such tenants to the In-Building System through the construction of horizontal runs, and (ii) any sums collected and paid out for any sales tax, direct excise tax, or any governmental or regulatory fees or any other pass-through or ancillary fees that the Permittee is required by law to collect and upon which it derives no revenue or profit.

V. ACCRUAL OF WTC MINIMUM FEE

Notwithstanding any other provision of this Agreement including this Section 4, the Permittee shall not be obligated to make any quarterly payment of the WTC Minimum Fee to the extent such payment exceeds the WTC Adjusted Gross Receipts attributable to such quarter; provided, however, that the portion not paid shall accrue and bear interest at an annual floating rate equal to the prime rate (as published from time to time by the Citibank (N.A.) or its successor) plus three percent (3%) ("Accrued Minimum Fees"). Accrued Minimum Fees shall be due and payable with each succeeding quarterly WTC Minimum Fee payment, but only to the extent that the WTC Adjusted Gross Receipts attributable to such later quarter exceed the greater of (i) the WTC Adjusted Gross Receipts Fee Component for such quarter or (ii) the WTC Minimum Fee for such quarter. The remaining portion of any Accrued Minimum Fees shall continue to be accrued but shall not become due and payable (even on termination) except to the extent set forth above, provided, however, that if at any time the Accrued Minimum Fees exceed an amount equal to (y) if prior to the expiration of the Fifth Annual Period, the sum of Five Hundred Thousand Dollars ($500,000), or (z) if after the expiration of the Fifth Annual Period, the WTC Minimum Fee for the current Annual Period, the Port Authority shall have the right to terminate this Agreement, as and to the extent it applies to the World Trade Center (subject to the Permittee's rights under Section 7(b) hereof), and the WTC Fiber Backbone Agreement on 15 days written notice to BRAM and the Permittee, in which case the Permittee shall use its best efforts to cause BRAM to pay to the Port Authority the applicable amount described in (y) and (z) above (and only said amount) as a liquidated damage, as well as all other fees due hereunder for the quarterly period in which such termination occurs (pro rated through the termination date). After such termination, and subject to the Permittee's rights under Section 7(b) hereof, the Permittee shall use its best efforts to cause BRAM to comply in full with its obligations under Sections 13 (solely with respect to actions or omissions occurring on or prior to the termination date), 23 (without exception for the BRAM Equipment), 30(iii) and 30(iv) of the WTC Fiber Backbone Agreement.

Section 5. Installation of the WTC Fiber Backbone System

(a) Section 7 of the TNAS Agreement shall not be applicable to the "WTC Fiber Construction Work" (as hereinafter defined) to be performed by the Permittee in connection with the WTC Fiber Backbone System; in lieu thereof, the provisions of this Section 5 shall govern the WTC Fiber Construction Work in all respects. The Permittee shall perform, at its sole cost and expense, all installation work required to prepare the WTC Facility for the Permittee's WTC Fiber Backbone System Operations in accordance with the Port Authority approved Construction Application (as hereinafter defined), including the installation of all transmitters, receivers, Sumitomo "FutureFlex" fiber optic conduit, fiber optic cabling and other equipment in the WTC Facility and the construction of all associated improvements in the WTC Facility appurtenant to the operation of the WTC Fiber Backbone System, except for the installation obligations of the Carrier Users under their Carrier Agreements (the work described in this Section 5 being hereinafter referred to as the "WTC Fiber Construction Work"). Installation of equipment by Carrier Users shall be subject to approval by the Port Authority in accordance with its usual procedures regarding the installation of such equipment.

(b) (i) The Permittee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be reasonably directed by the Port Authority for, and for developing, completing and submitting procedures for,

the installation of all equipment and the construction of all improvements appurtenant to the operation of the WTC Fiber Backbone System. Prior to retaining any licensed architect, professional engineer or other technical consultant in connection with the WTC Fiber Construction Work, the name or names of said licensed architect, professional engineer or other technical consultant shall be submitted to the Port Authority for its approval. The Port Authority shall have the right to disapprove, on a non-arbitrary and non-capricious basis, any licensed architect, professional engineer or other technical consultant who may be unacceptable to it and shall notify the Permittee of the basis for such disapproval, and shall approve in advance the Permittee's contract with each such licensed architect, professional engineer or other technical consultant, which approval shall not be unreasonably withheld, delayed or conditioned. The Port Authority hereby approves the retention by the Permittee of BRAM in connection with the performance of the WTC Fiber Construction Work.

(ii) (1) Prior to the commencement of any WTC Fiber Construction Work at any building of the WTC Facility, the Permittee shall submit to the Port Authority for its approval a Tenant Alteration Application (hereinafter called the "Construction Application"), in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include, setting forth in detail by appropriate plans and specifications the WTC Fiber Construction Work the Permittee proposes to perform at such WTC Facility building and the manner of and time periods for performing such work, as more particularly described in Section 5(c) below. The data to be supplied by the Permittee shall identify separately each of the items constituting the WTC Fiber Construction Work and shall describe in detail the improvements, fixtures, equipment, and systems to be installed by the Permittee. The plans and specifications to be submitted by the Permittee shall be in sufficient detail for a contractor to perform the WTC Fiber Construction Work and shall bear the seal of a licensed architect or professional engineer who shall be responsible for the administration of the WTC Fiber Construction Work in accordance with the Port Authority's requirements. In connection with the review by the Port Authority of the Permittee's submission under this Section 5, the Permittee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may require for such review. The Port Authority shall not impose a fee for its review of the Construction Application. Following the Port Authority's receipt of the Permittee's Construction Application, the Port Authority shall give its written approval or rejection thereof, or shall request such modifications thereto as the Port Authority may find necessary or appropriate. The Permittee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor or subcontractor is operating under, have been approved by the Port Authority. The Permittee shall include in any such contract or subcontract such provisions as are required pursuant to the provisions of this Agreement and the Construction Application approved by the Port Authority, including, without limitation thereto, provisions regarding labor harmony. If there is any conflict between the terms of the Construction Application and the TNAS Agreement, the terms of the TNAS Agreement shall control.

(2) The Port Authority shall review the Construction Application and all plans and specifications submitted by the Permittee therewith and will furnish its comments regarding the same to the Permittee within fifteen (15) business days after its receipt thereof. The Port Authority will also review and comment on any corrected, modified or amended plans and specifications resubmitted to the Port Authority by the Permittee within fifteen (15) business days after receipt of any such resubmission. The Permittee hereby agrees that the Port Authority shall have no responsibility, liability or obligation to the Permittee in the event the Port Authority

fails to respond to any such submission or resubmission of the Construction Application by the Permittee within the time periods set forth above, including any obligation to provide a reimbursement, rent credit or other rent concession except as provided in subparagraph (3) below.

(3) In the event the Port Authority does not furnish its comments upon the submission or resubmission of the first, and only the first, Construction Application (submitted by the Permittee) within the time periods set forth in subparagraph (ii) above, the Permittee may notify the Port Authority in writing that it proposes to terminate the TNAS Agreement with the effect of expiration solely with respect to the WTC Fiber Backbone System and if the Port Authority does not within ten (10) business days thereafter furnish its comments to the Permittee, then the Permittee may, upon ten (10) days prior written notice to the Port Authority, terminate the TNAS Agreement and the TNAS Agreement shall thereupon expire solely with respect to the WTC Fiber Backbone System as if it had expired on that date and the Port Authority shall refund the WTC Access Fee to the Permittee, and shall (as applicable) either refund the Security Deposit or return the letter of credit described in Section 13 below to BRAM.

(iii) (1) The Permittee hereby assumes the risk of loss or damage to all of the WTC Fiber Construction Work prior to the completion thereof and the risk of loss or damage to all property of the Port Authority, its lessees and permittees arising out of or in connection with the WTC Fiber Construction Work unless such loss or damage is caused by the gross negligence or willful misconduct of the Port Authority, its employees or agents. In the event of any such loss or damage, the Permittee shall forthwith repair, replace and make good the WTC Fiber Construction Work and the property of the Port Authority, its lessees and permittees. The Permittee shall, and shall require each of its contractors to indemnify the Port Authority and its Commissioners, officers, agents and employees from and against all claims and demands, just or unjust, by third persons (including the Commissioners, officers, agents and employees of the Port Authority) against the Port Authority and its Commissioners, officers, agents and employees, arising or alleged to arise out of the performance of the WTC Fiber Construction Work or based upon any of the risks assumed by the Permittee in this Agreement or any breach hereof, 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 Permittee, any contractors of the Permittee, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only claims and demands which result solely from the gross negligence or willful misconduct of the Port Authority occurring subsequent to commencement of the WTC Fiber Construction Work; provided, however, the Permittee shall not be required to indemnify the Port Authority where indemnity would be precluded by Section 5-322.1 of the General Obligations Law of the State of New York. The Permittee shall cause each such contractor and subcontractor to obtain and maintain in force such insurance coverage and performance bonds as the Port Authority may specify, including, without limitation, a contractual liability endorsement to cover the indemnity obligations assumed by the Permittee pursuant to the provisions of this paragraph.

(2) If so directed, the Permittee shall at its own expense defend any suit based upon any claim or demand described in subparagraph (1) above (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 the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port

Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority. The Permittee shall not be liable for any fees and expenses of separate counsel representing the Port Authority, other than the reasonable costs of investigation. The Permittee shall not be liable for any settlement of any action, proceeding or suit, which settlement is effected by the Port Authority without the prior written consent of the Permittee, which shall not be unreasonably withheld. If the Permittee shall not grant its consent as provided above, such action, proceeding or suit shall thereafter be defended by the Permittee, at its sole cost and expense, subject to the limitations set forth above in this subparagraph (2).

(iv) The WTC Fiber Construction Work shall be performed by the Permittee in accordance with the Construction Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the WTC Fiber Construction Work and after the completion thereof, and the Permittee, upon direction from the Port Authority to do so, shall stop the performance of any portion of the WTC Fiber Construction Work which is not being performed in accordance with the above and redo or replace at its own expense any WTC Fiber Construction Work not done in accordance therewith. The Permittee shall also supply the Port Authority with "as-built" drawings in such form and number as are reasonably requested by the Port Authority, and the Permittee shall keep said drawings current during the term of the permission granted under this Agreement. No changes or modifications to any WTC Fiber Construction Work shall be made without the prior consent of the Port Authority (other than routine, de minimus modifications that are consistent with Prudent Engineering and Operating Practice, notice of which is given to the Port Authority prior to the making of such modification).

(v) Any dispute between the Port Authority and the Permittee regarding whether or not any Construction Application submitted by the Permittee should be approved by the Port Authority shall be handled pursuant to Section 26 of the TNAS Agreement.

(vi) The Permittee shall pay or cause to be paid all claims lawfully made against it by its contractors, subcontractors, material suppliers and workers, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the WTC Fiber Construction Work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them, provided however, that nothing herein contained shall be construed to limit the right of the Permittee to contest any claim of a contractor, subcontractor, material supplier or worker or other person, and no such claim shall be considered to be an obligation of the Permittee within the meaning of this paragraph unless and until the same shall have been finally adjudicated. The Permittee shall use commercially reasonable efforts to resolve any such claims and shall keep the Port Authority fully informed of its actions with respect thereto. Without limiting the generality of the foregoing, the Permittee shall use reasonable efforts to ensure that all of the Permittee's construction contracts, (and for the purposes of this Agreement, the WTC Fiber Backbone Agreement shall not constitute a construction contract), in accordance with all Laws, provide as follows: "If (1) the Contractor fails to perform any of its obligations under this Contract, including its obligation to pay any claims lawfully made against it by any material supplier, subcontractor, worker or any other third person which arises out of or in connection with the performance of this Contract, (2) any claim (just or unjust) which arises out of or in connection with this Contract is made against the Permittee, or (3) any subcontractor under this Contract fails to pay any claims lawfully made against it by any material supplier, subcontractor, worker

or any other third person which arise out of or in connection with this Contract or if in the Permittee's opinion any of the aforesaid contingencies is likely to arise, then the Permittee shall have the right, in its discretion, to withhold out of any payment (final or otherwise and even though such payments have already been certified as due) such sums as the Permittee may deem ample to protect it against delay or loss or to assume the payment of just claims of third persons, and to apply such sums as the Permittee may deem proper to secure such protection or to satisfy such claims. All sums so applied shall be deducted from the Contractor's compensation. Omission by the Permittee to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at the time of payment, shall not be deemed to indicate that the Permittee does not intend to exercise its right with respect to such contingency. Neither the above provisions for the rights of the Permittee to withhold and apply monies nor any exercise or attempted exercise of, or omission to exercise, such right by the Permittee shall create any obligation of any kind to such material suppliers, subcontractors, workers or other third persons. Until actual payment is made to the Contractor, its right to any amount to be paid under this Contract (even though such payments have already been certified as due) shall be subordinate to the rights of the Permittee under this provision."

(c) (i) The Permittee shall not commence any WTC Fiber Construction Work prior to the WTC Commencement Date and until the Construction Application and plans and specifications covering such work have been finally approved by the Port Authority. The Permittee recognizes that its obligation to pay fees, including, without limitation, the WTC Access Fee and the WTC Minimum Fee under this Agreement shall commence on the date of this Agreement even though the WTC Fiber Construction Work will not yet then have been commenced or completed.

(ii) The Permittee shall submit a Construction Application for the WTC Fiber Construction Work at the North Tower Building within sixty (60) days following the execution of this Agreement and a Construction Application for the WTC Fiber Construction Work at the South Tower Building within one hundred fifty (150) days following the execution of this Agreement. In the alternative, the Permittee may, at its option, submit one Construction Application covering the WTC Fiber Construction Work to be performed at both the North Tower Building and the South Tower Building. The Permittee shall use its best efforts to commence the performance of the WTC Fiber Construction Work at the WTC Facility within fifteen (15) days following the approval of the Construction Application and shall diligently pursue the completion of the WTC Fiber Construction Work. The Permittee shall complete the installation of the WTC Fiber Construction Work in the North Tower Building on or before July 31, 2001 and in the South Tower Building on or before October 31, 2001. In the case of any WTC Fiber Construction Work at the Northeast Plaza Building or the Southeast Plaza Building, the Permittee shall be permitted to commence construction in either or both of such buildings until December 31, 2006, at which time its right and obligation to construct the In-Building System in such buildings shall expire. The Permittee may, at its option, submit a Construction Application covering the WTC Fiber Construction Work to be performed in the Northeast Plaza Building and/or a Construction Application covering the WTC Fiber Construction Work to be performed in the Southeast Plaza Building, or one application covering both. In addition, the Permittee shall be required to commence construction in each such building if either (i) at least ten percent (10%) of the tenants in such building, provided such tenants occupy at least fifteen percent (15%) of the rentable square feet of such building, have agreed to utilize the WTC Fiber Backbone System through Carrier Agreements with Carrier Users or otherwise; or (ii) tenants occupying at least twenty percent (20%) of the rentable square feet of such building have agreed

to utilize the WTC Fiber Backbone System through Carrier Agreements with Carrier Users or otherwise. Any of the deadlines for completion of the WTC Fiber Construction Work set forth in this paragraph shall be subject to extension for causes or conditions beyond the control of Permittee, including without limitation any failure of the Port Authority to approve any Construction Application on a timely basis. With respect to the WTC Fiber Construction Work, the format of the certificate required pursuant to Section 8 of the TNAS Agreement shall be reasonably specified by the Port Authority in advance, and the categories required thereon shall be reasonably established by the Port Authority in advance.

(d) The Permittee 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 the Port Authority or the incorporation therein of any Port Authority requirements or recommendations. The Port Authority shall have no obligation or liability in connection with the performance of any of the WTC Fiber Construction Work or for the contracts for the performance thereof entered into by the Permittee. The Permittee hereby releases and discharges the Port Authority, its Commissioners, officers, representatives and employees of and from any and all liability, claims for damages or losses of any kind, whether legal or equitable, or from any action or cause of action arising out of or in connection with the performance of any of the WTC Fiber Construction Work pursuant to the contracts between the Permittee and its contractors except for any of the foregoing caused solely by the gross negligence or willful misconduct of the Port Authority. The Permittee shall use commercially reasonable efforts to make arrangements for the extension to the Port Authority of all warranties extended or available to the Permittee or BRAM in connection with the WTC Fiber Construction Work.

(e) (i)As between the Permittee and the Port Authority, the Port Authority shall be and remain responsible for the clean-up, removal and disposal, response or remediation of any and all Hazardous Substances which were not placed at the WTC Facility by the Permittee or its officers, employees, guests, invitees and other representatives which could subject any Person to liability for costs of cleanup, removal, response or remediation under any Environmental Laws; provided however, the Port Authority shall have the right to direct the Permittee to alter, in a commercially reasonable manner (i.e., if an alteration or modification is less expensive than performing a clean-up, removal and disposal or a remediation), the location of any WTC Fiber Construction Work or otherwise modify, in a commercially reasonable manner (i.e., if an alteration or modification is less expensive than performing a clean-up, removal and disposal or a remediation), the plans and specifications for any WTC Fiber Construction Work in order to investigate the need for any clean-up, removal and disposal, response or remediation. The Permittee shall consult with the Port Authority prior to preparing its plans and specifications to minimize any disturbance to any Hazardous Substance.

(ii) The Permittee shall promptly advise the Port Authority of any environmental findings by the Permittee during the performance of the WTC Fiber Construction Work which suggest that any Hazardous Substance has been or may be disturbed by the performance of the WTC Fiber Construction Work. The Port Authority shall have the right to direct the Permittee to stop the performance of the WTC Fiber Construction Work at any location where it is reasonably expected such work will disturb any Hazardous Substance. The Port Authority shall thereafter promptly commence the performance of any appropriate or required environmental testing at such location. The Port Authority and the Permittee shall

promptly discuss appropriate modifications to the WTC Fiber Construction Work as provided in subparagraph (i), above.

(iii) As between the Permittee and the Port Authority, the Permittee shall be responsible for the clean-up, removal and disposal, response or remediation of any and all Hazardous Substances which could subject any Person to liability for costs of clean-up, removal, response or remediation under any Environmental Laws and which arise out of or result from (1) the use or occupancy of the WTC Fiber Backbone System by the Permittee or its officers, employees, guests, invitees, contractors and other representatives, or (2) any acts or omissions of the Permittee or any of the aforesaid in connection with the WTC Fiber Backbone System; provided that the Permittee shall not be responsible under this subparagraph (iii) with respect to any Hazardous Substances to the extent the Port Authority is responsible for such Hazardous Substances under subparagraph (i) above.

(f) The Permittee understands that there may be other communications and utility lines and conduits located in portions of the WTC Facility where the Permittee will operate the WTC Backbone System. The Port Authority will use commercially reasonable efforts to (i) permit the Permittee to inspect the said portions of the WTC Facility prior to the commencement by the Permittee of the design of the WTC Fiber Backbone Facility and (ii) make available to the Permittee its records to the extent the same are available, in an effort to identify to the Permittee the location of such communication and utility lines which may interfere with the WTC Fiber Construction Work proposed by the Permittee. The Port Authority hereby disclaims any warranty or representation to the Permittee that such records are accurate. The Permittee agrees to design the Construction Work so as to eliminate or minimize the need for relocation of any such communications and utility lines.

(g) Upon completion of the WTC Fiber Construction Work at (i) the WTC Facility, or (ii) separately with respect to (w) One World Trade Center, (x) Two World Trade Center, (y) the Northeast Plaza Building and (z) the Southeast Plaza Building, the Permittee shall supply the Port Authority with a certificate signed by a responsible officer of the Permittee and by the licensed architect or professional engineer who sealed the Permittee's plans pursuant to the provisions of this Section certifying that all or one of the portions specified above, of the WTC Fiber Construction Work has been performed in accordance with the approved plans and specifications covering such work, in accordance with the provisions of this Agreement and in compliance with all applicable laws, ordinances, governmental rules, regulations and orders. The Port Authority will inspect the WTC Fiber Construction Work or a portion thereof as specified above at the WTC Facility and if the same has been completed as certified by the Permittee and the Permittee's licensed architect or professional engineer, the Port Authority shall deliver a certificate to such effect to the Permittee within twenty (20) business days following the Port Authority's receipt of such certification, subject to the condition that all risks thereafter with respect to the construction and installation of the WTC Fiber Construction Work or the portion thereof as specified above and any liability therefor for negligence or other reason shall be borne by the Permittee. The Permittee shall not use or permit the use of the WTC Fiber Backbone System or the portion thereof as specified above for the purposes set forth in this Agreement or conduct WTC Fiber Backbone System Operations until such certificate relating to all or a portion of the WTC Fiber Backbone System, as the case may be, is received from Port Authority.

(h) Except as may otherwise be provided in the WTC Fiber Backbone Agreement with respect to equipment owned by BRAM and in agreements between the

Permittee and Carrier Users and WTC System End-Users (subject in both cases to the consent of the Port Authority) with respect to equipment owned by Carrier Users or the WTC System End-Users as the case may be, title to all fixtures and equipment (as defined in the NYUCC) forming a part of the WTC Fiber Backbone System, including but not limited to the Sumitomo "FutureFlex" fiber optic conduit, shall immediately vest in the Port Authority upon the first to occur of affixation to the WTC Facility or the first use of such items in WTC Fiber Backbone System Operations. The Permittee or BRAM shall each have the right to install replacements for, and the right and the obligation to modify or repair, any or all of the foregoing fixtures and equipment forming a part of the WTC Fiber Backbone System. Title to such replacements shall vest in the Port Authority in the manner provided above. Title to the fixtures and equipment so replaced shall pass to the Permittee or to BRAM, as provided in the WTC Fiber Backbone Agreement. Title to WTC Fiber Backbone System software licenses, equipment warranties and service contracts, etc. to the extent the terms under which the Permittee or BRAM, as the case may be, has obtained the same, permit title therein to be transferred to the Port Authority, shall vest in the Port Authority upon the execution thereof or at the first possible time thereafter as title thereto may vest in the Port Authority. Title to all other assets forming a part of the WTC Fiber Backbone System, including all intangible assets, shall remain vested in the Permittee or BRAM, as provided in the WTC Fiber Backbone Agreement. The Permittee shall promptly execute and deliver bills of sale and all other documents necessary or convenient in order to evidence the transfer of title to the Port Authority of all the items mentioned in this paragraph. The Port Authority hereby grants to the Permittee (and through the Permittee, to BRAM) an exclusive right to use all parts of the WTC Fiber Backbone System to which title is being conveyed to the Port Authority pursuant to this Section 5 (h), which use shall be in the manner permitted by this Agreement. This right to use shall commence upon the vesting of title to the Port Authority as hereinabove provided and shall continue throughout the term of the permission granted to the Permittee to operate the WTC Fiber Backbone System.

(i) The Port Authority shall provide to the Permittee and BRAM, promptly after the execution of this Agreement, a letter (i) stating that the Port Authority is a "public corporation" within the meaning of New York State Department of Taxation and Finance Regulation Section 529.2(a)(2) and New York Tax Law Section 1116(a)(1), and (ii) describing the proposed ownership and use of the equipment installed or to be installed pursuant to this Agreement and the WTC Fiber Backbone Agreement as part of the WTC Fiber Backbone System, which letter may be used by each of the Permittee and BRAM in its efforts to obtain a sales tax exemption from New York State Division of Taxation and Finance with regard to its purchase of such equipment.

Section 6. In-Kind Services

Upon the written request by the Port Authority therefor, from time-to-time the Permittee or BRAM shall, at no charge, install, operate and maintain for use by the Port Authority or one or more affiliated entities designated by it, but not by the Net Lessee (as defined in Section 16) or any other assignee, successor or lessee of the Port Authority (including any assignee of its rights under the TNAS Agreement) unless expressly and specifically agreed to in writing by the Port Authority, a total of two fiber optic cable strands per floor to serve each floor then occupied by the Port Authority in the WTC Facility, or such of the above-described floors as may then be specified by the Port Authority; provided, however, in no event shall the Permittee or BRAM (i) be required to provide more than five (5) fiber optic strands in the aggregate or (ii) be responsible for the electronic connections at the end of each of the fiber optic strands.

Section 7. Termination of WTC Fiber Backbone Agreement.

(a) Notwithstanding anything contained in this Agreement to the contrary, pursuant to Section 19(h) of the WTC Fiber Backbone Agreement, BRAM shall have the right at any time, upon at least thirty (30) days notice to the Permittee and the Port Authority to terminate the WTC Fiber Backbone Agreement before the end of the Term, provided that before such termination is effective, BRAM satisfies the terms and conditions of such Section 19 (h), including without limitation, paying to the Port Authority on or prior to the date of termination, as liquidated damages, an amount (the "Port Authority Final Payment") equal to the greater of (i) the sum of Five Hundred Thousand Dollars ($500,000), or (ii) an amount equal to the WTC Minimum Fee for the entire Annual Period in which the termination date occurs plus an amount equal to the WTC Minimum Fee for the immediately preceding Annual Period (without taking into account or off-setting any amounts otherwise due or paid by BRAM under the WTC Fiber Backbone Agreement prior to the date of such termination). Upon such termination and the satisfaction of the terms and conditions in such Section 19(h) and this paragraph, or upon a termination of the WTC Fiber Backbone Agreement pursuant to Section 19(a) thereof and the full compliance by BRAM with the requirements of the last sentence of such Section 19(a), the Port Authority shall return to BRAM (as applicable) any remaining Security Deposit or the letter of credit described in Section 13 below, and BRAM and EurekaGGN shall not have any further rights against or obligations to the Port Authority under the WTC Fiber Backbone Agreement (except as expressly set forth therein) and under the Nondisturbance Agreement. BRAM and EurekaGGN shall be entitled to rely on this Section 7(a) as third-party beneficiaries thereof.

(b) If (i) BRAM exercises its right to terminate the WTC Fiber Backbone Agreement pursuant to Section 19(h) thereof and on or prior to the date of termination thereof pays the Port Authority Final Payment to the Port Authority, (ii) the WTC Fiber Backbone Agreement terminates pursuant to Section 19(a) thereof and BRAM complies in full with the requirements of the last sentence of such Section 19(a), or (iii) the WTC Fiber Backbone Agreement terminates pursuant to Section 5(VII) thereof and BRAM complies in full with the requirements of the last two sentences of such Section 5(VII), then upon such termination and the satisfaction of the terms and conditions in this paragraph, (y) the Port Authority shall return to BRAM any remaining Security Deposit or the related letter of credit, and (z) the Permittee shall not have any further obligations with respect to the World Trade Center and the WTC Fiber Backbone System (including without limitation any obligation to pay the fees required hereunder) under this Supplemental Agreement; provided, however, that the Permittee may elect in writing, delivered to the Port Authority within 30 days after such termination, to continue to operate the WTC Fiber Backbone System for the uses set forth in this Agreement on reasonable and customary terms and conditions to be determined by the Permittee and the Port Authority based on market conditions at the time of such termination. The parties agree to negotiate such terms and conditions in good faith and in a commercially reasonable manner and to set forth same in a written amendment or supplement to the TNAS Agreement to be entered into within 180 days after the date of such termination. If the parties hereto have complied with the provisions of this Section 7 but such amendment or supplement is not entered into within the aforementioned 180 day period, or if the Permittee does not elect to continue to operate the WTC Fiber Backbone System in accordance with the foregoing, then the Permittee shall comply with its obligations under Section 8(a) hereof (without exception for the BRAM Equipment).

Section 8. Surrender

(a) Upon the expiration or termination of this Agreement, the Permittee covenants and agrees to yield and deliver the WTC Fiber Backbone System peaceably to the Port Authority free and clear of any claim of ownership by the Permittee, including title to the Sumitomo "FutureFlex" fiber optic conduit and the rights to the Permittee's agreement with BRAM, WTC Fiber Backbone System software licenses, equipment warranties, service contracts, etc., but excluding (i) all of the Permittee's and BRAM's equipment located in the Space, (ii) any equipment (but not fixtures or trade fixtures) connecting the Sumitomo "FutureFlex" fiber optic conduit with the equipment in the Space and (iii) any equipment owned by Carrier Users or WTC System End Users, all without any further act or deed by the Permittee. The Permittee shall promptly execute and deliver quitclaim assignments, bills of sale and all other equivalent documents necessary or convenient in order to evidence the rights of the Port Authority therein, including title to the Sumitomo "FutureFlex" fiber optic conduit, all WTC Fiber Backbone System software licenses, equipment warranties, service contracts, etc. Such right to use the WTC Fiber Backbone System shall not in any manner affect, alter or diminish any of the obligations of the Permittee under this Agreement. Upon the expiration or termination of this Agreement, the Permittee shall deliver the WTC Fiber Backbone System to the Port Authority promptly and in good condition, such reasonable wear excepted as would not adversely affect or interfere with its proper operation under this Agreement.

(b) The Permittee shall have the right at any time during the WTC Term to remove a portion or portions of the WTC Fiber Backbone System consisting of equipment or other personal property from the WTC Facility, provided that the Permittee shall install suitable replacements therefor as is necessary for WTC Fiber Backbone System Operations. Furthermore, upon the expiration or sooner termination of this Agreement the Permittee shall promptly remove the WTC Fiber Backbone System, only if so directed by the Port Authority, and, only upon such removal, title to the Sumitomo "FutureFlex" fiber conduit shall thereupon vest in the Permittee and title to the electronic equipment forming a part of the WTC Fiber Backbone System, software licenses, equipment warranties, service contracts, etc. shall thereupon vest in BRAM, except as may be otherwise provided in the WTC Fiber Backbone Agreement, without any further act or deed by the Permittee or by BRAM, as the case may be. The Port Authority shall promptly execute and deliver bills of sale and all other documents necessary or convenient in order to evidence any such transfer of title to the Permittee or BRAM, as the case may be.

(c) If the Permittee shall fail to remove the WTC Fiber Backbone System within One Hundred Twenty (120) days after receiving a written direction to do so from the Port Authority pursuant to the provisions of this Section, the Port Authority may remove the WTC Fiber Backbone System or a portion or portions thereof to a public warehouse for deposit or retain the same in its own possession, and, in either event, may dispose of the same as waste material or 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 Permittee to the Port Authority, with any balance remaining to be paid to the Permittee; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Permittee shall pay such excess to the Port Authority on demand. Without limiting any other term or provision of this Agreement, the Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and contractors from all claims of third persons arising out of the Port Authority's removal and disposition of property pursuant to this

paragraph, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise.

Section 9. Miscellaneous

(a) The following sections of the TNAS Agreement shall each be inapplicable to the WTC Fiber Backbone System and, to the extent its activities are limited solely to those set forth in the WTC Fiber Backbone Agreement, BRAM: Section 41, "Non-Discrimination", Section 42, "Affirmative Action" and Section 43 "Permittee's Additional Ongoing Affirmative Action - Equal Opportunity Commitment".

(b) The Permittee recognizes that it is a special consideration for the Port Authority's entering into this Agreement that the Permittee, without in any way limiting or modifying its obligations with respect to any other provision of the TNAS Agreement, hereby confirms that all the obligations assumed by the Permittee pursuant to Section 46 of the TNAS Agreement, including all references therein to objectionable interference, are fully applicable to WTC Fiber Backbone System Operations, provided, however that the obligation of the Port Authority contained in the second sentence of paragraph (b) of Section 46 shall not be applicable to any communications activity conducted by any Carrier Users or WTC System End Users on the WTC Fiber Backbone System. The Permittee understands that the Port Authority makes no representations with respect to the performance or operation of the WTC Fiber Network or any facilities installed by any entity in connection therewith and it makes no representation that installations or facilities of others at the World Trade Center will not interfere, electronically or otherwise, with such performance or operation. The Permittee understands that the Port Authority may install or may permit the installation by persons other than the Permittee of lines, cables, conduits and equipment in close proximity to cables, lines and equipment of the Permittee, Carrier Users and/or WTC End Users, and the Port Authority shall not be responsible or liable for any damage to or interference with the Permittee's or BRAM's wireless telecommunications installations caused by any of the Port Authority's lines or other equipment, or by lines or other equipment of third parties. With respect to wired telecommunications installations, the Port Authority shall use its reasonable efforts not to interfere with the use and operation of the Permittee's, Carrier Users' or BRAM's wired telecommunications services and equipment.

(c) The Permittee hereby represents and warrants that the provisions of subparagraph (b)(ii)(1) of Section 25 of the TNAS Agreement are fully applicable with respect to the negotiation and execution of this Agreement as a supplement to the TNAS Agreement and that no approval by or consultation with the "Project Lender" (as such term is defined in said Section 25) shall be required in order to authorize or permit the Permittee to negotiate and enter into this Agreement with the Port Authority.

(d) (i) Within thirty (30) days of the full execution and delivery of this Agreement, the Port Authority shall provide the Permittee with a list of the names, addresses and tenant contacts for each existing tenant in the WTC Facility, and shall send or permit the Permittee or BRAM to send to each such tenant a letter using the mailing list supplied by the Port Authority, in the form set forth on Exhibit "M" attached to the WTC Fiber Backbone Agreement (as the same may be modified (i) in the case of immaterial changes to correct grammar, tense, dates, names and similar matters, by 10 days' notice to the Port Authority and

(ii) in the case of all other modifications, by the mutual agreement of the Permittee, BRAM and the Port Authority), acknowledging the Permittee, BRAM and EurekaGGN and describing the WTC Fiber Backbone System. Upon the written request of the Permittee, the Port Authority shall also endeavor to promptly provide the Permittee with the name, address and tenant contact for each tenant who becomes a tenant in the WTC Facility in the future during the WTC Term. The Permittee and BRAM shall be permitted access to the WTC to solicit tenants of each WTC Facility in person during normal business hours.

(ii) The Port Authority hereby consents to the following in connection with EurekaGGN's promotional activities:

(1) The Permittee, BRAM and EurekaGGN shall be entitled to state that the WTC Facility is a "EurekaGGN.GGN Lit Building;" and

(2) The Permittee, BRAM and EurekaGGN shall be entitled to use either a rendering or a photograph of the WTC Facility in its promotional literature.

(e) Any breach or default of the TNAS Agreement that would permit the termination of the TNAS Agreement pursuant to its terms by the non-breaching party shall not: (i) if such breach relates solely to the construction, operation, maintenance or use (or failure to properly perform same) of the WTC Fiber Backbone System, permit the non-breaching party to terminate the TNAS Agreement with respect to that portion of the System (the "Non-WTC System") other than the WTC Fiber Backbone System and (ii) if such breach or default relates solely to the construction, operation, maintenance or use (or failure to properly perform same) of the Non-WTC System, permit the non-breaching party to terminate the TNAS Agreement with respect to the WTC Fiber Backbone System.

(f) In the event of damage to the World Trade Center resulting from a casualty caused by the fault of any Carrier User or the officers, employees, agents, representatives, contractors, or invitees of any Carrier User or other persons doing business with any Carrier User, then, notwithstanding the provisions of Section 12(e) of the TNAS Agreement, the Permittee shall be entitled to the abatement of the WTC Minimum Fees payable hereunder in the same manner as the Minimum Fees are abated under Subsections 12(a) through 12(d) of the TNAS Agreement and, as applicable, a pro rata portion of the Security Deposit shall be released to BRAM or the face amount of the letter of credit provided for in Section 13(b) hereof shall be reduced pro rata in each instance, only for the period of such abatement. In addition, clause (i) of Subsection 12(a)(i) of the TNAS Agreement shall be and hereby is amended, solely as it relates to the WTC, to provide that the repairs or rebuilding of the WTC Facility in question shall include the re-building of the In-Building System for such WTC Facility by the Permittee or BRAM, provided that BRAM has diligently pursued such re-building).

(g) The Permittee's indemnification obligations under Section 13 of the TNAS Agreement shall be limited with respect to the World Trade Center to the extent indemnification of the Port Authority and its commissioners, members, officers, agents, representatives and employees is provided by BRAM under the WTC Fiber Backbone Agreement or a Carrier User under its Carrier Agreement.

(h) Notwithstanding the provisions set forth in Section 32 of the TNAS Agreement, the Permittee's obligations under the TNAS Agreement may be performed and its

rights or privileges thereunder may be exercised by subcontractors unless the Port Authority objects thereto in writing.

(i) Section 44(f) of the TNAS Agreement shall be and hereby is amended, solely as it relates to the WTC, to provide that no failure, delay, interruption or reduction in any electrical service or services in the WTC for a continuous period of less than five days shall be or shall be construed to be an eviction of Permittee, shall be grounds for any diminution or abatement of the fees payable under the TNAS Agreement, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the gross negligence or willful misconduct of the Port Authority, its employees or agents.

(j) Section 10 of the TNAS Agreement shall be and hereby is amended, solely as it relates to the WTC, to provide that the Permittee's obligations under clause (ii) thereof arise only upon notice from the Port Authority of the prohibited act or thing, in the same manner as BRAM's obligations under Section 10 of the WTC Fiber Backbone Agreement.

Section 10. Warrants

The WTC Fiber Backbone Agreement shall obligate BRAM to cause EurekaGGN to and EurekaGGN shall on the WTC Commencement Date enter into a Warrant Agreement with and issue to the Permittee a Warrant (the "Warrant"), both the Warrant Agreement and the Warrant being in the form attached to the WTC Fiber Backbone Agreement as "Exhibit E," entitling the Permittee to purchase Two Hundred Eighteen Thousand Five Hundred Ninety-one (218,591) shares of the common stock of EurekaGGN at a purchase price of One Dollar and Twenty-Five Cents, ($1.25) per share.

Section 11. Changes in Federal Regulation

If the laws, rules and regulations of the United States Government regarding the use and operation of the WTC Fiber Backbone System in effect as of the date of this Agreement are amended, supplemented, modified or repealed so as to grant to third parties rights of use and access to the WTC Fiber Backbone System, including the Sumitomo "FutureFlex" fiber optic conduit, other than through consensual agreements with the Permittee governing such use and operation, (each such amendment, modification or repeal being called in this Section an "Adverse Federal Regulatory Change") then the Permittee shall be permitted to terminate the TNAS Agreement solely with respect to the WTC Fiber Backbone System upon Forty-five (45) days prior written notice to the Port Authority. This right of termination by the Permittee shall expire on the day preceding the second anniversary of such Adverse Federal Regulatory Change.

Section 12. New Competition

(a) New Competition shall mean any of the following:

(i) Any Competitive Telecommunications Delivery System introduced by any Person for the first time into the WTC Facility after the WTC Commencement Date that is both:

(A) actively providing service to customers either (x) on forty (40) or more floors in the WTC Facility, or (y) to twenty-five percent (25%) or more of the tenants in the WTC Facility; and

(B) competing with the WTC Fiber Backbone System for the delivery of telecommunications services to tenants in the WTC Facility.

(ii) Any change of Laws that has materially impaired the revenues generated from the WTC Fiber Backbone System.

(iii) Any mandate by a Governmental Authority which caused an involuntary (x) sale of all or a material portion of the WTC Fiber Backbone System, (y) lease of all or a material portion of the WTC Fiber Backbone System at less than fair market rates or (z) material reduction in rates charged by the Permittee for connectivity to the WTC Fiber Backbone System.

(b) A "Competitive Telecommunications Delivery System" is characterized by a "shared" fiber infrastructure that delivers voice and/or data telecommunications products and services (such as local dial tone, long distance dial tone, internet access, frame relay, and virtual private network services) through the installation of a vertical fiber distribution infrastructure connecting, in the manner described below in this paragraph, more than eighty (80) floors in the WTC Facility. Such infrastructure as installed is capable of serving fifty percent (50%) or more of the tenants in the WTC Facility and consists of "Intermediate Distribution Frame Junction Boxes" ("IDFs") on select floors of the building where the fiber is terminated. All the fiber running from the IDFs eventually traces back to one or more central locations within the building where it is cross-connected to voice and/or data equipment, such as switches, routers and voice aggregation devices. Such equipment is then connected to a central office for interconnection with the internet and/or the public switched telephone network.

(c) Notwithstanding paragraphs (a) and (b) above, New Competition does not include the installation or operation of additional WTC Facility fiber riser cables by the Persons listed on Exhibit "L" attached to the WTC Fiber Backbone Agreement, including the successors or assigns of such Persons, having agreements, as such agreements may be amended, supplemented or replaced, with the Port Authority, in effect on the date of this Agreement, providing for the right to deliver telecommunications service to one or more WTC tenants.

(d) In the event a Person seeks an agreement with the Port Authority providing inter alia for the installation and operation of building fiber riser cables to be used to provide telecommunications service to one or more third parties, the Port Authority hereby agrees that, at least thirty (30) days prior to authorizing the installation of any building fiber riser cables by such Person, it shall notify the Permittee of the identity of such Person and the general location of the proposed installation.

(e) In the event there is New Competition, the WTC Minimum Fees shall be reduced for the balance of the Term by fifty percent (50%). This reduction in the WTC Minimum Fees shall be triggered upon the first occurrence, and only upon the first occurrence, of New Competition.

Section 13. Security Deposit or Letter of Credit

(a) On the WTC Commencement Date, the Permittee shall cause BRAM to deposit with the Port Authority (and to keep deposited throughout the WTC Term) either (i) (x) until the expiration of the Fifth Annual Period, the sum of Five Hundred Thousand Dollars ($500,000) in cash, (y) until the expiration of the Tenth Annual Period, the sum of One Million

Dollars ($1,000,000) in cash and during each Annual Period thereafter, cash in the aggregate amount equal to the WTC Minimum Fees for such Annual Period plus the amount of the WTC Minimum Fees for the next Annual Period, or (ii) bonds of the United States of America, or of the State of New Jersey, or of the State of New York, having a market value of the amount specified in each category above, as security for the full, faithful and prompt performance of and compliance with, on the part of the Permittee and BRAM, all of the terms, provisions, covenants and conditions of this Agreement on their part to be fulfilled, kept, performed or observed (the "Security Deposit"). Bonds qualifying for deposit hereunder shall be in bearer form but if bonds of that issue were offered only in registered form, then BRAM may deposit such bond or bonds in registered form, provided, however, that the Port Authority 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 the Port Authority (the expense of such re-registration to be borne by BRAM) in a manner satisfactory to the Port Authority in its reasonable discretion. BRAM may request the Port Authority to accept a registered bond in BRAM's name and, if acceptable to the Port Authority, BRAM shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require in its reasonable discretion) in form and substance satisfactory to the Port Authority in its reasonable discretion. In the event the deposit is returned to BRAM, any expenses incurred by the Port Authority in re-registering a bond to the name of BRAM shall be borne by BRAM. In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Permittee or BRAM. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Agreement on the part of the Permittee or BRAM. With respect to any bonds deposited by BRAM, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Permittee or BRAM, 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 the Port Authority, together with the right to purchase the same at such sale. The proceeds of every such sale shall be applied by the Port Authority, first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Permittee or BRAM. Any balance remaining shall be retained in cash toward bringing the deposit to the sum specified above. In the event that the Port Authority shall, in accordance with the terms hereof, at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof is or shall have declined below the above-mentioned amount, the Permittee shall cause BRAM to, on demand of the Port Authority and within two (2) Business Days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times to the full amount above stated, and such additional deposits shall be subject to all the conditions of this Section. After the expiration or earlier termination of the WTC Term, and upon condition that the Permittee or BRAM shall then be in no way in default under any part of this Agreement, and upon written request therefor by BRAM, the Port Authority shall promptly return the deposit to BRAM, together with any interest earned thereon, less the amount of any and all unpaid claims and demands (including estimated damages) of the Permittee or BRAM by reason of any previous default or breach by the Permittee or BRAM of this Agreement or any part thereof. After the expiration or earlier termination of this Agreement with respect to any individual building within the WTC Facility, and upon condition that BRAM shall then be in no way in default under any part of this Agreement, and upon written request therefor by BRAM, the Port Authority shall promptly return a pro rata portion of the Security Deposit to BRAM (based on the total rentable square footage in such building compared to the total

rentable square footage in the WTC Facility), together with any interest earned thereon, less the amount of any and all unpaid claims and demands (including estimated damages) of BRAM by reason of any previous default or breach by the Permittee or BRAM of this Agreement or any part thereof. BRAM agrees that it will not assign or encumber the deposit. BRAM agrees that it will not assign or encumber the deposit. The Port Authority shall be entitled to collect or receive any and all interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, which amounts shall be held as additional security pursuant to and in accordance with the terms of this Section.

(b) In lieu of the Security Deposit required pursuant to paragraph (a) of this Section, the Permittee may cause BRAM or its affiliate to deliver to the Port Authority, as security for all obligations of the Permittee and BRAM under this Agreement, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of (i) until the expiration of the Fifth Annual Period, the sum of Five Hundred Thousand Dollars ($500,000), (ii) until the expiration of the Tenth Annual Period, One Million Dollars ($1,000,000) and (iii) during each Annual Period thereafter, the aggregate amount equal to the WTC Minimum Fees for such Annual Period plus the amount of the WTC Minimum Fees for the next Annual Period. The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing reasonable approval of the Port Authority. A form of such letter of credit acceptable to the Port Authority as of the date of this Agreement is attached as Exhibit "K" to the WTC Fiber Backbone Agreement, and is hereby incorporated by reference herein and made a part hereof. Such letter of credit shall provide that it shall continue throughout the WTC Term and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal every two years or by substitution of a subsequent reasonably satisfactory letter. Upon notice of cancellation of a letter of credit, the Permittee and BRAM agree 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 amount required in accordance with paragraph (a) of this Section or another letter of credit reasonably satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security under paragraph (a) of this Section. Failure to provide and maintain such letter of credit at any time during the WTC Term which is valid and available to the Port Authority including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority 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 Permittee. Upon acceptance of such letter of credit by the Port Authority, and upon request by BRAM made thereafter, the Port Authority will return any Security Deposit theretofore made under and in accordance with the provisions of paragraph (a) of this Section. BRAM shall have the same rights to receive such deposit during the existence of a valid letter of credit as it would have to receive such sum upon expiration of this Agreement and fulfillment of the obligations of BRAM under this Agreement. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder in accordance with the terms hereof, the Permittee shall cause BRAM to, on written demand of the Port Authority and within two (2) Business Days thereafter, to bring the letter of credit back up to its full amount. After the expiration or earlier termination of the WTC Term, and upon the conditions that the Permittee or BRAM shall then be in no way in default under any part of this Agreement and there shall not be any unpaid claims or demands (including estimated damages) by reason of any previous default or breach by the Permittee or BRAM of this Agreement or any part thereof, and upon written request therefor by the Permittee or BRAM, the Port Authority shall promptly return the letter of credit

to BRAM. After the expiration or earlier termination of this Agreement with respect to any individual building within the WTC Facility, and upon the conditions that the Permittee or BRAM shall then be in no way in default under any part of this Agreement and there shall not be any unpaid claims or demands (including estimated damages) by reason of any previous default or breach by the Permittee or BRAM of this Agreement or any part thereof, and upon written request therefor by the Permittee or BRAM, the Port Authority shall promptly consent in writing to a pro rata reduction of the amount of the letter of credit (based on the total rentable square footage in such building compared to the total rentable square footage in the WTC).

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

(d) The Port Authority shall, on or before the execution of the Net Lease (as hereinafter defined), and subject to the terms of Section 16 hereof, transfer and assign to the Net Lessee all of the Port Authority's right, title and interest in and to the security deposit or letter of credit paid or issued to the Port Authority under this Section, and shall pay any cash or bonds constituting the security deposit to the Net Lessee. In the event of a Foreclosure (as hereinafter defined), the Net Lessee shall transfer and assign to the Lender (as hereinafter defined) all of the Net Lessee's right, title and interest in and to the security deposit or letter of credit paid or issued to the Net Lessee under this Section, and shall pay any cash or bonds constituting the security deposit to the Lender.

Section 14. No Broker

The Permittee represents and warrants that no broker has been concerned in the negotiation of this Agreement or the implementation of the WTC Fiber Backbone System hereunder, including but not limited to the establishment of fees payable by the Permittee to the Port Authority therefor, and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Permittee shall indemnify and save harmless the Port Authority 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 or the implementation of the WTC Fiber Backbone System hereunder, including but not limited to the establishment of fees payable by the Permittee to the Port Authority therefor.

Section 15. Estoppel Certificates

At any time and from time to time, within Fifteen (15) days after the Port Authority's request, the Permittee shall certify by written instrument, duly executed, acknowledged and delivered, to the Port Authority or any other person or entity specified by the Port Authority as to the following with respect to the TNAS Agreement, as it is hereby and may hereafter be extended, amended and supplemented (hereafter, in this Section, the "Then Current Agreement"):

(i) That the Then Current Agreement is unmodified and in full force and effect or, if there have been modifications, that the same is in full force and effect as

modified, and stating the modifications, and that there are no other agreements or understandings, whether written or oral, between the landlord and the Permittee with respect to the Then Current Agreement or any Port Authority Facility;

(ii) The date of expiration of the then current term of the Then Current Agreement, and what (if any) rights of renewal, rights of cancellation, including options to purchase, rights of first offer, or rights of first refusal, the Permittee has;

(iii) The amounts of minimum fees, and all other fixed charges, payable under the Then Current Agreement, and the date through which all such fees and charges have been paid in advance;

(iv) Whether all payments (if any) to be made by the Port Authority or any Net Lessee (as defined in Section 16 below) to the Permittee for improvement work pursuant to the Then Current Agreement have been made;

(v) Whether or not there are then existing any known set-offs or defenses against the enforcement of any of the agreements, terms, covenants or conditions, or any modifications thereof of the Then Current Agreement, upon the part of the Permittee to be performed or complied with, and if so, specifying the same;

(vi) Whether the Permittee has sent to or received from the landlord a notice of default under the Then Current Agreement, and whether the Permittee has knowledge of any event which with the giving of notice, the passage of time or both would constitute a default by the landlord under the Then Current Agreement;

(vii) The amount of any Security Deposit or the face amount of (and if known, the available amount under) any letter of credit held by the Port Authority or any Net Lessee under the Then Current Agreement;

(viii) Whether the Permittee has assigned the Then Current Agreement, if it has any right to do so under the Then Current Agreement; and

(ix) Such other matters relating to the Then Current Agreement as the Port Authority may reasonably request.

Section 16. Subordination and Non-Disturbance

(a) (i) The TNAS Agreement, solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, shall in all respects be and hereby is made subject to an agreement of lease (as the same may be entered into, amended and/or modified from time-to-time, the "Net Lease") covering a leasehold interest in and to significant portions of the World Trade Center entered into (or to be entered into) by the Port Authority and a third party and its successors and assigns (the "Net Lessee") on the condition that the Net Lessee shall execute such confirmatory instruments (the "Assumption Instruments") as the Permittee shall reasonably require to evidence the Net Lessee's agreement to assume the obligations of the Port Authority under the TNAS Agreement (other than its obligations under Section 5(i) hereof, which shall remain an obligation of the Port Authority), solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, and to confirm its receipt of the Security Deposit or the letter of credit pursuant to Section 13 hereof, and to be further bound by the

provisions of this Section 16. The TNAS Agreement, solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, shall in all respects be and hereby is made subject and subordinate to the lien of any security instrument executed by the Net Lessee in connection with a financing of the Net Lease by a bank or other financial institution (the "Lender"), on the condition that the Net Lessee and Lender shall execute a non-disturbance agreement with the Permittee (in form reasonably acceptable to the Permittee), as described in Section 16(b)(i) below. The Permittee hereby agrees, upon written notice of same by the Port Authority, to recognize that the Net Lessee may act in substitution for the Port Authority under the TNAS Agreement, solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, and shall have all the rights and obligations of the Port Authority under the TNAS Agreement, solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, except as is specifically provided below and provided that the Net Lessee shall execute the Assumption Instruments.

(ii) The Port Authority hereby agrees to transfer to the Net Lessee (as applicable) the Security Deposit or the letter of credit pursuant to Section 13 hereof.

(iii) In the event the Lender acquires or succeeds to the interests of the Net Lessee under the TNAS Agreement, solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, by means of a foreclosure, deed in lieu of foreclosure or otherwise ("Foreclosure"), the Permittee hereby agrees, upon written notice of same by the Port Authority, provided the Security Deposit has been transferred to the Lender, to recognize the Lender or its authorized designee in substitution of the Port Authority under the TNAS Agreement, solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, except as is specifically provided below and provided that the Lender shall execute such confirmatory instruments as the Permittee shall reasonably require to evidence the Lender's agreement to assume the obligations of the Port Authority under the TNAS Agreement, solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, and to confirm Lender's receipt of the Security Deposit. From and after such recognition, the Lender shall be bound to the Permittee under all of the terms, provisions, covenants and conditions of the TNAS Agreement, solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, except that Lender shall not be: (v) liable for any act or omission, or obligated to cure any defaults, of any Net Lessee or any prior lender, which occurred prior to the date the Lender acquired or succeeded to the interests of the Net Lessee under the TNAS Agreement; (w) subject to any offsets or defenses that the Permittee may have against any Net Lessee or any prior lender; (x) bound by any amendment, modification or termination of the TNAS Agreement not executed prior to the date the Lender succeeded to the interests of Net Lessee, unless consented to in writing by the Lender; (y) bound by any payment of any minimum or variable fee paid to any Net Lessee for more than the then-current calendar quarter (unless the same is required pursuant to the WTC Fiber Backbone Agreement); and (z) obligated to refund any security deposit unless actually received by the Lender or its authorized designee. The Lender shall have no obligation, nor incur any liability to the Permittee beyond the Lender's then-interest in the World Trade Center, and the Permittee shall each look exclusively to such interest of the Lender in the World Trade Center for the payment and discharge of any obligations that may be imposed on the Lender under the TNAS Agreement, solely as and to the extent the TNAS Agreement is applicable to the World Trade Center.

(b) (i) The Net Lessee (and any Lender which acquires the Net Lessee's interest through a Foreclosure) shall agree (in form reasonably satisfactory to the Permittee) to

recognize the Permittee and the Permittee's rights under the TNAS Agreement and shall agree that the Permittee's rights and privileges under the TNAS Agreement shall not be disturbed during the term of the TNAS Agreement (and any renewals or extensions thereof), provided that the Permittee is not in default under the terms of the TNAS Agreement applicable thereto solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, beyond any applicable grace period, and complies with its obligations under this Section.

(ii) In the event the Net Lease is terminated, the Port Authority shall recognize the TNAS Agreement as and to the extent the TNAS Agreement is applicable to the World Trade Center, and shall not disturb the rights and privileges of the Permittee under the TNAS Agreement (and any renewals or extensions thereof), provided that the Permittee is not in default under the terms of the TNAS Agreement solely as and to the extent the TNAS Agreement is applicable to the World Trade Center, beyond any applicable grace period, and complies with its obligations under this Section.

Section 17. No Liability

Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Permittee with any liability, or 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 thereof.

Section 18. Continuation in Effect

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

Section 19. Counterparts

This Agreement may be executed in any number of counterparts, and each counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

Section 20. Entire Agreement

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

[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.]

[THE NEXT PAGE IS THE SIGNATURE PAGE.]

IN WITNESS WHEREOF, the Port Authority and the Permittee have executed these presents, as of the date first above written.

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Title: DIRECTOR OF REAL ESTATE

(Seal)

ATTEST:

Name: Sharon G. Knudsen
Title: Program Control Mgr

NEW YORK TELECOM PARTNERS, LLC

By: CONCOURSE COMMUNICATIONS GROUP, LLC

By: _____

Richard DiGeronimo
Chief Executive Officer

TWA Supplement

"APPROVED"
FORM TERMS

EXHIBIT "A"

WTC Fiber Backbone Agreement

Agreement No. AX-713
Supplement No. 2

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of June 30, 2002 by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter called the "Port Authority") and **NEW YORK TELECOM PARTNERS, LLC** (hereinafter called the "Permittee"),

WITNESSETH, That:

WHEREAS, the Port Authority and the Permittee heretofore and as of August 26, 1999 entered into an agreement identified by the above Port Authority Agreement Number (which agreement, as the same may have heretofore been supplemented and amended is hereinafter called the "TNAS Agreement") covering certain privileges and obligations with respect to the installation, operation and maintenance of a wireless telecommunications network access system ("TNAS System") at Port Authority facilities designated in the Agreement; and

WHEREAS, in addition to the privileges and obligations granted to and imposed on the Permittee under the TNAS Agreement with respect to the TNAS System, the TNAS Agreement grants the Permittee the non-exclusive right to install radio transmission towers ("Monopoles") at locations at Port Authority Facilities as and to the extent approved by the Port Authority in its sole and absolute discretion and provides that the Permittee may mount exterior antennas on such Ancillary Towers or on other towers or components of the TNAS System as and to the extent approved by the Port Authority in its sole and absolute discretion; and

WHEREAS, the Port Authority and the Permittee desire to amend the TNAS Agreement to provide for the Permittee's implementation of the non-exclusive right to install, operate and maintain Monopoles at the Port Authority's Port Newark facility ("Site"), to provide also for the Permittee's mounting of exterior antennas on the Monopoles and on certain rooftop locations at the Site and to otherwise amend the TNAS Agreement;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, and effective as of the date first set forth above except as otherwise provided below, the Port Authority and the Lessee hereby agree as follows:

1. (a) Effective from and after July 1, 2002, the Port Authority hereby approves the Permittee's proposed implementation of its non-exclusive right to install Monopoles at the Site, and to mount exterior antennas on the Monopoles and on certain

designated rooftops ("Related Improvements") at the Site, subject to approval by the Port Authority of the Permittee's Construction Application(s) and plans and specifications covering all design, construction and installation work with respect to all proposed Monopoles and all Related Improvements at the Site. The Monopoles and Related Improvements are sometimes hereinafter collectively referred to as the "Monopole System." The installation, operation and maintenance of the Monopole System are sometimes hereinafter collectively referred to as the "Monopole System Operations." In no event shall the Monopole System be deemed to include any proprietary Carrier User equipment utilized by any Carrier User in connection with Monopole System Operations. Capitalized terms used in this Supplemental Agreement but not herein defined shall have the meanings ascribed to such terms in the TNAS Agreement.

(b) For all purposes of the TNAS Agreement except as hereinafter expressly provided, effective from and after July 1, 2002, the "System," described in subparagraph (a)(i) of Section 2 of the TNAS Agreement, shall be deemed to incorporate and include the Monopole System, and the Site, which is a Port Authority Facility, shall be deemed to be a Covered Facility.

2. (a) The Monopole System shall be installed, operated and maintained on a non-discriminatory basis up to the design capacity of the Monopole System at a particular Covered Facility, including but not limited to the Site, in accordance with the terms, provisions and conditions of the form of Schedule 2.8(i) attached hereto and hereby made a part hereof. The parties to this Agreement hereby agree that effective as of July 1, 2002 Schedule 2.8(i) shall be incorporated into and become a part of the form of Carrier Access Agreement attached as Exhibit D to the TNAS Agreement. The Permittee will not amend the form of Schedule 2.8(i) without the prior written consent of the Port Authority. In the event the Permittee desires to conduct Monopole System Operations at Port Authority Facilities in addition to the Site, the parties hereto may amend this Supplemental Agreement by letter agreement(s) identifying such additional Port Authority Facilities and expressly providing that the terms, provisions and conditions of Schedule 2.8(i), except as may otherwise be provided in such letter agreement, shall be applicable to all Monopole System Operations at such additional Port Authority Facilities, which, upon the commencement of Monopole System Operations at such Port Authority Facilities, shall be deemed to be Covered Facilities. The Port Authority hereby agrees that nothing set forth in the form of Schedule 2.8(i) attached hereto shall constitute a violation of Section 32 of the TNAS Agreement. In the event of any conflict between the terms and provisions of this Supplemental Agreement and the terms and provisions of Schedule 2.8(i), the terms and provisions of this Supplemental Agreement shall prevail, except as otherwise expressly provided herein.

(b) The limitation on service by third party telecommunications service providers set forth in the first sentence of Section 17 of the TNAS Agreement shall not be applicable to the Site or to any other Port Authority Facility which shall subsequently be designated a Covered Facility with respect to the Monopole System.

(c) In addition to the rights granted to the Permittee pursuant to paragraph (b) of Section 19 of the TNAS Agreement with respect to the use of the TNAS System, the Permittee may also, in the course of its business and the conduct of its operations under this Agreement, permit the use of the Monopole System by Carrier Users for the purposes described in paragraph (b) of Section 2 of the TNAS Agreement. Whether or not expressly set forth therein, all agreements between the Permittee and Carrier Users with respect to the use of the Monopole System shall be subject to the terms and conditions of this Agreement.

3. The Port Authority hereby consents to the Schedule 2.8(i) executed on behalf of Omnipoint Facilities Network 2, LLC by its agent, Omnipoint Communications, Inc., a copy of which has heretofore been delivered to the Port Authority. The Permittee shall prepare and submit to the Port Authority contemporaneously with its submission of the Construction Application referred to in paragraph 6, below, a "Summary Basis of Design" of the Monopole System, to include all relevant technical standards for and attributes and features of the said Monopole System, and generally in the form of the Summary Basis of Design of the TNAS System annexed as Exhibit B to the TNAS Agreement. The Summary Basis of Design may describe the particular Monopole System installation proposed by Omnipoint Facilities Network 2, LLC.

4. The term of the permission granted to the Permittee to operate the Monopole System shall commence on the date the Port Authority issues final approval of the Permittee's Construction Application and complete plans and specifications for the Monopole System (the said date hereinafter referred to as the "Commencement Date") and shall, unless sooner terminated, expire on August 26, 2014. Subject to and in accordance with the provisions of Sections 4 and 34 of the TNAS Agreement, the Permittee shall have the right to extend the term of the permission granted under this Agreement with respect to Monopole System Operations. In the event the Permittee shall extend the term of the permission granted hereunder, the provisions of paragraph III of Section 5 of the TNAS Agreement shall be applicable and in full force and effect during the "Renewal Term" of such permission.

5. The Permittee and the Port Authority hereby confirm that the annual "Access Fee" set forth in Schedule 2.8(i) and required to be paid by Omnipoint Facilities Network 2, LLC shall comprise "Gross Receipts," and that the annual Access Fee required to be paid by each subsequent Carrier User that executes Schedule 2.8(i) shall comprise "Tower Gross Receipts" as defined

in the TNAS Agreement for purposes of the calculation of the Additional Fee under paragraph III of Section 5 of the TNAS Agreement.

6. (a) Section 7 of the TNAS Agreement shall not be applicable to the "Construction Work" (as hereinafter defined) to be performed by the Permittee in connection with the Monopole System; in lieu thereof, the provisions of this paragraph 6 shall govern the Construction Work in all respects. Notwithstanding the following provisions of this paragraph 6, the Port Authority acknowledges that the construction and installation work with respect to the Monopole System at the Site may, in fact, be performed by Omnipoint Facilities Network 2, LLC, as contemplated by the provisions of Schedule 2.8(i). Except as otherwise expressly provided in Schedule 2.8(i), the Permittee shall perform, at its sole cost and expense, all installation work required to prepare the Site for the Permittee's Monopole System Operations, including the installation of the monopole and all transmitters, receivers, and other equipment at the Site and the construction of all associated improvements at the Site appurtenant to the operation of the Monopole System, provided however that the Permittee shall have no obligations with respect to the installation of proprietary Carrier User equipment for the exclusive use of individual Carrier Users (the work described in this paragraph 6 hereinafter referred to as the "Construction Work").

(b) (i) The Permittee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting procedures for the installation of all equipment and the construction of all improvements appurtenant to the operation of the Monopole System. Prior to retaining any licensed architect, professional engineer or other technical consultant in connection with the Construction Work, the name or names of said licensed architect, professional engineer or other technical consultant shall be submitted to the Port Authority for its approval. The Port Authority shall have the right to disapprove any licensed architect, professional engineer or other technical consultant who may be unacceptable to it and shall approve in advance the Permittee's contract with each such licensed architect, professional engineer or other technical consultant.

(ii) (1) Prior to the commencement of any Construction Work at the Site, the Permittee shall submit to the Port Authority for its approval a Tenant Alteration Application (hereinafter called the "Construction Application"), in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include, setting forth in detail by appropriate plans and specifications the Construction Work the Permittee proposes to perform at the Site and the manner of and time periods for performing such work. The data to be supplied by the Permittee shall identify separately each of the

items constituting the Construction Work and shall describe in detail the improvements, fixtures, equipment, and systems to be installed by the Permittee. The plans and specifications to be submitted by the Permittee shall be in sufficient detail for a contractor to perform the Construction Work and shall bear the seal of a licensed architect or professional engineer who shall be responsible for the administration of the Construction Work in accordance with the Port Authority's requirements. In connection with the review by the Port Authority of the Permittee's submission under this Section, the Permittee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may require for such review. Following the Port Authority's receipt of the Permittee's Construction Application, the Port Authority shall give its written approval or rejection thereof, or shall request such modifications thereto as the Port Authority may find necessary or appropriate. The Permittee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor or subcontractor is operating under, have been approved by the Port Authority. The Permittee shall include in any such contract or subcontract such provisions as are required pursuant to the provisions of this Agreement and the Construction Application approved by the Port Authority, including, without limitation thereto, provisions regarding labor harmony.

(2) The Port Authority shall review the Construction Application and all plans and specifications submitted by the Permittee therewith and will furnish its comments regarding the same to the Permittee within fifteen (15) business days after its receipt thereof. The Port Authority will also review and comment on any corrected, modified or amended plans and specifications resubmitted to the Port Authority by the Permittee within fifteen (15) business days after receipt of any such resubmission. The Permittee hereby agrees that the Port Authority shall have no responsibility, liability or obligation to the Permittee in the event the Port Authority fails to respond to any such submission or resubmission of the Construction Application by the Permittee within the time periods set forth above, including any obligation to provide a reimbursement, rent credit or other rent concession.

(iii) (1) The Permittee hereby assumes the risk of loss or damage to all of the Construction Work prior to the completion thereof and the risk of loss or damage to all property of the Port Authority, its lessees and permittees arising out of or in connection with the Construction Work. In the event of any such loss or damage, the Permittee shall forthwith repair, replace and make good the Construction Work and the property of the Port Authority, its lessees and permittees. The Permittee shall, and shall require each of its contractors to indemnify the Port Authority and its Commissioners, officers, agents and employees from and against all claims and demands, just or unjust, by third persons (including the Commissioners,

officers, agents and employees of the Port Authority) against the Port Authority and its Commissioners, officers, agents and employees, arising or alleged to arise out of the performance of the Construction Work or based upon any of the risks assumed by the Permittee in this Agreement or any breach hereof, 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 Permittee, any contractors of the Permittee, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only claims and demands which result solely from the gross negligence or willful misconduct of the Port Authority subsequent to commencement of the Construction Work; provided however, the Permittee shall not be required to indemnify the Port Authority where indemnity would be precluded by Section 5-322.1 of the General Obligations Law of the State of New York. The Permittee shall cause each such contractor and subcontractor to obtain and maintain in force such insurance coverage and performance bonds as the Port Authority may specify, including, without limitation, a contractual liability endorsement to cover the indemnity obligations assumed by the Permittee pursuant to the provisions of this paragraph.

(2) If so directed, the Permittee shall at its own expense defend any suit based upon any claim or demand described in subparagraph (1) above (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 the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provision of any statutes respecting suits against the Port Authority. The Permittee shall not be liable for any fees and expenses of separate counsel representing the Port Authority, other than the reasonable costs of investigation. The Permittee shall not be liable for any settlement of any action, proceeding or suit, which settlement is effected by the Port Authority without the prior written consent of the Permittee, which shall not be unreasonably withheld. If the Permittee shall not grant its consent as provided above, such action, proceeding or suit shall thereafter be defended by the Permittee, at its sole cost and expense, subject to the limitations set forth above in this subparagraph (2).

(iv) The Construction Work shall be performed by the Permittee in accordance with the Construction Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the Construction Work and after the completion thereof, and the Permittee, upon direction from the Port Authority to do so, shall stop the performance of any portion of

the Construction Work which is not being performed in accordance with the above and redo or replace at its own expense any Construction Work not done in accordance therewith. The Permittee shall also supply the Port Authority with "as-built" drawings in such form and number as are reasonably requested by the Port Authority, and the Permittee shall keep said drawings current during the term of the permission granted under this Agreement. No changes or modifications to any Construction Work shall be made without the prior consent of the Port Authority.

(v) The Permittee shall pay or cause to be paid all claims lawfully made against it by its contractors, subcontractors, material suppliers and workers, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the Construction Work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them, provided however, that nothing herein contained shall be construed to limit the right of the Permittee to contest any claim of a contractor, subcontractor, material supplier or worker or other person, and no such claim shall be considered to be an obligation of the Permittee within the meaning of this paragraph unless and until the same shall have been finally adjudicated. The Permittee shall use commercially reasonable efforts to resolve any such claims and shall keep the Port Authority fully informed of its actions with respect thereto. Without limiting the generality of the foregoing, all of the Permittee's construction contracts shall provide as follows: "If (1) the Contractor fails to perform any of its obligations under this Contract, including its obligation to pay any claims lawfully made against it by any material supplier, subcontractor, worker or any other third person which arises out of or in connection with the performance of this Contract, (2) any claim (just or unjust) which arises out of or in connection with this Contract is made against the Permittee, or (3) any subcontractor under this Contract fails to pay any claims lawfully made against it by any material supplier, subcontractor, worker or any other third person which arise out of or in connection with this Contract or if in the Permittee's opinion any of the aforesaid contingencies is likely to arise, then the Permittee shall have the right, in its discretion, to withhold out of any payment (final or otherwise and even though such payments have already been certified as due) such sums as the Permittee may deem ample to protect it against delay or loss or to assume the payment of just claims of third persons, and to apply such sums as the Permittee may deem proper to secure such protection or to satisfy such claims. All sums so applied shall be deducted from the Contractor's compensation. Omission by the Permittee to withhold out of any payment, final or otherwise, a sum for any of the above contingencies, even though such contingency has occurred at the time of payment, shall not be deemed to indicate that the Permittee does not intend to exercise its right with respect to such contingency. Neither the above provisions for the rights of the Permittee to withhold and apply monies nor any exercise or

attempted exercise of, or omission to exercise, such right by the Permittee shall create any obligation of any kind to such material suppliers, subcontractors, workers or other third persons. Until actual payment is made to the Contractor, its right to any amount to be paid under this Contract (even though such payments have already been certified as due) shall be subordinate to the rights of the Permittee under this provision."

(c) (i) The Permittee shall not commence any Construction Work prior to the Commencement Date and until the Construction Application and plans and specifications covering such work have been finally approved by the Port Authority. The Permittee recognizes that its obligation to pay fees, including, without limitation, the Additional Fee, provided for in this Agreement by reference to the TNAS Agreement shall commence on the Commencement Date and the Permittee's payment of the Additional Fee shall be made in accordance with the provisions of paragraph III of section 5 of the TNAS Agreement.

(ii) The Permittee shall submit a Construction Application for the Construction Work at the Site within thirty (30) days following execution of this Agreement. The Permittee shall commence the performance of the Construction Work at the Site within fifteen (15) days following the approval of the Construction Application and shall diligently pursue the completion of the Construction Work.

(d) The Permittee 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 the Port Authority or the incorporation therein of any Port Authority requirements or recommendations. The Port Authority shall have no obligation or liability in connection with the performance of any of the Construction Work or for the contracts for the performance thereof entered into by the Permittee. The Permittee hereby releases and discharges the Port Authority, its Commissioners, officers, representatives and employees of and from any and all liability, claims for damages or losses of any kind, whether legal or equitable, or from any action or cause of action arising out of or in connection with the performance of any of the Construction Work pursuant to the contracts between the Permittee and its contractors except for any of the foregoing caused solely by the gross negligence or willful misconduct of the Port Authority. The Permittee shall use commercially reasonable efforts to make arrangements for the extension to the Port Authority of all warranties extended or available to the Permittee in connection with the Construction Work.

(e) The Permittee understands that there may be other communications and utility lines and conduits located in portions of the Site where the Permittee will operate the Monopole System. The Port Authority will use commercially reasonable efforts to

make available to the Permittee its records to the extent the same are available in an effort to identify to the Permittee the location of such communication and utility lines which may interfere with the Construction Work proposed by the Permittee. The Port Authority hereby disclaims any warranty or representation to the Permittee that such records are accurate. The Permittee agrees to design the Construction Work so as to eliminate or minimize the need for relocation of any such communications and utility lines.

(f) Upon completion of the Construction Work at the Site, the Permittee shall supply the Port Authority with a certificate signed by a responsible officer of the Permittee and by the licensed architect or professional engineer who sealed the Permittee's plans pursuant to the provisions of this Section, certifying that all of the Construction Work has been performed in accordance with the approved plans and specifications covering such work, in accordance with the provisions of this Agreement and in compliance with all applicable laws, ordinances, governmental rules, regulations and orders. The Port Authority will inspect the Construction Work at the Site and if the same has been completed as certified by the Permittee and the Permittee's licensed architect or professional engineer, the Port Authority shall deliver a certificate to such effect to the Permittee within twenty (20) business days following the Port Authority's receipt of such certification, subject to the condition that all risks thereafter with respect to the construction and installation of the Construction Work and, as between the Permittee and the Port Authority, any liability therefor for negligence or other reason shall be borne by the Permittee. The Permittee shall not use or permit the use of the Site for the purposes set forth in this Agreement or conduct Monopole System Operations until such certificate is received from Port Authority.

7. (a) Upon the expiration or termination of this Agreement, the Permittee covenants and agrees to yield and deliver the Monopole System peaceably to the Port Authority free and clear of any claim of ownership by the Permittee, including title to Monopole System software licenses, equipment warranties and service contracts, without any further act or deed by the Permittee. The Permittee shall promptly execute and deliver assignments, bills of sale and all other documents necessary or convenient in order to evidence the rights of the Port Authority therein, including title to Monopole System software licenses, equipment warranties and service contracts. Upon the expiration or termination of this Agreement, the Permittee shall deliver the Monopole System to the Port Authority promptly and in good condition, such reasonable wear excepted as would not adversely affect or interfere with its proper operation under this Agreement.

(b) The Permittee shall have the right at any time during the term of the permission under this Agreement to remove

a portion or portions of the Monopole System consisting of equipment or other personal property from the Site, provided that the Permittee shall install suitable replacements therefor as is necessary for Monopole System Operations.

8. (a) The Permittee recognizes that it is a special consideration for the Port Authority's entering into this Agreement that the Permittee, without in any way limiting or modifying its obligations with respect to any other provision of the TNAS Agreement, hereby confirms that all the obligations assumed by the Permittee pursuant to Section 46 of the TNAS Agreement, including all references therein to objectionable interference, are fully applicable to Monopole System Operations, provided however that the obligation of the Port Authority contained in the second sentence of paragraph (b) of Section 46 shall not be applicable to any communications activity conducted by the Port Authority or by a third party pursuant to agreement with the Port Authority as of the date of this agreement.

(b) The Permittee hereby represents and warrants that the provisions of subparagraph (b)(ii)(1) of Section 25 of the TNAS Agreement are fully applicable with respect to the negotiation and execution of this Agreement as a supplement to the TNAS Agreement and that no approval by or consultation with the "Project Lender" (as defined in said Section 25) shall be required in order to authorize or permit the Permittee to negotiate and enter into this Agreement with the Port Authority.

9. The Permittee represents and warrants that no broker has been concerned in the negotiation of this Agreement on behalf of the Permittee or the implementation of the Monopole System hereunder and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Permittee shall indemnify and save harmless the Port Authority 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 or the implementation of the Monopole System hereunder.

10. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Permittee with any liability, or 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 thereof.

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

12. This Agreement and the TNAS Agreement which it amends constitute the entire agreement between the Port Authority and the Permittee on the subject matter and may not be changed, modified, discharged or extended except by instrument in writing

duly executed on behalf of both the Port Authority and the Permittee. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in the TNAS Agreement or in this Agreement.

IN WITNESS WHEREOF, the Port Authority and the Permittee have executed these presents, as of the date first above written.

ATTEST:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Title: Chief Technology Officer

(Seal)

ATTEST:

NEW YORK TELECOM PARTNERS, LCC

By: _____

Title: CEO

(Corporate Seal)

APPROVED	
TERMS	FORM
	RMS

(Port Authority Acknowledgment)

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

On the 8th day of OCTOBER, 2003, before me personally came GREGORY BURNHAM to me known, who, being by me duly sworn, did depose and say that he resides at ; that he is the CHIEF TECHNOLOGY OFFICER of The Port Authority of New York and New Jersey, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Commissioners of said corporation; and that he signed his name thereto by like order.

RONALD M. SERIO
Notary Public, State of New York
No. 02SE4638448
Qualified in New York County
Commission Expires On June 30, 2005

Ronald M. Serio
(notarial seal and stamp)

(Limited Liability Company Acknowledgment)

STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK)

On the 25th day of August, 2003, before me personally came Joseph A. Beatty, to me known, who, being by me duly sworn, did depose and say that he resides at ; that he is the Manager/CEO of New York Telecom Partners, LLC, a Delaware limited liability company, the limited liability company described in and which executed the foregoing instrument; that he executed the same for and on behalf of said limited liability company; and that he is duly authorized and empowered to do so.

OFFICIAL SEAL
MARC YOUNG
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 6-9-2004

Marc Young
(notarial seal and stamp)

SCHEDULE 2.8(i)
(Co-Location Sites - Monopoles and Rooftops)

(Port Newark Monopole/Rooftop Site)

Covered Facility:	Monopole/Rooftop at Port Newark (the " Site").
Access Fee:	$25,000 annually (net/net/net) per Carrier per Site for voice carriers. Payable quarterly in advance. Amount increases by three percent (3%) (compounded) on each Anniversary of the Covered Facility Acceptance Date.
Base Term:	Covered Facility Acceptance Date to August 26, 2014
Renewal Option:	Two, five-year renewal options in accordance with Section 4.2 of Carrier Access Agreement.
Baseline MOUs per Carrier:	N/A
Initial Usage Fee:	N/A
Construction Date:	TBD
Construction Period:	Estimated to be within 60 days from the execution date of this document.
Project Installation and Costs:	For Monopole installations - A Monopole and all related improvements and work necessary to allow use of the Monopole by all Participating Carriers (collectively, the "Monopole and Related Improvements") may be installed at a Covered Facility by NYTP or, at the discretion of NYTP and the Port Authority, a Participating Carrier may install a Monopole and Related Improvements at a Covered Facility. If NYTP installs the Monopole and

Related Improvements, the provisions of Section 2.8(a) of the Carrier Access Agreement shall apply to such installation, and each Participating Carrier shall reimburse NYTP for the Construction Costs of such installation based on its pro rata share (i.e., if one Participating Carrier elects to participate, it shall reimburse NYTP for 100% of the Construction Costs; if two Participating Carriers elect to participate, they shall each reimburse NYTP for 50% of the Construction Costs, etc.). Each Participating Carrier shall be entitled to pro rata reimbursement if additional Participating Carriers thereafter elect to use a Monopole and Related Improvements. If NYTP is unwilling to pay the Construction Costs to install a Monopole and Related Improvements at a Covered Facility, a Participating Carrier may, with the approval of NYTP and the Port Authority, elect to directly fund and complete the installation of the Monopole and Related Improvements (such Participating Carrier, a "Funding Carrier"). The Monopole and Related Improvements shall be constructed to accommodate a minimum of three (3) Participating Carriers. A Participating Carrier may, if it is not one (1) of the initial three (3) Participating Carriers at a Monopole Site, incur substantial additional costs to construct a Monopole and Related Improvements for its own account if the Monopole and Related Improvements as initially constructed at such Site can only accommodate three (3) Participating Carriers. A Funding Carrier shall not have the right to refuse to allow other Participating Carriers to use a Monopole and Related Improvements (unless the Monopole and Related Improvements as initially constructed in accordance with this Schedule are already being used by the number of Participating Carriers for which such Monopole and

Related Improvements were constructed). The Funding Carrier and subsequent Participating Carriers shall be reimbursed on a pro rata basis as and when additional Participating Carriers elect to use a Monopole and Related Improvements (i.e., when a second Participating Carrier elects to use a Monopole and Related Improvements, it shall reimburse the Funding Carrier 50% of the Construction Costs for the installation of such Monopole and Related Improvements; if a third Participating Carrier elects to use a Monopole and Related Improvements, it shall reimburse the existing two Participating Carriers for one-third (1/3) of the Construction Costs, split evenly between the Funding Carrier and the second Participating Carrier, and so on if more than three (3) Participating Carriers can be accommodated at such Monopole Site). Regardless of whether NYTP or the Participating Carriers fund the Construction Costs for a Monopole and Related Improvements, the Monopole and all Related Improvements shall be jointly owned by all Participating Carriers who are using the Monopole. All plans for a Site shall be approved by NYTP and the Port Authority prior to the commencement of installation. Appropriate evidence of Construction Costs for a Site shall be maintained by NYTP and, if applicable, the Funding Carrier.

Design and Installation Approval: The Carrier shall prepare and submit, at the Carrier's sole cost and expense, all design documents for NYTP's review and approval. No changes to [any Carrier Equipment or to a Monopole and Related Improvements] [or] [any Rooftop Equipment], and no additional Carrier Equipment or other improvements of any kind, shall be

permitted at the Site without the Carrier first submitting the design and installation plans for such changes or additions to NYTP for its review and approval.
At no time shall any antennae or other transmitting or receiving devices be mounted, directed, or used at the Site in a manner that would permit wireless communications to be transmitted between (i) such antennae or other transmitting or receiving devices; (ii) wireless communications equipment or devices being used at any other Port Authority Facility; and (iii) equipment that would divert coverage from an existing PA facility (i.e. Newark Airport).

Maintenance and Repairs:

The Participating Carriers shall, at their sole cost and expense, keep and maintain the Site in a neat and orderly condition. The Participating Carriers shall not permit any waste, damage or injury to the Site or any improvements thereon. All maintenance and repair work at the Site (other than that relating solely to a Participating Carrier's individual Carrier Equipment) shall be accomplished, at NYTP's discretion, either (i) by NYTP, in which event all Participating Carriers shall reimburse NYTP on a pro rata basis for the costs of all such maintenance and repairs, or (ii) directly by the Participating Carriers on a pro rata basis. NYTP shall, upon the request of a Participating Carrier, determine what maintenance and repairs are necessary or appropriate at a Site and shall assist the Participating Carriers in the engagement of contractors to perform such work. Appropriate evidence of maintenance and repair costs for a Site shall be maintained by the party or parties causing the work to be performed. If NYTP elects to perform maintenance and repair work, the costs for such work shall be paid by the Participating Carriers within ten (10) days of presentation

of an invoice by NYTP. Neither NYTP nor the Port Authority shall have any obligation to maintain or safeguard the Site, any improvements thereon, or any Carrier Equipment.

Insurance:

The Participating Carriers, at their sole cost and expense, shall maintain and keep insurance against liability for bodily injury (including death) and property damage in or about the Site under a policy of comprehensive general public liability insurance, with such limits as may be reasonably required by NYTP from time to time. The policies of comprehensive general public liability insurance shall name NYTP, the Port Authority, and the Carrier as insured parties. Each such policy shall provide that it shall not be cancelable without at least thirty (30) days prior written notice to NYTP and the Port Authority and shall be issued by an insurer and in a form satisfactory to NYTP and the Port Authority. Upon NYTP's request, a certificate evidencing such insurance shall be delivered to NYTP proving compliance with the foregoing requirements.

Indemnification:

The Carrier shall indemnify and save NYTP and the Port Authority harmless from all claims (including costs and expenses of defending against such claims) arising from the Site and any improvements thereon or from any breach of this Schedule 2.8(i) by the Carrier, or any negligent act, negligent omission or intentional tort of the Carrier or the Carrier's agents, employees, contractors, invitees or licensees occurring during the term of this Schedule 2.8(i), or any action or omission of the Carrier that causes NYTP to have any liability or obligation to the Port Authority under the TNAS Agreement.

Access; Non-Exclusive Rights:	The Carrier acknowledges that the Carriers' rights at the Site are non-exclusive. Each other Participating Carrier shall have the right to participate, at any time, at a Site in accordance with the terms of the Carrier Access Agreement and this Schedule 2.8(i). NYTP and the Port Authority shall have at all times the right to access and inspect the Site and all improvements.
Relocation, Renovation, Demolition:	NYTP and the Port Authority shall have at all times the right to request the Carrier to relocate and/or remove [the Monopole and Related Improvements] [Rooftop Equipment] for public safety reasons. Such relocation and/or removal shall be accomplished in accordance with Section 8.4 of the Carrier Access Agreement.
Site Conditions:	NYTP and the Port Authority make no representation or warranty to the Carrier, either express or implied, as to the use, operation, safety, environmental condition, title or fitness for a particular purpose of the Site, and the Carrier's use of the Site shall be on an "as is, where is" basis. The Carrier shall inspect the Site and become familiar with the conditions of the Site. Neither NYTP nor the Port Authority is obligated to alter, improve, remediate or otherwise perform any work or undertake any obligation with respect to the Site.
Utilities:	The Carrier shall pay for (i) the cost of installing separate utilities, telco and power supply facilities and any separate meters required by NYTP, the Port Authority, or any applicable utility, (ii) all electric service to the Site, and (iii) any sums charged to NYTP by the applicable utility, telco or power supply provider for such installation and/or service.

Compliance With Laws:	The access to, and installation, maintenance and operation of, all Carrier Equipment and all other improvements at the Site must at all times be in strict compliance with all technical standards and all applicable federal, state and local laws, ordinances, and regulations. The Carrier shall obtain and maintain, at its expense, such licenses, permits or other approvals required for the Carrier's use of the Site, if any.
Liens:	The Carrier shall keep the Site free from any liens arising from any work performed, materials furnished or obligations incurred by or at the request of the Carrier. If any lien is filed against the Site as a result of the acts or omissions of the Carrier or its employees, agents or contractors, the Carrier must discharge the lien or bond the lien in a manner reasonably satisfactory to NYTP within thirty (30) days after the Carrier or NYTP receives written notice from any party that a lien has been filed. If the Carrier fails to discharge or bond any lien within such period, then, in addition to any other right or remedy of NYTP, NYTP may, at NYTP's election, discharge the lien and the Carrier shall reimburse NYTP, within ten (10) days of demand, any amount paid by NYTP for the discharge of such lien and all fees, legal expenses and all other costs and expenses of NYTP incurred in connection with any such lien.
Monopole and Related Improvements Upon Expiration or Termination:	For Monopole installations - The Monopole and all Related Improvements at the Site shall be the property of the Participating Carriers until the expiration of the term (including any renewal periods) of this Schedule 2.8(i) or the termination of the Carrier's rights hereunder in accordance with the Carrier Access Agreement; at that time the Monopole and all Related Improvements at the

	Site shall remain at their existing location and become the property of the Port Authority without payment by the Port Authority. Notwithstanding the foregoing, upon the expiration of the term (including any renewal periods) of this Schedule 2.8(i) or the termination of all Participating Carriers' rights under their respective Carrier Access Agreements, NYTP or the Port Authority may require the Participating Carriers to remove the Monopole and Related Improvements, in which event the Participating Carriers, at their sole cost and expense, shall remove the Monopole and Related Improvements, and repair and restore any damage to the ground area of the Site caused by the installation or removal.
Carrier Status:	The Carrier is a Funding Carrier for purposes of this Schedule 2.8(i) (Port Newark Site).
Other Terms and Conditions:	

The undersigned, intending to be legally bound hereby, agree that this Schedule 2.8(i) shall be incorporated in, become part of and be governed by the [Amended and Restated] Carrier Access Agreement between New York Telecom Partners, LLC and VoiceStream Wireless dated 12/21/99, as amended.

NEW YORK TELECOM PARTNERS, LLC.

By: _____
Richard J. DiGeronimo, President
Date: July 17, 2002

Omnipoint Facilities Network 2, LLC
By: Omnipoint Communications, Inc. its Agent

By: _____
Chris Hillabrant, Executive Director
Date: 7/30/02

Agreement No. AX-713
Supplement No. 3

SUPPLEMENTAL AGREEMENT

THIS AGREEMENT, made as of November 30, 2006 by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter called the "Port Authority") and **NEW YORK TELECOM PARTNERS, LLC** (hereinafter called the "Permittee"),

WITNESSETH, That:

WHEREAS, the Port Authority and the Permittee heretofore and as of August 26, 1999 entered into an agreement identified by the above Port Authority Agreement Number (which agreement, as the same may have heretofore been supplemented and amended is hereinafter called the "TNAS Agreement") covering certain privileges and obligations with respect to the installation, operation and maintenance of a wireless telecommunications network access system ("TNAS System") at Port Authority facilities designated in the Agreement; and

WHEREAS, among the privileges and obligations granted to and imposed on the Permittee under the TNAS Agreement with respect to the TNAS System, the TNAS Agreement grants the Permittee the right to provide unlicensed wireless services that operate in the "Wireless LAN" (iEEE 802.11) service band of the radio frequency spectrum (the "Wi-Fi Service"); and

WHEREAS, the Port Authority and the Permittee desire to amend the TNAS Agreement to provide for the Permittee's implementation of its right to install, operate and maintain the Wi-Fi Service and to include a separate fee, not currently included in the TNAS Agreement, to be paid by NYTP to the Port Authority for providing the Wi-Fi Service at mutually agreed Port Authority facilities and locations;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Port Authority and the Permittee hereby agree as follows:

1. "Wi-Fi Receipts," as used herein, shall mean all monies received or receivable (unless and until any amount is deemed to be uncollectible in accordance with generally accepted accounting principles) by NYTP for providing the Wi-Fi Services in Port Authority Covered Facilities (as defined in the TNAS Agreement), including but not limited to, wireless access to the Internet by end user customers, as well as private or public entities. Wi-Fi Receipts shall not include monies received or receivable from the use of Internet kiosks, project management and/or engineering service fees for unlicensed wireless projects, or any such consulting services. Wi-Fi Receipts shall not be included in "Gross Receipts" (as such term is defined and used in the TNAS Agreement).

2. The parties hereto hereby acknowledge and confirm that the Permittee will pay to the Port Authority a fee equal to thirty-seven percent (37%) of Wi-Fi Receipts (the "Wi-Fi Fee").

3. The Wi-Fi Fee shall constitute an additional component of the Additional Fee (as defined in the TNAS Agreement) and shall be payable quarterly, in arrears, within thirty (30) days following the end of each calendar quarter. The timing and method of such payments shall correspond to the quarterly payment requirements set forth in Article III of Section 5 of the TNAS Agreement, provided however, that notwithstanding anything to the contrary set forth in paragraph (b) of said Article III, payments of the Wi-Fi Fee shall be based on actual results for the calendar quarter for which each payment is made. Each payment shall be accompanied by a general report of the Wi-Fi Receipts for the relevant calendar quarter, separately stating the Wi-Fi Receipts and the total number of paid "sessions" (including, without limitation, as presently designated by Permittee: "Private Services," Ad Hoc Paid Sessions," "Roaming Paid Sessions," and "Airport Worker Subscriptions") for each Port Authority Covered Facility at which the Permittee provides Wi-Fi Service.

4. Payment of the Wi-Fi Fee for calendar year 2006 through the last day of the most recent calendar quarter shall be payable within ten (10) days following the execution of this Agreement. The parties shall continue discussions intended to reach agreement regarding payment to the Port Authority of the unpaid Wi-Fi Fees from calendar year 2005 and periods prior thereto, which Wi-Fi Fees shall be immediately due to the Port Authority upon the mutual agreement of the parties regarding such payment terms.

5. The Permittee hereby represents and warrants that the provisions of subparagraph (b)(ii)(1) of Section 25 of the TNAS Agreement are fully applicable with respect to the negotiation and execution of this Agreement as a supplement to the TNAS Agreement and that no approval by or consultation with the "Project Lender" (as defined in said Section 25) shall be required in order to authorize or permit the Permittee to negotiate and enter into this Agreement with the Port Authority.

6. The parties acknowledge that this Agreement memorializes all agreements and understandings between the parties concerning, and constitutes the entire and only understandings or agreements between the parties regarding, the Wi-Fi Fee.

7. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Permittee with any liability, or 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 thereof.

8. This Agreement and the TNAS Agreement which it amends constitute the entire agreement between the Port Authority and the Permittee on the subject matter and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both the Port Authority and the Permittee. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in the TNAS

Agreement or in this Agreement. All prior or contemporaneous understandings, discussions or agreements regarding the Wi-Fi Fee are expressly superseded by this Agreement.

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

IN WITNESS WHEREOF, the Port Authority and the Permittee have executed these presents, as of the date first above written.

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____

Title: Acting CTO PANYNJ.

(Seal)

NEW YORK TELECOM PARTNERS, LCC

ATTEST:

By: Concourse Communications Group, LLC

By: _____

Jon Irwin, Chief Operating Officer

APPROVED	
TERMS	FORM
	RMS

(Port Authority Acknowledgment)

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

On the 7th day of FEBRUARY, 2007, before me personally came JOHN D'AMORE, to me known, who, being by me duly sworn, did depose and say that he resides at ; that he is the ACTING CHIEF TECHNOLOGY OFFICER of The Port Authority of New York and New Jersey, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Commissioners of said corporation; and that he signed his name thereto by like order.

RONALD M. SENIO
Notary Public, State of New York
No. 02SE4636449
Qualified In New York County
Commission Expires On June 30, 20 10

Ronald M. Senio
(notarial seal and stamp)

(Limited Liability Company Acknowledgment)

STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK)

On the 9th day of JANUARY, 2007, before me personally came JON ERWIN, to me known, who, being by me duly sworn, did depose and say that he resides at ; that he is the CHIEF OPERATING OFFICER of New York Telecom Partners, LLC, a Delaware limited liability company, the limited liability company described in and which executed the foregoing instrument; that he executed the same for and on behalf of said limited liability company; and that he is duly authorized and empowered to do so.

OFFICIAL SEAL
DENISE M LEWIS
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:09/28/08

(notarial seal and stamp)

SUPPLEMENTAL AGREEMENT NO. 4 TO

TELECOMMUNICATIONS NETWORK ACCESS AGREEMENT

dated as of August 26, 1999

by and between

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

and

NEW YORK TELECOM PARTNERS, LLC

for Portions of the World Trade Center,
New York, New York

This Supplemental Agreement No. 4 is dated as of July 21, 2014

TABLE OF CONTENTS

		Page
ARTICLE I	DEFINITIONS	2
ARTICLE II	SCOPE OF AGREEMENT	10
2.1	Relationship to TNAS Agreement	10
ARTICLE III	THE SYSTEM	10
3.1	DAS System, Wi-Fi System, Fiber Backbone	10
3.2	Periodic Meetings	11
3.3	Applicable Provisions of the TNAS Agreement: Port Authority's Right of Relocation	12
3.4	System Upgrades	12
3.5	Port Authority Expansion Right	12
ARTICLE IV	PROVISION OF DAS AND WI-FI SERVICE	12
4.1	Permittee's Service Obligations	12
4.2	Resiliency Requirements	15
4.3	Times to Report and Repair	15
4.4	Remedies for System Failures	16
4.5	Applicable Provisions of the TNAS Agreement: Manner of Operation	17
4.6	Applicable Provisions of the TNAS Agreement: Objectionable Interference	17
4.7	On-Site Staff	18
4.8	Applicable Provisions of the TNAS Agreement: Maintenance and Repair	18
4.9	Planned Maintenance	18
ARTICLE V	IN-KIND SERVICES	18
5.1	In-Kind Services	18
ARTICLE VI	CARRIER USERS	19
6.1	Carrier User Access to System	19
6.2	Standard Access Offering	19
6.3	Carrier Agreements	19
ARTICLE VII	SYSTEM CONSTRUCTION AND ALTERATIONS	20
7.1	Applicable Provisions of the TNAS Agreement: Installation Work	20
7.2	Port Authority Review of Proposed System Work	20
7.3	Initial System Construction Work Schedule	21

TABLE OF CONTENTS
(continued)

Page

7.4 Applicable Provisions of the TNAS Agreement: Initial System Capital Cost Reporting 22
7.5 Applicable Provisions of the TNAS Agreement: Other Construction 22
ARTICLE VIII FEES AND EXPENSES 22
8.1 Variable Fees 23
8.2 Port Authority Base Infrastructure Costs 23
8.3 Infrastructure Reimbursement Credit 24
8.4 Port Authority Operating Costs 25
8.5 System Capital Costs 25
8.6 Late Charges 26
8.7 Additional Revenue Opportunities 26
ARTICLE IX UTILITIES 27
9.1 Electricity 27
9.2 Heating, Ventilation and Air Conditioning 29
9.3 Government Charges 31
ARTICLE X TRANSFERS 31
10.1 Prohibition on Transfers 31
10.2 Carrier Users 31
ARTICLE XI TERM, DEFAULT AND TERMINATION 31
11.1 Term 31
11.2 Non-Curable Terminating Events 32
11.3 Schedule Milestone Defaults 33
11.4 Major Defaults 34
11.5 Other Defaults 35
11.6 Default Notices 35
11.7 Self-Help 35
11.8 Remedies; No Waiver 35
11.9 Imputation of Actions of Carrier Users 36
11.10 Applicable Provisions of the TNAS Agreement: Force Majeure 36
11.11 Termination Without Cause 36

TABLE OF CONTENTS
(continued)

Page

11.12 Right of Use Upon Termination 37

ARTICLE XII SECURITY FOR PERFORMANCE OF PERMITTEE'S OBLIGATIONS 38

12.1 Initial Construction and Reimbursement Obligations 38

ARTICLE XIII REPORTING 38

13.1 Periodic Reports During Initial Construction 38

13.2 Periodic Reports Following Initial Construction 39

13.3 Inventory and Depreciation 40

ARTICLE XIV MISCELLANEOUS 40

14.1 Additional Applicable Provisions of the TNAS Agreement 40

14.2 Permittee's OFAC Representations, Warranties and Covenants 43

14.3 Audit Rights 43

14.4 No Broker 44

14.5 Notices 44

14.6 Port Authority Additional Provisions 45

14.7 Entire Agreement 50

Schedules and Exhibits:

Schedule 1 - List of Additional Insureds
Schedule 2 - Sample DAS System Availability and Downtown Calculation Methodology
Exhibit A - Master Plan
Exhibit B-1 - DAS Designated Coverage Areas
Exhibit B-2 - Temporary System Areas
Exhibit B-3 - Wi-Fi Designated Coverage Areas
Exhibit C - Summary Basis of Design
Exhibit D - Initial Schedule Milestones
Exhibit E - System Plans and Specifications
Exhibit F - System Site Plan

SUPPLEMENTAL AGREEMENT

This **SUPPLEMENTAL AGREEMENT** (this "Supplement") is made as of July 21, 2014 by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (the "Port Authority") and **NEW YORK TELECOM PARTNERS, LLC** (the "Permittee"). The Port Authority and the Permittee are sometimes referred to individually as "Party" or together as the "Parties".

WITNESSETH, that:

WHEREAS, the Port Authority and the Permittee heretofore and as of August 26, 1999 entered into an agreement identified by the Port Authority as Agreement Number AX-713 (the "Original Agreement"), as supplemented and amended by (i) that certain Supplemental Agreement dated as of March 28, 2001 by and between the Port Authority and the Permittee ("Prior Supplement No. 1"), (ii) that certain Supplemental Agreement dated as of June 30, 2002 by and between the Port Authority and the Permittee ("Prior Supplement No. 2") and (iii) that certain Supplemental Agreement dated as of November 30, 2006 by and between the Port Authority and the Permittee ("Prior Supplement No. 3"; the Original Agreement, Prior Supplement No. 1, Prior Supplement No. 2 and Prior Supplement No. 3 are collectively referred to herein as the "TNAS Agreement"), covering certain privileges and obligations with respect to the installation, operation, and maintenance of a wireless telecommunications network access system at Port Authority facilities, including the certain property then constituting a facility of commerce commonly known as the World Trade Center, all as more particularly described in the TNAS Agreement.

WHEREAS, as a result of the terrorist attacks of September 11, 2001, all of the buildings, structures, and improvements then constituting the World Trade Center were destroyed.

WHEREAS, a master plan for the redevelopment of the World Trade Center (the "Master Plan") has been developed, which provides for, among other things, the construction of the following buildings and improvements on the World Trade Center site: the property to be commonly known as One World Trade Center, the property to be commonly known as Two World Trade Center ("2 WTC"), the property to be commonly known as Three World Trade Center, the property to be commonly known as Four World Trade Center, the property to be commonly known as the Retail Premises (the "Retail Premises") and the property to be commonly known as the Transportation Hub (the "Transportation Hub"), all as more specifically identified on the Master Plan attached hereto as Exhibit A.

WHEREAS, in light of the redevelopment of the World Trade Center generally in accordance with the Master Plan, the Port Authority and the Permittee desire to amend and supplement the TNAS Agreement to further and more specifically set forth the rights and obligations of the Parties with respect to the development, installation, operation and maintenance of a multi-wireless service, neutral-host Distributed Antenna System (as more specifically defined herein, the "DAS System") and Wireless Local Area Network (as more specifically defined herein, the "Wi-Fi System") across a common fiber backbone (as more

specifically defined herein, the "Fiber Backbone") in certain designated areas of the World Trade Center and to otherwise amend and supplement the TNAS Agreement as more specifically set forth in this Supplement. This Supplement is not intended to amend any of the provisions of the TNAS Agreement as to Port Authority facilities other than the World Trade Center.

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, and effective as of the Commencement Date, the Port Authority and the Permittee hereby agree as follows:

ARTICLE I

DEFINITIONS

Whenever used in this Supplement, the following terms shall have the respective meanings specified in this Article I. For the avoidance of doubt, in the event any term defined below is defined differently herein than in the TNAS Agreement, the definition contained in the TNAS Agreement shall apply for purposes of the TNAS Agreement and the definition below shall apply for purposes of this Supplement (except as otherwise specifically provided). Other capitalized terms which are used in this Supplement but not otherwise defined herein shall have the respective meanings given to such terms in the Original Agreement.

1.1 "2 WTC" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.2 "Allowable Deductions" shall mean, collectively, the DAS Allowable Deductions and the Wi-Fi Allowable Deductions.

1.3 "Annual Period" shall mean a calendar year commencing on January 1 and ending on December 31. The period from the date upon which the System or any portion thereof is first operational and capable of providing the DAS Service and/or Wi-Fi Service to the next occurring December 31 shall be the first Annual Period and the next Annual Period from January 1 to December 31 shall be the second Annual Period and so forth. If the date on which the Term of this Supplement ends is other than December 31, the final Annual Period shall be the period from January 1 of the year in which the Term of this Supplement ends to the date on which the Term of this Supplement ends.

1.4 "Base Infrastructure Costs Reimbursement" shall have the meaning set forth in Section 8.2.1.

1.5 "Base Net Present Value Amount" shall have the meaning set forth in Section 11.11.2.

1.6 "Base Unamortized Capital Amount" shall have the meaning set forth in Section 11.11.3.

1.7 "Boingo" shall have the meaning set forth in Section 12.1.

1.8 "Capital Costs" shall have the meaning set forth in Section 8.5.

1.9 "Carrier Agreement" shall have the meaning set forth in Section 6.1.

1.10 "Carrier User Alternative Performance Requirement" shall have the meaning set forth in Section 4.1.1(a)(iii).

1.11 "Carrier Users" shall mean any current or future wireless services providers offering communications services to the public, including cellular, personal communications service (PCS), specialized mobile radio (SMR), paging, commercial mobile radio service (CMRS), wireless broadband, telematics and wireless data, that hold a valid FCC authorization and which are party to a Carrier Agreement.

1.12 "Commencement Date" shall mean the date first set forth above.

1.13 "DAS Allowable Deductions" shall mean the following with respect to the DAS System: (i) any federal, state or municipal taxes or fees separately stated and collected from customers and directly payable to the respective taxing or municipal authority by the Permittee to the extent actually paid by the Permittee (excluding any tax rebates); (ii) verifiable refunds made by the Permittee to customers because of unacceptable or unsatisfactory goods or services, to the extent actually refunded by the Permittee; (iii) any Capital Cost reimbursements received by the Permittee from Carrier Users (including reimbursements received by the Permittee solely as a "pass-through" for payment to already participating Carrier Users), up to the total amount of such Capital Costs actually expended by the Permittee (provided that, for purposes of determining DAS Allowable Deductions, such amounts shall include the Permittee's internal costs of project management without markup and a customary market-based management fee or profit, each as may be agreed by the Permittee and the Port Authority from time to time) plus the DAS Capital Costs Recovery, provided that (1) the Port Authority may reasonably review Carrier User Capital Cost reimbursement proposals and payments received for Capital Cost reimbursements and (2) any such fees and costs reimbursements are reasonable and market based; (iv) any Capital Cost reimbursements by Carrier Users received as part of fulfilling In-Kind Services, up to the total amount of such Capital Costs actually expended by the Permittee; (v) any Capital Cost reimbursements received as part of defraying any allocated Port Authority Base Infrastructure Costs, up to the total amount of such Capital Costs actually expended by the Permittee; and (vi) any reimbursement of Port Authority Operating Costs by the Permittee, up to the total amount of such reimbursements actually made by the Permittee for which the Permittee is not reimbursed by Carrier Users.

1.14 "DAS Capital Costs Recovery" shall have the meaning set forth in Section 8.5.

1.15 "DAS Designated Coverage Areas" shall mean those portions of the WTC Site indicated on the plans attached hereto as Exhibit B-1 to which the Permittee is required to design, install, operate, maintain, market and otherwise provide the DAS System.

1.16 "DAS Gross Revenues" shall mean all monies or other consideration received or receivable, paid or payable, cash or credit, regardless of collection in the case of the latter (unless any such credit amount is ultimately deemed uncollectible in accordance with generally accepted accounting principles), to or by the Permittee with respect to the DAS System on (i) all sales of merchandise and services, such as advertising and promotional sales, whether retail or wholesale,

derived from the operation of the DAS System at the WTC Site regardless of when or where the order therefore is received and (ii) any other receipts, credits, rebates, allowances, or revenues of any type arising out of or in connection with Permittee's operation of the DAS System at the WTC Site (excluding any monies or other consideration received, paid or payable to or by the Permittee from Wi-Fi off-loading of cellular data or other form of data transmission or information sharing from the DAS System to the Wi-Fi System), including but, not limited to, branding fees, marketing fees, merchandising fees, promotional allowances, retail display allowances and any type of ancillary advertising or product placement fees/allowances and all other transactions, whether placed by telephone, via internet, in person, or by mail (including e-mail) and all charges or other fees charged by the Permittee with respect to the DAS System, without any deductions for credit card discounts or thefts. In addition, any outside contributions for Capital Costs received by the Permittee with respect to the DAS System in excess of the actual amount expended by the Permittee for such Capital Costs shall constitute DAS Gross Revenues, except to the extent any such excess contributions are paid or refunded to the Carrier Users pursuant to the requirements of the applicable Carrier Agreement.

1.17 "DAS Net Income" shall mean, for each Annual Period during the Term, the DAS Gross Revenues for such Annual Period less DAS Allowable Deductions for such Annual Period.

1.18 "DAS Phase 1 Areas" shall mean those portions of the DAS Designated Coverage Areas identified on the plans attached hereto as Exhibit B-1 as "DAS Phase 1 Areas".

1.19 "DAS Phase 2 Areas" shall mean those portions of the DAS Designated Coverage Areas identified on the plans attached hereto as Exhibit B-1 as "DAS Phase 2 Areas".

1.20 "DAS Phase 3 Areas" shall mean those portions of the DAS Designated Coverage Areas identified on the plans attached hereto as Exhibit B-1 as "DAS Phase 3 Areas".

1.21 "DAS Phase 4 Areas" shall mean those portions of the DAS Designated Coverage Areas identified on the plans attached hereto as Exhibit B-1 as "DAS Phase 4 Areas".

1.22 "DAS Service" shall mean the transmission or reception of wireless telecommunications signals to or from DAS Users.

1.23 "DAS System" or "Distributed Antenna System" shall mean a spatially separated network of antennas, fiber optic cable strands and other associated equipment designed to provide radio frequency coverage at the WTC Site within the Designated Coverage Areas for use by multiple Wireless Carriers pursuant to the terms of this Supplement. The terms "DAS System" and "Distributed Antenna System" shall include the Temporary System for the applicable temporary periods contemplated pursuant to this Supplement.

1.24 "DAS System Performance Standard" shall mean the Permanent DAS System Performance Standard or the Temporary System Performance Standard, as applicable.

1.25 "DAS Users" shall mean the general public, visitors, tenants and other end-user customers of Carrier Users using mobile or portable devices located at or within the WTC Site.

1.26 "DAS Variable Fee" shall have the meaning set forth in Section 8.1.1.

1.27 "Designated Coverage Areas" shall mean the DAS Designated Coverage Areas and the Wi-Fi Designated Coverage Areas.

1.28 "Electricity Consumption and Demand" shall have the meaning set forth in Section 9.1.1.

1.29 "FCC" shall mean the Federal Communications Commission.

1.30 "Fiber Backbone" shall mean the common fiber optic cable strands used within the DAS System and Wi-Fi System, but shall not include excess fiber capacity deployed by the Permittee in accordance with this Supplement for other purposes.

1.31 "First Additional Base Infrastructure Costs Reimbursement" shall have the meaning set forth in Section 8.2.2.

1.32 "Grand Opening Milestone" shall have the meaning set forth on Exhibit D attached hereto.

1.33 "Grand Opening Milestone Default" shall mean a failure by the Permittee to meet the Grand Opening Milestone.

1.34 "Gross Revenues" shall mean, collectively, the DAS Gross Revenues and the Wi-Fi Gross Revenues.

1.35 "HVAC Consumption and Demand" shall have the meaning set forth in Section 9.2.1.

1.36 "HVAC Service" shall have the meaning set forth in Section 9.2.

1.37 "In-Kind Services" shall have the meaning set forth in Section 5.1.

1.38 "Infrastructure Costs Reimbursement" shall have the meaning set forth in Section 8.2.3.

1.39 "Infrastructure Reimbursement Credit" shall have the meaning set forth in Section 8.3.

1.40 "Initial Schedule Milestone" shall have the meaning set forth in Section 7.3.

1.41 "Initial Temporary System Areas" shall mean those portions of the DAS Designated Coverage Areas identified on the plans attached hereto as Exhibit B-2 as "Initial Temporary System Areas".

1.42 "Major Default" shall have the meaning set forth in Section 11.4.

1.43 "Major Default Notice" shall have the meaning set forth in Section 11.4.

1.44 "Master Plan" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.45 "Net Income" shall mean, for each Annual Period during the Term, Gross Revenues for such Annual Period less Allowable Deductions for such Annual Period.

1.46 "Non-Curable Default" shall have the meaning set forth in Section 11.2.

1.47 "Notice" shall have the meaning set forth in Section 14.5.

1.48 "Off-Peak Times" shall mean times that are not Peak Times.

1.49 "Other Default" shall have the meaning set forth in Section 11.5.

1.50 "Other Default Notice" shall have the meaning set forth in Section 11.5.

1.51 "OFAC" shall have the meaning set forth in Section 14.2.1.

1.52 "Original Agreement" shall have the meaning set forth in the introductory paragraphs of this Supplement

1.53 "Other Temporary System Areas" shall mean those portions of the DAS Designated Coverage Areas identified on the plans attached hereto as Exhibit B-2 as "Other Temporary System Areas".

1.54 "Party" and "Parties" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.55 "Peak Times" shall have the meaning set forth in Section 4.1.1(a)(2).

1.56 "Performance Standard Violation" shall have the meaning set forth in Section 4.4.

1.57 "Period" shall have the meaning set forth in Section 13.1 or Section 13.2, as applicable.

1.58 "Permanent DAS System Performance Standard" shall have the meaning set forth in Section 4.1.1(a)(i).

1.59 "Permittee" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.60 "Point of Interface" shall mean locations within the WTC Site where System equipment connects with cable and conduit.

1.61 "Port Authority" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.62 "Port Authority Base Infrastructure Costs" shall have the meaning set forth in Section 8.2.

1.63 "Port Authority Dark Fiber" shall have the meaning set forth in Section 3.1.4(a).

1.64 "Port Authority Operating Costs" shall have the meaning set forth in Section 8.4.

1.65 "Prior Supplement No. 1" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.66 "Prior Supplement No. 2" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.67 "Prior Supplement No. 3" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.68 "QAD" shall have the meaning set forth in Section 7.2.2.

1.69 "Representative" shall have the meaning set forth in Section 14.2.2.

1.70 "Retail Premises" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.71 "Retail Schedule Milestone" shall have the meaning set forth in Section 7.3.

1.72 "Schedule Milestone Default" shall have the meaning set forth in Section 11.3.

1.73 "Second Additional Base Infrastructure Costs Reimbursement" shall have the meaning set forth in Section 8.2.3.

1.74 "Signal Level Range" shall have the meaning set forth in Section 4.1.1(a)(1).

1.75 "Standard Access Offering" shall have the meaning set forth in Section 6.2.

1.76 "Summary Basis of Design" shall mean the summary basis of design attached hereto as Exhibit C.

1.77 "Supplement" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.78 "System" shall mean the DAS System, Wi-Fi System, and the Fiber Backbone at the WTC Site.

1.79 "System Plans and Specifications" shall mean those certain plans and specifications for the System listed on Exhibit E.

1.80 "System Performance Standard" shall mean the DAS System Performance Standard and the Wi-Fi System Performance Standard.

1.81 "System Operations" shall mean the installation, operation and maintenance of the System as provided in this Supplement.

1.82 "System Specifications" shall have the meaning set forth in Section 3.1.

1.83 "Temporary System" shall mean the spatially separated network of broadband antennas (known as "donor sites") installed above grade on masts at the WTC Site for the purposes of communicating with the wireless (WSP) macro sites in the surrounding neighborhood to provide DAS Service to the Temporary System Areas. Such donor sites will be cabled in conduit to the appropriately located DAS System repeater room(s) and, in turn, connect to amplified electronic "repeaters" connected to the below-grade DAS System antennas. The Temporary System shall initially be comprised of two (2) donor sites, although more donor sites may be added by good faith agreement of the Parties as necessary to provide DAS Service to the Temporary System Areas.

1.84 "Temporary System Areas" shall mean the Initial Temporary System Areas and the Other Temporary System Areas.

1.85 "Temporary System Performance Standard" shall have the meaning set forth in Section 4.1.1(a)(ii).

1.86 "Term of this Supplement" shall have the meaning set forth in Section 11.1.

1.87 "TNAS Agreement" shall have the meaning set forth in the introductory paragraphs of this Supplement, as the same may have been further amended or supplemented as of the Commencement Date.

1.88 "Transportation Hub" shall have the meaning set forth in the introductory paragraphs of this Supplement.

1.89 "Under Covered Areas" shall have the meaning set forth in Section 4.1.1(a)(1).

1.90 "Variable Fees" shall have the meaning set forth in Section 8.1.2.

1.91 "Violation Fee" shall have the meaning set forth in Section 4.4.1.

1.92 "Wi-Fi" shall mean a wireless signal used to connect interoperable devices such as laptop computers, smart phones and other similar equipment to a local area network.

1.93 "Wi-Fi Allowable Deductions" shall mean the following with respect to the Wi-Fi System: (i) any federal, state or municipal taxes or fees separately stated and collected from customers and directly payable to the respective taxing or municipal authority by the Permittee to the extent actually paid by the Permittee (excluding any tax rebates); (ii) verifiable refunds made by the Permittee to customers because of unacceptable or unsatisfactory goods or services, to the extent actually refunded by the Permittee and (iii) any reimbursement of Port Authority Operating Costs by the Permittee, up to the total amount of such reimbursements actually made by the Permittee for which the Permittee is not reimbursed by any other party.

1.94 "Wi-Fi Capital Costs Recovery" shall have the meaning set forth in Section 8.5.

1.95 "Wi-Fi Designated Coverage Areas" shall mean those portions of the WTC Site indicated on the plans attached hereto as Exhibit B-3 to which the Permittee is required to design, install, operate, maintain, market and otherwise provide the Wi-Fi System.

1.96 "Wi-Fi Gross Revenues" shall mean all monies or other consideration received or receivable, paid or payable, cash or credit, regardless of collection in the case of the latter (unless any such credit amount is ultimately deemed uncollectible in accordance with generally accepted accounting principles), to or by the Permittee on (i) all sales of merchandise and services, such as advertising and promotional sales, whether retail or wholesale, derived from the operation of the Permittee's activities at the WTC Site regardless of when or where the order therefore is received and (ii) any other receipts, credits, rebates, allowances, or revenues of any type arising out of or in connection with the Permittee's operations at the WTC Site, including but, not limited to, Wi-Fi offloading of cellular data or other form of data transmission or information sharing from the DAS System to the Wi-Fi System, branding fees, marketing fees, merchandising fees, promotional allowances, retail display allowances and any type of ancillary advertising or product placement fees/allowances and all other transactions, whether placed by telephone, via internet, in person, or by mail (including e-mail) and all charges or other fees charged by the Permittee, without any deductions for credit card discounts or thefts, provided, however, that Wi-Fi Gross Revenues shall not include DAS Gross Revenues. In addition, any outside contributions for Capital Costs received by the Permittee with respect to the Wi-Fi System in excess of the actual amount expended by the Permittee for such Capital Costs shall constitute Wi-Fi Gross Revenues.

1.97 "Wi-Fi Net Income" shall mean, for each Annual Period during the Term, the Wi-Fi Gross Revenues for such Annual Period less Wi-Fi Allowable Deductions for such Annual Period.

1.98 "Wi-Fi Service" shall mean the transmission or reception of wireless internet signals to or from Wi-Fi Users.

1.99 "Wi-Fi System" shall mean the wireless local area network designed, installed, operated, maintained, and marketed by the Permittee at the WTC Site pursuant to the terms of this Supplement.

1.100 "Wi-Fi System Performance Standard" shall have the meaning set forth in Section 4.1.2(a).

1.101 "Wi-Fi Users" shall mean the general public, visitors, tenants and other end-user customers using mobile, portable or computer devices at or within the WTC Site.

1.102 "Wi-Fi Variable Fee" shall have the meaning set forth in Section 8.1.2.

1.103 "World Trade Center" shall mean that certain parcel of land bounded by and located within the area encompassed by the corner of Vesey Street and West Street moving east toward Church Street, south on Church Street to Liberty Street, west on Liberty Street to Greenwich Street, south on Greenwich Street to Albany Street, west on Albany Street to Washington Street, north on Washington Street to Cedar Street, west on Cedar Street to West

Street and north on West Street to Vesey Street, located in the Borough of Manhattan, City, County and State of New York and commonly referred to as the World Trade Center.

1.104 "WTC Site" shall mean those portions of the World Trade Center which comprise the Designated Coverage Areas.

1.105 "WTC Termination Amount" shall have the meaning set forth in Section 11.11.5.

1.106 "WTCR" shall have the meaning set forth in Section 7.2.1.

ARTICLE II

SCOPE OF AGREEMENT

2.1 Relationship to TNAS Agreement. This Supplement embodies the entire agreement and understanding between the Port Authority and the Permittee with respect to the World Trade Center and supersedes all prior agreements and understandings between the Parties relating to the Port Authority facilities at the World Trade Center. Notwithstanding anything to the contrary set forth in the TNAS Agreement, the TNAS Agreement shall only apply to the World Trade Center and any portion thereof as and to the extent specifically provided in this Supplement. In furtherance of the foregoing, and for the avoidance of doubt, (i) the TNAS Agreement shall be and hereby is superseded in its entirety solely with respect to the World Trade Center and shall be of no further force and effect with respect thereto except as specifically incorporated herein and (ii) the Permittee shall have no rights or obligations with respect to any portion of the World Trade Center other than those portions of the World Trade Center which comprise the Designated Coverage Areas, and only to the extent set forth herein. The remaining provisions of the TNAS Agreement unrelated to the World Trade Center shall be unaffected by this Supplement, except to the extent expressly provided in Sections 11.1 and 11.10.

ARTICLE III

THE SYSTEM

3.1 DAS System, Wi-Fi System, Fiber Backbone. The Permittee shall have the right and obligation to design, install, operate, maintain, and market at the WTC Site (i) a custom-designed DAS System for shared use by Carrier Users and (ii) a custom-designed Wi-Fi System, each on the terms and in accordance with the applicable specifications set forth in this Section 3.1 (collectively, the "System Specifications") and the System Performance Standard, in a manner so as to provide service to the Designated Coverage Areas and otherwise in accordance with the terms of this Supplement. The Permittee shall design the System to be world-class, comprehensive, flexible and scalable and in a manner which will, at a minimum, limit potential service loss, allow for routine maintenance and upgrading to prevailing professional standards, reasonably accommodate future uses and reasonably limit total cost of the System and its operations through the use of prudent design alternatives.

3.1.1 DAS System Specifications. The Permittee shall design the DAS System to address commercially reasonable design needs, standards and requirements of the Port Authority

and Carrier Users, provided, however, that at a minimum, the DAS System shall reasonably accommodate the future participation of additional Carrier Users, even if such Carrier Users do not initially participate. The DAS System will be an easy-to-scale, fiber-based, reasonably future-proof system with system-wide availability of 99.5% or greater for all core components.

3.1.2 Wi-Fi System Specifications. The Permittee shall design the Wi-Fi System to address commercially reasonable design needs, standards and requirements of a state of the art commercial Wi-Fi System intended to service the needs of anticipated current and future general public and private enterprise Wi-Fi Users. The Wi-Fi System will be an easy-to-scale, fiber-based, future-proof system with system-wide availability of 98% or greater for all core components, as further described below. Permittee shall ensure that the Wi-Fi System will at all times meet or exceed industry standards.

3.1.3 Fiber Backbone Specifications. The Permittee shall design the Fiber Backbone to include a minimum of twelve (12) fiber strands to meet the design, spare strands and growth requirements of the System and to permit the provision of the excess capacity and additional services required pursuant to this Supplement.

3.1.4 Excess Capacity.

(a) The Permittee shall design, deploy and install, as part of the System, additional fiber optic capacity as so-called dark fiber strands in an amount equal to one hundred percent (100%) of the minimum design capacity in the distribution routes designated by the Port Authority (the "Port Authority Dark Fiber"). The Port Authority Dark Fiber may be used by the Port Authority, its affiliates, assignees, designees, licensees, lessees and any other Person designated by the Port Authority for any purpose, provided that such utilization does not (i) compromise the functionality of the System or (ii) violate any exclusive rights granted to the Permittee pursuant to this Supplement.

(b) The Permittee shall have the non-exclusive right to offer excess or overbuilt fiber capacity other than the Port Authority Dark Fiber on a non-discriminatory basis for use by Carrier Users (or other third parties approved by the Port Authority in writing) within the Designated Coverage Areas, and any amounts received or payable to the Permittee on account of such use shall constitute DAS Gross Revenues. Nothing in this Supplement shall restrict the rights of the Port Authority to offer fiber capacity for use by third parties including, without limitation, the right to offer such capacity in competition with the Permittee, provided that such capacity is not used by any third party for: (i) DAS Service available to the general public within the Designated Coverage Areas or (ii) Wi-Fi Service available to the general public within the public areas of the Transportation Hub, except as provided in Section 4.1.2.

3.2 Periodic Meetings. Senior representatives of the Permittee shall meet with the Port Authority on a monthly basis (or more frequently upon the Port Authority's reasonable request) from and after the Commencement Date until the completion of the Initial System Construction Work and quarterly thereafter (or at such other times as may be specified by the Port Authority) to discuss design, construction, operational and financial performance and any other matters reasonably requested by the Port Authority. At such meetings, the Permittee's representatives shall discuss, among other things, (i) the impact of any changes in the wireless

communications industry, (ii) the financial and operational performance of the System and (iii) any steps the Permittee is taking to assure that all appropriate technological developments are incorporated into the System on an ongoing basis. The Permittee shall prepare minutes following each such meeting, deliver copies of all minutes to the Port Authority and maintain a minute book containing all of the minutes (which minute book shall be available to the Port Authority upon advance notice). Meetings may be conducted either by phone, video-conference or in person at a location in New York City. At the request of the Port Authority, the Permittee shall invite the architect(s) and/or contractor(s) for the Initiation System Construction Work to attend such meetings. In addition, the Permittee shall notify the Port Authority and invite the Port Authority's attendance at and participation in meetings material to the design and implementation of the System and the development of business terms of Carrier Agreements.

3.3 Applicable Provisions of the TNAS Agreement; Port Authority's Right of Relocation. Section 15 of the Original Agreement shall be and hereby is incorporated in this Supplement and made applicable to the WTC Site as if fully set forth herein, except that, for purposes of this Supplement, (i) the capitalized terms used within such provisions shall have the applicable meanings given to such terms in Article I of this Supplement if so defined therein (otherwise, such capitalized terms shall have the applicable meanings given to such terms in the Original Agreement), (ii) the phrase "this Agreement" or "hereunder" as used in any such provision shall be construed to refer to this Supplement and (iii) the references to "Section 7" as used in Section 15(e) of the Original Agreement shall mean Section 7 of the Original Agreement as incorporated in this Supplement pursuant to Section 7.1.

3.4 System Upgrades.

3.4.1 The Permittee shall, at no cost to the Port Authority, promptly upgrade the DAS System upon the request of any Carrier User in accordance with the applicable Carrier Agreement and the Wi-Fi System as emerging technological advances become commercially operable in world-class transportation facilities.

3.4.2 Subject to the Port Authority and Permittee negotiating in good faith the terms and conditions for an upgrade, the Permittee shall upgrade the System upon request by the Port Authority (or the Port Authority on behalf of the net lessee of the Retail Premises) from time to time so that the Port Authority, such retail net lessee and their respective tenants may avail themselves of technological advances in communication services.

3.5 Port Authority Expansion Right. At the Port Authority's request, the Permittee shall provide internal staff resources to the Port Authority at no cost to the Port Authority to evaluate the System or any portion thereof to be extended into select and limited areas of the WTC Site beyond the Designated Coverage Areas. If the addition of such areas will not compromise the applicable System Specifications and System Performance Standard, the Port Authority, at its sole cost and expense, may direct the Permittee to expand the System or such portion thereof. Any benefit derived from said expansion will accrue solely to the Port Authority.

ARTICLE IV

PROVISION OF DAS AND WI-FI SERVICE

4.1 Permittee's Service Obligations. The Permittee shall install, deploy, operate and maintain the System in a manner such that the Wi-Fi Service and DAS Service, respectively, are provided to the Designated Coverage Areas in accordance with the provisions of this Supplement.

4.1.1 DAS Service. Subject to the Port Authority's rights under Section 7.3, the Permittee shall have the exclusive right to install, operate, maintain and market the DAS System within the Designated Coverage Areas, except that if (i) the Port Authority or the retail net lessee wishes to expand the areas where cellular communications are capable of transmission and reception beyond the Designated Coverage Areas and (ii) the Permittee is unable or unwilling to expand such areas on terms and conditions, including allocation of costs, that are reasonably acceptable to the retail net lessee and the Port Authority, as applicable, then the retail net lessee and/or the Port Authority may expand such areas directly or through a third-party without violating any rights of Permittee, provided such expansion does not impact the operations of the System. The DAS System shall enable each Carrier User to provide current and future DAS Service to its respective DAS Users within the DAS Designated Coverage Areas pursuant to and in accordance with the applicable Carrier Agreement and otherwise in accordance with the standards and requirements set forth in this Section 4.1.1.

(a) DAS System Performance Standard.

(i) Permanent DAS System. Except as otherwise expressly provided in this Section 4.1.1, the Permittee shall, after connection to the DAS System by a Carrier User, operate the DAS System at the WTC Site in accordance with a performance standard (the "Permanent DAS System Performance Standard") that is the greatest of (i) prevailing commercial performance standards for a state of the art DAS System utilized in a world-class mixed use facility (provided that if the Port Authority contends that the DAS System does not comply with such prevailing commercial performance standards and the DAS System would require upgrades or improvements to comply with such standards, the Permittee's obligation to make such upgrades or improvements to bring the DAS System into compliance shall be subject to the Port Authority and Permittee negotiating in good faith the terms and conditions for any required upgrades or improvements) and (ii) the following detailed standards:

(A) DAS System coverage within 95% or greater of the DAS Designated Coverage Areas shall have signal levels at -65dBm (above grade) or -75dBm (below grade) or better at all times (collectively, the "Signal Level Range"). In the event certain DAS Designated Coverage Areas meet the Signal Level Range less than 99.5% of the time, on average, as a result of the design of the DAS System or known signal strength limiting site conditions, the Permittee shall identify such areas (the "Under Covered Areas") and specify the expected user experience for the Under Covered Areas. If the total square footage of the Under Covered Areas is greater than 5% of the DAS Designated Coverage Areas, then the DAS System shall be deemed not to satisfy the foregoing detailed standard unless such degraded service is caused by failures of Carrier User equipment or other causes outside of the control of Permittee.

(B) The DAS System shall be available (a) 99.9% of the time or greater from 7:00 a.m. to 10:00 p.m. daily ("Peak Times") and (b) 99.5% of the time or greater on average during all hours (i.e., Peak Times and Off-Peak Times). If the accumulated DAS System downtime during any Annual Period exceeds (y) 0.1% for Peak Times or (z) 0.5% on average during all hours (i.e., Peak Times and Off-Peak Times), Permittee shall be deemed not to satisfy the foregoing detailed standard. For the purposes of this Section 4.1.1(a)(2), availability and downtime determinations shall be calculated based on the amount of devices that are able to access the DAS System at any time and from time to time, in a manner as reasonably determined by the Port Authority. For purposes of illustration only, and without limiting the right of the Port Authority to make reasonable determinations pursuant to the immediately preceding sentence, a sample calculation methodology is set forth on Schedule 2 attached hereto.

(ii) Temporary System. The Permittee shall operate each Temporary System at the WTC Site so that the Temporary System Areas are provided with DAS Service in accordance with the so-called "3G" protocols promulgated by the International Telecommunications Union (the "Temporary System Performance Standard") from the period commencing upon the connection to such Temporary System by a Carrier User until the permanent DAS System for the applicable area is delivered, commissioned in accordance with applicable QAD requirements and fully operational (as applicable) in accordance with this Supplement.

(iii) Carrier Users. Notwithstanding any provisions of this Section 4.1.1(a) to the contrary, if one (1) or more Carrier Users requires a performance standard for the DAS System in its Carrier Agreement that is inconsistent with the performance standard otherwise required herein (such inconsistent standard, the "Carrier User Alternative Performance Requirement"), the Carrier User Alternative Performance Requirement shall constitute the applicable System Performance Standard to the extent of such inconsistency so long as the inconsistent standard is greater than the performance standard otherwise required herein.

(b) The Permittee shall not permit any radio signals received or transmitted to or by any DAS User through the DAS System to be in any electromagnetic radio frequency spectrum other than the portion(s) of the electromagnetic radio frequency spectrum then-permitted for such use by the FCC or any other governmental authority pursuant to applicable law.

(c) In addition to the foregoing, in light of the particular technical requirements associated with elevators, the Permittee and the Port Authority shall work cooperatively to enable DAS Service to be provided to the elevators located within such portions of the WTC Site apart from those noted in the Designated Coverage Areas, as may be designated by the Port Authority from time to time.

(d) The Permittee shall operate the DAS System so as to accommodate all interested Carrier Users on a non-exclusive and non-discriminatory basis up to the design capacity of the DAS System or the Wi-Fi System, as more specifically provided in the applicable Carrier Agreement.

4.1.2 Wi-Fi Service. Subject to the Port Authority's rights under Section 7.3, the Permittee shall have (a) the right to install, operate, maintain and market the Wi-Fi System within the Designated Coverage Areas and (b) the exclusive right to install, operate, maintain and market the Wi-Fi System and provide Wi-Fi Service within the public areas of the Transportation Hub. For the avoidance of doubt, (i) the utilization of any In-Kind Services by the Port Authority for any purpose expressly permitted in this Supplement or that does not directly compete with the provision of DAS or Wi-Fi will not be deemed a violation of any rights of Permittee, (ii) the Port Authority may provide Wi-Fi services for its internal operations and public stakeholders, including, but not limited to, police, fire, ambulatory and other such emergency service providers, without violating any rights of Permittee and (iii) retail stores, restaurants, commercial office lobbies and attractions (including, without limitation, any observation deck lobbies from time to time located within One World Trade Center) may install and provide their own Wi-Fi services without violating any rights of the Permittee, provided that such tenants utilize a system that will not provide Wi-Fi service outside of such tenant's demised space or use area except leakage to a de minimus extent. In addition, and notwithstanding anything contained in this Supplement to the contrary, the Port Authority reserves the right to offer or permit its development partners or tenants to offer premium Wi-Fi Service free of charge to the public in common areas of the WTC Site in a manner that maintains the economic benefits to the Permittee of the Wi-Fi provisions of this Supplement. Any such free Wi-Fi Service may be paid for by sponsorships or by the Port Authority (or its development partners or tenants). Without limiting any of the foregoing provisions of this Section 4.1.2, the Port Authority shall use commercially reasonable efforts to ensure that any wireless local area network operated by the Port Authority within the Designated Coverage Areas does not cause Objectionable Interference with the Wi-Fi System.

(a) The Wi-Fi System shall permit the Permittee to provide current and future Wi-Fi services to Wi-Fi Users within the Designated Coverage Areas. The Permittee shall cause Wi-Fi Service to be available for an unlimited amount of time to each user free of charge and at standards comparable that provided by other Wi-Fi providers at other world-class facilities within the United States. Permittee shall operate the Wi-Fi System at the WTC Site in accordance with a performance standard (the "Wi-Fi System Performance Standard") that is the greatest of (i) prevailing commercial performance standards for a state of the art Wi-Fi System utilized in a world-class mixed use facility and (ii) a standard pursuant to which the Wi-Fi System is available 98.0% of the time or greater, provided that if the accumulated Wi-Fi System downtime during any Annual Period exceeds 2.0% for the Wi-Fi System, Permittee shall be deemed not to satisfy the foregoing detailed standard set forth in this clause (ii).

(b) The Permittee shall not permit any radio signals received or transmitted to or by any Wi-Fi User through the Wi-Fi System to be in any electromagnetic radio frequency spectrum other than the portion(s) of the electromagnetic radio frequency spectrum then-permitted for such use by the FCC or any other governmental authority pursuant to applicable law.

4.2 Resiliency Requirements. Permittee shall provide a minimum (4) four hours resiliency for the System through battery back-up in the Point of Interface room and any certain other rooms outside of the Point of Interface room, including the intermediate distribution frame

closets, telecom closets, and equipment closets in which System components are located and, with respect to the DAS System, a location in the Transportation Hub.

4.3 Times to Report and Repair. Upon the occurrence of any event that has an adverse effect on the provisions of DAS Service and/or the Wi-Fi Service, the Permittee shall use its best efforts to resolve such adverse effect as soon as practicable. Without limiting the foregoing, Permittee shall additionally comply with the following requirements with respect to any such event:

4.3.1 Within four (4) hours after any System-wide, DAS Service affecting and/or Wi-Fi Service affecting outage or interruption, the Permittee shall report the proposed solution or resolution regarding such outage or interruption to the Port Authority. The Permittee shall resolve such outage and restore service to pre-outage conditions within four (4) hours after such notification, except that, with respect to any such outage that is the direct result of a failure of Carrier User equipment or infrastructure outside of the control of the Permittee, the Permittee shall be obligated to use best efforts to resolve such outage and restore service to pre-outage conditions as soon as possible following such notification.

4.3.2 Within four (4) hours after any partial DAS Service affecting and/or Wi-Fi Service affecting outage or interruption, Permittee shall report the proposed solution or resolution regarding such outage or interruption to the Port Authority. The Permittee shall resolve such outage and restore service to pre-outage conditions within eight (8) hours after such notification, except that, with respect to any such outage that is the direct result of a failure of Carrier User equipment or infrastructure outside of the control of the Permittee, the Permittee shall be obligated to use best efforts to resolve such outage and restore service to pre-outage conditions as soon as possible following such notification.

4.3.3 Within twenty-four (24) hours of any non-service affecting System outage, the Permittee shall report the proposed solution or resolution regarding such outage or interruption to the Port Authority. The Permittee shall use best efforts to resolve such outage as soon as possible in order to minimize risk of a subsequent service-affecting outage. If the condition degrades to a DAS Service affecting and/or Wi-Fi Service outage, the response standards set forth in this Supplement for such outage shall apply and shall be measured from the onset of such service-affecting degradation.

Notwithstanding the foregoing, electrical service outages to the System will not be grounds for waiving the foregoing report and repair requirements.

4.4 Remedies for System Failures. The Permittee shall, subject to Section 11.10, cure any and all failures to meet the applicable System Performance Standard (each, a "Performance Standard Violation") within a fifteen (15) calendar day period after the earlier of written notice thereof shall have been received by the Permittee or such time as the Permittee has become aware of such Performance Standard Violation, which cure period may be extended for an additional thirty (30) calendar day period (or longer, if the circumstances reasonably require, provided that in no event shall any such cure period be extend for longer than a ninety (90) calendar day period in total) if the Permittee commences such cure within the original fifteen (15) calendar day period and continues to diligently pursue completion thereof.

4.4.1 Notwithstanding the foregoing (and regardless of whether the Permittee is pursuing or has effected cure), the Permittee shall pay the following amounts (each, a "Violation Fee") on account of such Performance Standard Violations to the Port Authority at the time it is next obligated to make a Variable Fee payment pursuant to this Supplement (and the same shall be deemed fees collectible in the same manner and with like remedies as if such Violation Fees were a part of the Variable Fees hereunder):

(a) For the first Performance Standard Violation resulting in any DAS Service affecting and/or Wi-Fi Service affecting outage or interruption lasting more than four (4) hours within any Annual Period, the Violation Fee shall be an amount equal to (a) the Wi-Fi Net Income, with respect to such a Performance Standard Violation resulting in a Wi-Fi Service affecting outage, and/or the DAS Net Income, with respect to such a Performance Standard Violation resulting in a DAS Service affecting outage, as applicable, from (i) the date on which such Performance Standard Violation first occurs through (ii) the date upon which the DAS Service and Wi-Fi Service have been fully restored.

(b) For the second and each subsequent Performance Standard Violations resulting in any DAS Service affecting and/or Wi-Fi Service affecting outage or interruption lasting more than four (4) hours within any Annual Period, the Violation Fee shall be an amount equal to (a) the Wi-Fi Net Income, with respect to such a Performance Standard Violation resulting in a Wi-Fi Service affecting outage, and/or the DAS Net Income, with respect to such a Performance Standard Violation resulting in a DAS Service affecting outage, as applicable, from (i) the date on which such Performance Standard Violation first occurs through (ii) the date upon which the DAS Service and Wi-Fi Service have been fully restored (b) multiplied by two (2).

The Parties acknowledge and agree that (i) the Violation Fees described above are a reasonable estimate of and bear a reasonable relationship to the damages that would be suffered and costs incurred by the Port Authority as a result of any such Performance Standard Violations, (ii) the actual damages suffered and costs incurred by the Port Authority as a result of any such Performance Standard Violations would be extremely difficult and impractical to determine and (iii) the applicable Violation Fees shall be and constitute valid liquidated damages on account of such Performance Standard Violations.

4.4.2 Within forty-eight (48) hours of any Performance Standard Violation, the Permittee will prepare and issue to the Port Authority an analysis and narrative statement that outlines the cause of the Performance Standard Violation, the remedies taken by the Permittee, Carriers Users (with respect to the DAS System) and any other Persons to remedy such outage or interruption and improvements planned or undertaken to avoid future Performance Standard Violations.

4.5 Applicable Provisions of the TNAS Agreement: Manner of Operation. Section 35 of the Original Agreement shall be and hereby is incorporated in this Supplement and made applicable to the WTC Site as if fully set forth herein, except that, for purposes of this Supplement, (i) the capitalized terms used within such provisions shall have the applicable meanings given to such terms in Article I of this Supplement if so defined therein (otherwise, such capitalized terms shall have the applicable meanings given to such terms in the Original

Agreement), (ii) the phrase "this Agreement" or "hereunder" as used in any such provision shall be construed to refer to this Supplement, (iii) the references to "Covered Facilities" as used in Section 35(iii) of the Original Agreement shall mean the WTC Site, (iv) the references to "Gross Receipts" as used in Section 35(vi) and (vii) of the Original Agreement shall mean Gross Revenues, (iii) the phrase "Paging Carrier User" as used in Section 35(viii) of the Original Agreement shall not be incorporated in this Supplement and (v) Section 35(ix) shall not be incorporated in this Supplement.

4.6 Applicable Provisions of the TNAS Agreement: Objectionable Interference. Section 46 of the Original Agreement shall be and hereby is incorporated in this Supplement and made applicable to the WTC Site as if fully set forth herein, except that, for purposes of this Supplement, (i) the capitalized terms used within such provisions shall have the applicable meanings given to such terms in Article I of this Supplement if so defined therein (otherwise, such capitalized terms shall have the applicable meanings given to such terms in the Original Agreement), (ii) the phrase "this Agreement" or "hereunder" as used in any such provision shall be construed to refer to this Supplement, (iii) the phrase "Paging Carrier User" as used in Section 46 shall not be incorporated in this Supplement and (iv) Section 46(e) shall not be incorporated in this Supplement.

4.7 On-Site Staff. At the Port Authority's option, the Permittee shall maintain, at its sole cost, a full time staff on-site to address customer service issues during normal business hours. Such staff will be based in an office to be provided and furnished by the Port Authority at no additional cost to the Permittee.

4.8 Applicable Provisions of the TNAS Agreement: Maintenance and Repair. Section 11 of the Original Agreement shall be and hereby is incorporated in this Supplement and made applicable to the WTC Site as if fully set forth herein, except that, for purposes of this Supplement, (i) the capitalized terms used within such provisions shall have the applicable meanings given to such terms in Article I of this Supplement if so defined therein (otherwise, such capitalized terms shall have the applicable meanings given to such terms in the Original Agreement), (ii) the phrase "this Agreement" or "hereunder" as used in any such provision shall be construed to refer to this Supplement, (iii) the reference to "Section 12" as used in Section 11(a) of the Original Agreement shall mean Section 12 of the Original Agreement as incorporated in this Supplement pursuant to Section 14.1.4, (iv) the references to "Section 7" as used in Section 11(b) of the Original Agreement shall mean Section 7 of the Original Agreement as incorporated in this Supplement pursuant to Section 7.1 and (v) all the Permittee's obligations and duties pursuant to Section 11 of the Original Agreement as incorporated in this Supplement pursuant to this Section 4.8 shall be performed by the Permittee so as to ensure that the System is operated and maintained to a first-class standard.

4.9 Planned Maintenance. The Permittee shall schedule all planned maintenance within limited maintenance windows during Off-Peak Times, which scheduling shall be subject to the prior written approval of the Port Authority (which approval may not be unreasonably delayed or withheld).

ARTICLE V

IN-KIND SERVICES

5.1 In-Kind Services. Upon the written request by the Port Authority from time to time, the Permittee shall, at no charge, install, operate and maintain for use by the Port Authority the following in-kind services in accordance with the Port Authority's reasonable specifications (the "In-Kind Services"): (i) up to one hundred (100) complimentary premium Wi-Fi subscriptions for use by the Port Authority and its designees throughout the Designated Coverage Areas and (ii) prominent reserved space on the splash page first accessed by end-users accessing the Wi-Fi Service for the World Trade Center and/or Port Authority logo and icon and to allow users to download, without charge, Port Authority or World Trade Center applications or to access other information or products related to the Port Authority or World Trade Center.

ARTICLE VI

CARRIER USERS

6.1 Carrier User Access to System. The Permittee may, in the conduct of its operations hereunder, permit the use of portions of the System by Carrier Users pursuant to and in accordance with this Article VI solely to provide current and future DAS Service to such Carrier Users' respective DAS Users within all of the Designated Coverage Areas (except as otherwise approved in writing in advance by the Port Authority). The Permittee shall offer reasonable, non-exclusive and non-discriminatory terms to any Carrier User holding a valid FCC license to purchase access to the DAS System. All such uses shall be governed by a carrier agreement ("Carrier Agreement") by and between the Permittee and the applicable Carrier User, which shall be negotiated and executed as provided in this Article VI. The Permittee shall use commercially reasonable efforts to enter into Carrier Agreements with one (1) or more Carrier Users as soon as practicable after the date of this Agreement.

6.2 Standard Access Offering. The Permittee shall develop and maintain a standard access offering containing the basic terms pursuant to which the Carrier Users may purchase access to the DAS System (the "Standard Access Offering"), which shall contain, among other things, business terms, monthly fees and capital cost reimbursements to be paid by Carrier Users and certain standard terms required by the Port Authority. The Standard Access Offering and any updates thereto shall be subject to approval of Port Authority, not to be unreasonably withheld.

6.3 Carrier Agreements. Unless otherwise approved in writing by the Port Authority, the Permittee shall commence all new Carrier Agreement negotiations based on the Standard Access Offering. During the course of negotiations with a prospective Carrier User, the Permittee may vary from the Standard Access Offering, provided that, in such event, the Permittee shall prepare and provide to the Port Authority a net present value analysis of such alternate terms over an at least ten (10) year period to demonstrate that substantially similar or better revenue value will accrue to the Port Authority as a result of such varied terms. The Permittee shall include the Port Authority in any meetings or other discussions between the Permittee and any Carrier User. If Carrier Agreement terms are discussed extemporaneously at

meetings where a representative of the Port Authority is not in attendance, the Permittee will provide the Port Authority with notes of such meeting or discussion that briefly characterize the discussion and any conclusions reached within a reasonable time of such meeting or discussion. The Permittee shall fully disclose to the Port Authority Carrier User requirements and terms of requested technology service and performance, and will promptly forward to the Port Authority any Carrier User requirements or specifications pertaining to the DAS System or space and conditioning requirements for the rooms that house components of the DAS System. The Permittee will use commercially reasonable efforts to obtain Carrier Agreement terms coterminous with this Supplement and having a minimum term of fifteen (15) years (provided the term for any Carrier Agreement executed after the first Carrier Agreement shall expire on the expiration date of the first Carrier Agreement, except as approved in writing by the Port Authority in its sole discretion).. Carrier Agreements may include substantially different terms for different Carrier Users, and the Port Authority will not unreasonably insist on identical terms for various carriers. Notwithstanding the foregoing, each Carrier Agreement shall provide that (A) the Port Authority shall be (i) an intended third-party beneficiary of such Carrier Agreement and (ii) entitled (but not obligated) to enforce any provisions thereof on behalf of the Permittee and (B) upon written notice from the Port Authority to the Carrier User, all amounts payable by the applicable Carrier User to the Permittee under the Carrier Agreement shall thereafter be paid directly to the Port Authority until further written notice is received from the Port Authority. The Port Authority shall be permitted (but not obligated) to give such written notice(s) to one or more Carrier Users only from and after, and during the continuance of, the occurrence of any Non-Curable Default or Major Default, and all amounts paid by Carrier Users directly to the Port Authority pursuant to such provision shall only be expended for purposes provided in this Agreement or any Carrier Agreement and shall not be distributed to the Port Authority other than in accordance with this Agreement. Prior to its execution of a Carrier Agreement, the Permittee shall deliver to the Port Authority an unsigned but final copy of such Carrier Agreement, together with any other information that is reasonably relevant to the Port Authority's evaluation of such Carrier Agreement (including, without limitation, any net present value analysis required pursuant to this Section 6.3). The Permittee shall obtain the prior written approval of the Port Authority to such Carrier Agreement, which the Port Authority agrees to review promptly upon request therefor. Upon the Port Authority's written approval, the Permittee shall be authorized to execute such Carrier Agreement. The Permittee shall furnish the Port Authority with a true copy of each fully-executed Carrier Agreement promptly after the execution thereof. The Port Authority shall provide each Carrier User with a subordination, non-disturbance and attornment agreement in form reasonably acceptable to such Carrier User.

ARTICLE VII

SYSTEM CONSTRUCTION AND ALTERATIONS

7.1 Applicable Provisions of the TNAS Agreement: Installation Work. Section 7 of the Original Agreement shall be and hereby is incorporated in this Supplement and made applicable to the WTC Site as if fully set forth herein, except that, for purposes of this Supplement, (i) the capitalized terms used within such provisions shall have the applicable meanings given to such terms in Article I of this Supplement if so defined therein (otherwise, such capitalized terms shall have the applicable meanings given to such terms in the Original Agreement), (ii) the phrase "this Agreement" or "hereunder" as used in any such provision shall

be construed to refer to this Supplement and (iii) the last sentence of Section 7(b)(i) of the Original Agreement, the last two sentences of Section 7(b)(ii)(1) of the Original Agreement, the last sentence of Section 7(b)(ii)(2) of the Original Agreement, Section 7(c)(i), Section 7(c)(ii), and Section 7(g)(iii)-(iv) shall not be incorporated in this Supplement.

7.2 Port Authority Review of Proposed System Work. Pursuant to (i) Section 7(b)(ii) of the Original Agreement (as incorporated in this Supplement pursuant to Section 7.1), with respect to the Initial System Construction Work, and (ii) Section 38 of the Original Agreement (as incorporated in this Supplement pursuant to Section 7.5), with respect to any construction, modifications, alterations, additions or improvements other than the Initial System Construction Work, the Permittee is required to obtain the written approval of the Port Authority prior to commencing any such work. For the avoidance of doubt, the following approval process shall be undertaken with respect to any such approvals required to be obtained from the Port Authority:

7.2.1 The Permittee shall submit a Construction Application to the Port Authority's World Trade Center Redevelopment department ("WTCR") for its review and written approval, which approval shall be granted or withheld in the Port Authority's reasonable discretion. WTCR shall use best efforts to review and respond to the Permittee with respect to any complete Construction Application within five (5) business days. If WTCR does not respond to the Permittee within any such five (5) business day period, then any succeeding Initial Schedule Milestones shall be extended for a period of time equal to the period of time commencing upon the date that is five (5) business days after the submission by the Permittee to WTCR of a complete Construction Application and concluding on the date that WTCR responds to the Permittee with respect to such Construction Application. In no event shall any such failure to respond constitute a default by the Port Authority under this Agreement. In order to facilitate the initial design of the System, the Permittee may submit the required materials for major individual components of the WTC Site for review and approval as such components are ready for consideration. If at any time WTCR is subsumed into another Port Authority department or otherwise ceases to exist, the Port Authority may designate another department to receive, review and approve Construction Applications as set forth herein.

7.2.2 If and when the Permittee receives WTCR's approval of the Construction Application in accordance with Section 7.2.1, WTCR shall directly forward, or request the Permittee to forward, the approved Construction Application to the Port Authority's Quality Assurance Division ("QAD") and any other divisions or departments as may be required by the Port Authority for approval. QAD and such other divisions or departments shall review such materials in accordance with their respective standard practices and procedures (including, without limitation, the then-applicable Tenant Construction and Alteration Process Manual), and the Permittee shall pay the Port Authority's standard fees and charges in connection with such applications and review. Such review shall be in the Port Authority's capacity as a governmental agency with jurisdiction over the WTC Site, and may be granted or withheld by the Port Authority in the exercise of such capacity.

7.3 Initial System Construction Work Schedule. The Permittee shall perform the Initial System Construction Work and any other work as necessary to ensure that (i) the Initial System Construction Work proceeds in accordance with the schedule milestones set forth on Exhibit D attached hereto, (ii) the DAS System (other than the Temporary System with respect to

the Other Temporary System Areas) and the Wi-Fi System are delivered, commissioned in accordance with applicable QAD requirements and fully operational (as applicable) on or before the applicable dates indicated on Exhibit D attached hereto (or such later dates as may be agreed in writing by the Port Authority in light of any applicable delays or adjustments to the construction schedule for the World Trade Center) (each, an "Initial Schedule Milestone") and (iii) the Temporary System with respect to the Other Temporary System Areas is delivered, commissioned in accordance with applicable QAD requirements and fully operational (as applicable) as early as practicable. Without limiting the foregoing, the Permittee shall in all events use best efforts to deliver, activate and make available the DAS System (including, without limitation, the Temporary System) and the Wi-Fi System as early as practicable.

With respect to any area of the WTC Site, until such time as the Permittee delivers the System, commissions the System in accordance with applicable QAD requirements and the System is fully operational so that such area is provided with the DAS Service and Wi-Fi Service, as applicable, in accordance with the applicable System Performance Standard, the Port Authority shall have the right (but not the obligation) in its sole discretion, either directly or through one or more third parties, to install, operate and/or otherwise utilize such temporary measures as are reasonably necessary to provide DAS Service and/or Wi-Fi Service within such area. Exercise of the foregoing right shall conclusively be deemed not to violate any rights granted to the Permittee pursuant to this Supplement (including, without limitation, pursuant to Sections 4.1.1 or 4.1.2) and shall be without limitation of any other available remedies.

The Parties shall regularly discuss the status of the Initial System Construction Work and shall provide weekly updates to each other. The Parties acknowledge that after the DAS System and Wi-Fi System are delivered, commissioned in accordance with applicable QAD requirements and operational (and, in the case of the DAS System, in service with a connected Carrier User), the DAS System and Wi-Fi System may be subject to further testing, adjustment and commissioning for a period of time of up to six (6) months after commissioning (the "Testing Period"), provided, however, that during the Testing Period, the provisions of this Supplement (including, without limitation, Article IV) shall not be suspended or reduced and shall remain applicable to the Permittee. The Parties hereby acknowledge that, pursuant to Section 39 of the Original Agreement (as incorporated in this Supplement pursuant to Section 11.10), neither the Port Authority nor the Permittee shall be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control. For the avoidance of doubt, the following shall be deemed causes or conditions beyond the Permittee's control with respect to the Temporary System to the extent such matters cause failure, delay or interruption in performing its obligations hereunder: (i) the inability of Boingo to obtain the necessary Carrier User approvals to permit the operation of the Temporary System after using best efforts to secure such approvals, (ii) the inability of Boingo to obtain the necessary approvals from the Port Authority to locate and install the applicable "donor sites" for the Temporary System at the WTC Site or (iii) if incorporating additional "donor sites" is necessary to provide DAS Service to portions of the Temporary System Areas not sufficiently covered by the initial Temporary System, the failure of the Parties to agree on the addition of additional "donor sites" after exercising reasonable good faith efforts to do so. In addition, the Parties acknowledge that the Permittee intends to commence the Initial System Construction Work on the Temporary System for the Initial Temporary System Areas promptly following the date hereof. If the Port Authority thereafter requires the Permittee to temporarily suspend such

work with respect to the Initial Temporary System Areas to accommodate any required Port Authority reviews of the associated Construction Application submissions, any such suspension shall be deemed to be a cause or condition beyond the Permittee's control with respect to such work to the extent such matters cause failure, delay or interruption in performing its obligations hereunder. Notwithstanding the foregoing, the Permittee shall (i) use its best efforts to anticipate, take prudent steps to avoid and mitigate any delays in achieving each Initial Schedule Milestone and (ii) provide the Port Authority with written notice if at any time the Permittee anticipates or has reason to believe that the Permittee may be unable to meet an Initial Schedule Milestone. The Parties shall jointly discuss and, if appropriate, work in good faith to agree upon an equitable adjustment to the Initial Schedule Milestones (including the Grand Opening Milestone, if appropriate) in the event of any applicable delays or adjustments to the Port Authority's construction schedule for the World Trade Center or the opening of the applicable facilities within the World Trade Center venue.

Without limiting the foregoing provisions of this Section 7.3, the Permittee shall use commercially reasonable efforts to cause the below-grade Designated Coverage Areas of the DAS System to be available (such that cellular communications will be capable of transmission and reception in the applicable areas, whether via the DAS System or temporary measures reasonably approved by the Port Authority and at Permittee's sole cost) on or prior to August 15, 2014 (or such later date as may be agreed in writing by the Port Authority in light of any applicable delays or adjustments to the construction schedule for the World Trade Center). Additionally, the Permittee shall be obligated to arrange for the Wi-Fi Service to be transmitted to the public portions of the above- and below-grade Designated Coverage Areas of the Wi-Fi System on or prior to the applicable grand opening of the Retail Premises (the "Retail Schedule Milestone").

7.4 Applicable Provisions of the TNAS Agreement: Initial System Capital Cost Reporting. Section 8 of the Original Agreement shall be and hereby is incorporated in this Supplement and made applicable to the WTC Site as if fully set forth herein, except that, for purposes of this Supplement, (i) the capitalized terms used within such provisions shall have the applicable meanings given to such terms in Article I of this Supplement if so defined therein (otherwise, such capitalized terms shall have the applicable meanings given to such terms in the Original Agreement) and (ii) the phrase "this Agreement" or "hereunder" as used in any such provision shall be construed to refer to this Supplement.

7.5 Applicable Provisions of the TNAS Agreement: Other Construction. Section 38 of the Original Agreement shall be and hereby is incorporated in this Supplement and made applicable to the WTC Site as if fully set forth herein, except that, for purposes of this Supplement, (i) the capitalized terms used within such provisions shall have the applicable meanings given to such terms in Article I of this Supplement if so defined therein (otherwise, such capitalized terms shall have the applicable meanings given to such terms in the Original Agreement) and (ii) the phrase "this Agreement" or "hereunder" as used in any such provision shall be construed to refer to this Supplement.

ARTICLE VIII

FEES AND EXPENSES

8.1 Variable Fees. The Permittee shall pay to the Port Authority the following amounts for each Annual Period during the Term of this Supplement:

8.1.1 A variable fee on account of the DAS System (the "DAS Variable Fee") for each Annual Period during the Term of this Supplement in an amount equal to the DAS Net Income for such Annual Period multiplied by twenty-five percent (25%); and

8.1.2 A variable fee on account of the Wi-Fi System (the "Wi-Fi Variable Fee" and together with the DAS Variable Fee, the "Variable Fees") for each Annual Period during the Term of this Supplement in an amount equal to the Wi-Fi Net Income for such Annual Period multiplied by sixty-five percent (65%), provided that the Permittee shall not be required to pay the Wi-Fi Variable Fee until such time as the Permittee has received the Wi-Fi Capital Costs Recovery.

The Variable Fees shall be payable in quarterly installments on the last day of each January, April, July and October occurring during the Term, in each case with respect to the calendar quarter ending on the last day of the immediately preceding calendar month (for example, the Variable Fees shall be payable on July 31 for the calendar quarter April 1 to June 30), based on the reasonably determined projection of the amount to be due for the entire Annual Period prepared by the Permittee and approved in writing by the Port Authority, such approval not to be unreasonably withheld. In the event the actual Variable Fees shall exceed the total of the quarterly installments actually paid by the Permittee with respect to such Annual Period, the Permittee shall pay to the Port Authority the difference between the actual Variable Fees for the preceding Annual Period and the total of the said quarterly installments paid by the Permittee. In the event the total of the said quarterly installments paid by the Permittee to the Port Authority shall exceed the actual Variable Fees for the preceding Annual Period, the Port Authority shall pay the amount of such excess to the Permittee. In either such case, the required payment shall be made not later than ten (10) business days following the date of the written notice from the Permittee to the Port Authority setting forth its computation of the actual Variable Fees for the immediately preceding Annual Period.

8.2 Port Authority Base Infrastructure Costs. The Permittee shall pay to the Port Authority (or shall cause the Carrier Users to pay to the Port Authority) the following amounts (collectively, the "Port Authority Base Infrastructure Costs"):

8.2.1 One Million Eight Hundred Eighty-Five Thousand and No/100 Dollars ($1,885,000) upon the full execution of the first Carrier Agreement to be entered into with respect to the DAS System, as reimbursement for the Port Authority's previously expended direct and indirect costs associated with the design and construction of the System and associated infrastructure, including, without limitation, allocated costs with respect to common and shared space, infrastructure and systems (the "Base Infrastructure Costs Reimbursement"). The Base Infrastructure Costs Reimbursement shall be payable in full within ten (10) days after the earlier of (i) the date on which the first Carrier User is obligated under its Carrier Agreement to reimburse or otherwise make payments to the Permittee for Capital Costs or any other purpose and (ii) the date on which any such payments are actually made.

8.2.2 One Million Eight Hundred Eighty-Five Thousand and No/100 Dollars ($1,885,000) upon the full execution of the second Carrier Agreement to be entered into with respect to the DAS System, as further reimbursement for the Port Authority's previously expended direct and indirect costs associated with the design and construction of the System and associated infrastructure, including, without limitation, allocated costs with respect to common and shared space, infrastructure and systems (the "First Additional Base Infrastructure Costs Reimbursement"). The First Additional Infrastructure Costs Reimbursement shall be payable in full within ten (10) days after the earlier of (i) the date on which the second Carrier User is obligated under its Carrier Agreement to reimburse or otherwise make payments to the Permittee for Capital Costs or any other purpose and (ii) the date on which any such payments are actually made.

8.2.3 One Million Eight Hundred Eighty Thousand and No/100 Dollars ($1,880,000) upon the full execution of the third Carrier Agreement to be entered into with respect to the DAS System, as further reimbursement for the Port Authority's previously expended direct and indirect costs associated with the design and construction of the System and associated infrastructure, including, without limitation, allocated costs with respect to common and shared space, infrastructure and systems (the "Second Additional Base Infrastructure Costs Reimbursement" and, together with the Base Infrastructure Costs Reimbursement and the First Additional Base Infrastructure Costs Reimbursement, collectively, the "Infrastructure Costs Reimbursement") The Second Additional Base Infrastructure Costs Reimbursement shall be payable in full within ten (10) days after the earlier of (i) the date on which the third Carrier User is obligated under its Carrier Agreement to reimburse or otherwise make payments to the Permittee for Capital Costs or any other purpose and (ii) the date on which any such payments are actually made.

8.2.4 Any amount agreed upon by the Port Authority and the Permittee on account of any additional Initial System Construction Work the Port Authority agrees in writing to undertake upon request from the Permittee, provided that the Permittee shall in all events pay such amounts in full to the Port Authority as costs are incurred for such additional Initial System Construction Work undertaken by the Port Authority. The Port Authority agrees not to incur costs for such additional Initial System Construction Work undertaken by the Port Authority without the Permittee's prior approval. The Port Authority will use commercially reasonable efforts to accommodate such requests for additional Initial System Construction Work.

8.3 Infrastructure Reimbursement Credit. The Permittee shall be entitled to a credit against the Infrastructure Costs Reimbursement for expenses incurred by Permittee prior to January 1, 2014 in direct support of the DAS System and Wi-Fi System in an amount equal to One Million Four Hundred Fifty Thousand Dollars ($1,450,000) (the "Infrastructure Reimbursement Credit"). One-third (1/3) of the Infrastructure Reimbursement Credit shall be credited against the payment of the Base Infrastructure Costs Reimbursement, if any, one-third (1/3) of the Infrastructure Reimbursement Credit shall be credited against the payment of the First Additional Base Infrastructure Costs Reimbursement, if any, and one-third (1/3) of the Infrastructure Reimbursement Credit shall be credited against the payment of the Second Additional Base Infrastructure Costs Reimbursement, if any.

8.4 Port Authority Operating Costs. The Permittee shall pay to the Port Authority the following amounts as reimbursement for the Port Authority's direct and indirect costs associated with the provision of electricity, HVAC Service and general maintenance expenses of areas utilized by the Permittee that are reasonably partially or fully attributable to the operation of the System at the WTC Site (collectively, the "Port Authority Operating Costs"):

8.4.1 The costs of the Electricity Consumption and Demand in accordance with the provisions of Section 9.1.

8.4.2 The costs of the HVAC Consumption and Demand in accordance with the provisions of Section 9.2.

8.4.3 The costs of general maintenance expenses in a fixed amount equal to $2.00 (which amount shall be increased each year by three percent (3%), compounded annually, with the first such increase to occur one year after the Commencement Date) per square foot of space at the World Trade Center that is occupied or otherwise utilized by the Permittee and/or the System per year pursuant to this Supplement. The Parties acknowledge that, based on the System Plans and Specifications, the amount of space to be initially occupied by the System is anticipated to be approximately 2,630 square feet as reflected on Exhibit F attached hereto. In the event of an increase or decrease in the amount of space used by the Permittee and/or the System, this Section 8.4.3 and Exhibit F shall be revised accordingly as reasonably determined by the Parties.

8.4.4 Any reasonable and non-discriminatory costs incurred in the use of stakeholder resources at the World Trade Center that are for the sole or material benefit of the Permittee in connection with the System.

The Permittee shall use commercially reasonable efforts to provide for the payment or reimbursement by the Carrier Users of such costs and expenses. The Port Authority shall use good faith efforts to minimize Port Authority Operating Costs and to approve vendors without unreasonable delay.

8.5 System Capital Costs. The Permittee shall be responsible for all capital costs, expenses, fees and other costs associated with the design, construction, initial deployment and future upgrades of the System (but excluding any Port Authority-directed work pursuant to Sections 3.4.2 or 3.5) (collectively, the "Capital Costs"), and shall pay such amounts as and when due. Without limiting the foregoing, Permittee shall be responsible for (i) collecting outside contributions for System construction and upgrades and (ii) subcontracting, managing, and paying all third parties for labor and materials associated with work and materials (other than any Port Authority-directed work pursuant to Sections 3.4.2 or 3.5). Additionally, the Permittee shall fund the actual costs of any base-build changes requested by the Permittee and approved by the Port Authority as costs are incurred for such base build changes. The Port Authority shall have the right to review all proposed Capital Costs expenditures in advance, and the Permittee shall not make any Capital Costs expenditures unless the Port Authority has granted its prior written approval to such expenditure (which approval shall not be unreasonably delayed or withheld). Subject to Permittee's payment in full of the Port Authority Base Infrastructure Costs, the Permittee shall be entitled to receive any reimbursements provided by the Carrier Users of

Capital Costs relating to the initial deployment of the DAS System until the Permittee has been reimbursed in full for such Capital Costs plus a twenty-five percent (25%) accrued preferred annual return on such Capital Costs to the extent expended by the Permittee (collectively, the "DAS Capital Costs Recovery"). The Port Authority shall have the right to review reimbursements for Capital Costs relating to the initial deployment of the DAS System that are applied toward the DAS Capital Costs Recovery. Additionally, the Permittee shall be entitled to receive Wi-Fi Gross Income to recoup Capital Costs relating to the initial deployment of the Wi-Fi System until such time as such Capital Costs have been recovered in full (the "Wi-Fi Capital Costs Recovery") without interest, carry or other form of financial expense, provided that the Permittee shall not be entitled to receive the Wi-Fi Capital Costs Recovery until such time as the Permittee has demonstrated to the Port Authority's reasonable satisfaction that the underlying Capital Costs are reasonable and have actually been expended in the manner contemplated by this Supplement.

8.6 Late Charges. If the Permittee should fail to pay any amount required under this Supplement when due to the Port Authority, including, without limitation, any payment of any Variable Fees 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, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (described below) 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 the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date any unpaid amount should have been paid under this Supplement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section 8.6 with respect to such unpaid amount. Each late charge shall be recoverable by the Port Authority in the same manner and with like remedies as if it were a part of the Variable Fees hereunder. Nothing in this Section 8.6 is intended to, or shall be deem to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Supplement or (ii) any obligations of the Permittee under this Supplement. In the event that any late charge imposed pursuant to this Section 8.6 shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Supplement shall be payable instead at such legal maximum.

8.7 Additional Revenue Opportunities.

8.7.1 If either the Permittee or the Port Authority becomes aware of additional services or revenue opportunities realized by a system of similar design or with the individual or collective components of the System, the Permittee shall use commercially reasonable efforts to implement such services at the WTC Site within six (6) to twelve (12) months of such services becoming available in the market, subject to agreement of the Parties regarding the terms and

conditions of such additional services and otherwise in compliance with the applicable provisions of this Supplement. Notwithstanding the foregoing, nothing contained in this Section 8.7.1 shall limit or otherwise affect the Permittee's obligations pursuant to Section 3.4.

8.7.2 In the event cellular data offloading to the Wi-Fi System becomes practicable and economic, the Permittee shall be obligated to utilize the then-current Wi-Fi System to provide for data offloading or upgrade the Wi-Fi System to provide additional bandwidth that may be required by data offloading without compromising the then-current functionality of the balance of the Wi-Fi System, all at no cost to the Port Authority and in compliance with the applicable provisions of this Supplement.

ARTICLE IX

UTILITIES

9.1 Electricity. Subject to all terms and conditions of this Supplement, the Port Authority shall ensure that such electricity as is reasonably necessary for initial System Operations (as described in the System Plans and Specifications) is made available for use by the Permittee. Any additional capacity outside of the System Plans and Specifications shall be paid for by the Permittee as provided in this Section 9.1.

9.1.1 The Port Authority shall periodically throughout the Term, at such times as the Port Authority may elect, arrange for a survey of the Permittee's equipment by the Port Authority or its designee or by an independent utility consultant to be selected by the Port Authority for the purpose of establishing the Permittee's annual consumption of and demand for electricity (such consumption of and demand for electricity being hereinafter referred to as "Electricity Consumption and Demand"). Such Electricity Consumption and Demand shall be based on the Permittee's electrical equipment and the frequency and duration of the use thereof. The Permittee's annual Electricity Consumption and Demand shall be divided by the number of "Billing Periods" per Annual Period established by the public utility company supplying electricity in the vicinity of the World Trade Center so as to determine the Electricity Consumption and Demand per Billing Period. The Port Authority shall compute the cost of such Electricity Consumption and Demand as determined by the survey based on the greater of (1) the rates (including the fuel or other adjustment factor if any) which the Permittee at the time of such purchase and under the service classification then applicable to it would have to pay for the same quantity of electricity to be used for the same purposes under the same conditions if it received the electricity directly from the public utility supplying the same to commercial buildings in the vicinity and (2) the Port Authority's cost of obtaining and supplying the same quantity of electricity, provided, however, that in no event shall the Port Authority charge the Permittee for any Electricity Consumption and Demand in excess of amounts the Port Authority is legally or contractually permitted to charge for such Electricity Consumption and Demand. The Permittee shall pay the cost of such Electricity Consumption and Demand for each such Billing Period to the Port Authority at the time the next Variable Fee payment following the close of such Billing Period is due and the same shall be deemed fees collectible in the same manner and with like remedies as if it were a part of the Variable Fees hereunder. The determination of Electricity Consumption and Demand by survey shall be effective until the next succeeding survey and shall be binding and conclusive on both the Permittee and the Port Authority as to all matters,

including but not limited to the frequency and duration of use of the Permittee's electrical equipment at the World Trade Center by the Permittee. The cost of each such survey shall be borne by the Port Authority, provided that if the Permittee makes any alterations or improvements at the WTC Site in accordance with the provisions of this Supplement or otherwise which may result in greater Consumption or Demand, the Port Authority may direct a new survey to establish the Electricity Consumption and Demand for electricity at the World Trade Center and the cost thereof shall be borne by the Permittee. Any method of measurement used herein shall not preclude the Port Authority from reverting to the use of any prior method. In lieu of a determination of Electricity Consumption and Demand by survey, the same may be measured by meter which the Port Authority may install at its option, exercised at any time during the Term, and if for any reason any meter fails to record the consumption of electricity, the consumption of electricity during any such period that the meter is out of service will be considered to be the same as the consumption for a like period either immediately before or immediately after the interruption as selected by the Port Authority. If the Port Authority elects to install any such meter or meters, then (i) the Permittee shall pay to the Port Authority the full cost of the installation and operation of any such meter(s) that is installed in connection with the Initial System Construction Work and (ii) the Permittee shall use commercially reasonable efforts to provide for the full payment or reimbursement by the Carrier Users of the cost of the installation and operation of any such meter(s) that is installed at any time after the Initial System Construction Work and, if the Permittee is not able to obtain such full payment or reimbursement from the Carrier Users, then the Permittee shall pay to the Port Authority one-half the amount of such costs, in each case such amounts to be paid at the time the next Variable Fee payment following the close of the applicable Billing Period is due and the same shall be deemed fees collectible in the same manner and with like remedies as if such amounts were a part of the Variable Fees hereunder.

9.1.2 Notwithstanding that the Port Authority has agreed to supply electricity to the Permittee, the Port Authority shall be under no obligation to provide or continue such service if the Port Authority is prevented by law, agreement or otherwise from metering or measuring electrical consumption as set forth in Section 9.1.1 or elects not to so meter or measure consumption of the same, and in any such event, the Permittee shall make all arrangements and conversions necessary to obtain electricity directly from the applicable public utility. Also in such event, the Permittee shall perform the construction necessary for conversion and if any lines or equipment of the Port Authority are with the consent of the Port Authority used therefor, the Permittee shall pay to the Port Authority its pro rata share of the reasonable costs and expenses for said lines and equipment.

9.1.3 The supply of electricity shall be made by the Port Authority at such points as are designated in the applicable approved Construction Application for connection of the electrical distribution systems to be installed by the Permittee with the Port Authority's lines and conduits, and the Port Authority shall have no responsibility for the distribution of electrical current beyond the points of connection to the System.

9.1.4 The Port Authority shall have the right to discontinue temporarily the supply of any of the above services when necessary or desirable in the reasonable opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the premises or elsewhere at the World Trade Center, including but not limited to all systems for the

supply of services. Except in cases of emergency, the Port Authority shall give the Permittee reasonable prior notice before discontinuing the supply of services pursuant to the provisions of this Section 9.1.4. The Port Authority may not claim a Performance Standard Violation to the extent caused solely by any such temporary discontinuation.

9.1.5 No failure, delay, interruption or reduction in any service or services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees or other amounts payable hereunder or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the gross negligence or willful misconduct of the Port Authority, its employees or agents.

9.1.6 The Port Authority shall be under no obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the use of any component necessary therefor shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith, even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency.

9.2 Heating, Ventilation and Air Conditioning. Subject to all terms and conditions of this Supplement, the Port Authority shall ensure that such heating, ventilation and air conditioning service ("HVAC Service") as is reasonably necessary for System Operations is provided to the Point of Interface room and any other areas outside of such Point of Interface room that are reasonably necessary for System Operations, the quantity of such HVAC Service supplied to the Permittee to be in accordance with the design criteria and capacity of the System and to be paid for by the Permittee as provided in this Section 9.2.

9.2.1 The Port Authority shall periodically throughout the Term, at such times as the Port Authority may elect, arrange for a survey of the Permittee's equipment by the Port Authority or its designee or by an independent utility consultant to be selected by the Port Authority for the purpose of establishing the Permittee's annual consumption of and demand for HVAC Service (such consumption of and demand for HVAC Service being hereinafter referred to as "HVAC Consumption and Demand"). Such HVAC Consumption and Demand shall be based on the Permittee's HVAC equipment and the frequency and duration of the use thereof. The Permittee's annual HVAC Consumption and Demand shall be divided by the number of Billing Periods per Annual Period so as to determine the HVAC Consumption and Demand per Billing Period. The Port Authority shall compute the cost of such HVAC Consumption and Demand based on the greater of (i) the Port Authority's cost of obtaining and supplying the HVAC Service and (ii) an amount equal to the cost of the Electricity Consumption and Demand determined in accordance with Section 9.1 on account of the Port Authority's provision of HVAC Service to the Permittee for such Billing Period (which amount shall be in addition to, not replacement of, the payment due on account of such Electricity Consumption and Demand pursuant to Section 9.1). The Permittee shall pay the cost of such HVAC Consumption and Demand for each such Billing Period to the Port Authority at the time the next Variable Fee payment following the close of such Billing Period is due and the same shall be deemed fees collectible in the same manner and with like remedies as if it were a part of the Variable Fees hereunder. Any method of measurement used herein shall not preclude the Port Authority from

reverting to the use of any prior method. In lieu of a determination of HVAC Consumption and Demand as described above, the same may be measured by meter which the Port Authority may install at its option, exercised at any time during the Term, and if for any reason any meter fails to record the consumption of HVAC Service, the consumption of HVAC Service during any such period that the meter is out of service will be considered to be the same as the consumption for a like period either immediately before or immediately after the interruption as selected by the Port Authority. If the Port Authority elects to install any such meter or meters, then (i) the Permittee shall pay to the Port Authority the full cost of the installation and operation of any such meter(s) that is installed in connection with the Initial System Construction Work and (ii) the Permittee shall use commercially reasonable efforts to provide for the full payment or reimbursement by the Carrier Users of the cost of the installation and operation of any such meter(s) that is installed at any time after the Initial System Construction Work and, if the Permittee is not able to obtain such full payment or reimbursement from the Carrier Users, then the Permittee shall pay to the Port Authority one-half the amount of such costs, in each case such amounts to be paid at the time the next Variable Fee payment following the close of the applicable Billing Period is due and the same shall be deemed fees collectible in the same manner and with like remedies as if such amounts were a part of the Variable Fees hereunder.

9.2.2 The supply of HVAC Service shall be made by the Port Authority at such points as are designated in the applicable approved Construction Application for connection of the electrical distribution systems to be installed by the Permittee with the Port Authority's lines and conduits, and the Port Authority shall have no responsibility for the distribution of HVAC Service beyond the points of connection to the System.

9.2.3 The Port Authority shall have the right to discontinue temporarily the supply of any of the above services when necessary or desirable in the reasonable opinion of the Port Authority in order to make any repairs, alterations, changes or improvements in the premises or elsewhere at the World Trade Center, including but not limited to all systems for the supply of services. Except in cases of emergency, the Port Authority shall give the Permittee reasonable prior notice before discontinuing the supply of services pursuant to the provisions of this Section 9.2.3. The Port Authority may not claim a Performance Standard Violation to the extent caused solely by any such temporary discontinuation.

9.2.4 No failure, delay, interruption or reduction in any service or services shall be or shall be construed to be an eviction of the Permittee, shall be grounds for any diminution or abatement of the fees or other amounts payable hereunder, or shall constitute grounds for any claim by the Permittee for damages, consequential or otherwise, unless due to the gross negligence or willful misconduct of the Port Authority, its employees or agents.

9.2.5 The Port Authority shall be under no obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the use of any component necessary therefor shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith, even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency.

9.3 Government Charges. If any federal, state, municipal or other governmental body, authority or agency or any public utility assesses, levies, imposes, make or increases any charge, fee or rent on the Port Authority for any service, system or utility now or in the future supplied to the Permittee or to any of its Carrier Users, then, at the option of the Port Authority exercised at any time and from time to time by notice to the Permittee, the Permittee shall pay, in accordance with said notice, such charge, fee or rent or increase thereof (or the portion thereof equitably allocated by the Port Authority to the Permittee's operations hereunder) either directly to the governmental body, authority or agency or to the public utility or directly to the Port Authority.

ARTICLE X

TRANSFERS

10.1 Prohibition on Transfers. During the Term, the Permittee covenants and agrees that it will not sell, assign, transfer, mortgage, pledge, hypothecate, encumber, or in any way convey or dispose of the System or this Supplement, or any part thereof, any rights created thereby or any license or other interest of the Permittee therein without the prior written consent of the Port Authority, except that the Permittee, if an entity, shall be permitted without the prior written consent of the Port Authority, to become a possessor or merged entity in a merger, a constituent entity in a consolidation, or an entity in dissolution so long as (i) the entity resulting from the merger or dissolution has a financial standing as of the date of the merger or consolidation at least as good as that of the Permittee, by which is meant that its ratio of current assets to current liabilities, its ratio of fixed assets to fixed liabilities and its tangible net worth shall each be at least as favorable as that of the Permittee and (ii) such resulting entity at all times is able to make the representation and warranties and satisfy the covenants set forth in Section 14.2.

10.2 Carrier Users. The Permittee may, in the course of its business and the conduct of its operations hereunder, permit the use of portions of the System by Carrier Users, pursuant to and in accordance with Article VI. All Carrier Users shall use the System for the purpose set forth in this Supplement and its Carrier Agreement, and whether or not expressly set forth in its Carrier Agreement, all Carrier Agreements shall in all respects be subject to the terms and conditions of this Supplement.

ARTICLE XI

TERM, DEFAULT AND TERMINATION

11.1 Term. The "Term of this Supplement" shall commence on the Commencement Date and shall end on the earlier of (a) the scheduled expiration date of the initial term of the first Carrier Agreement but in no event after the date that is twenty (20) years after the Commencement Date and (b) the date upon which this Supplement is earlier terminated pursuant to the terms hereof. For the avoidance of doubt, except with respect to a termination on account of a Schedule Milestone Default pursuant to Section 11.3 or unless otherwise agreed by the Parties in writing: (i) in the event of any termination of the TNAS Agreement for cause (including, without limitation, pursuant to Section 20 of the TNAS Agreement), this Supplement

shall immediately be terminated effective as of the date of such termination for cause of the TNAS Agreement and (ii) in the event of any expiration or termination for cause of this Supplement, the TNAS Agreement shall immediately be terminated effective as of the date of such expiration or termination for cause of this Supplement, in each case without any action by or notice to or from either Party but subject to the applicable provisions of the TNAS Agreement, with respect to the Port Authority Facilities other than the World Trade Center, and this Supplement, with respect to the World Trade Center.

11.2 Non-Curable Terminating Events. In addition to any other rights of termination specifically granted in this Supplement, the Port Authority may terminate this Supplement on not less than twenty (20) calendar days written Notice to the Permittee upon the occurrence of any of the following events (each, a "Non-Curable Default"):

11.2.1 The Permittee shall (i) become insolvent, (ii) take the benefit of any present or future insolvency statute, (iii) make a general assignment for the benefit of creditors, (iv) 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 (iv) consent to the appointment of a receiver, trustee, or liquidator of all or substantially all its property;

11.2.2 By order or decree of a court the Permittee shall be adjudged bankrupt or an order shall be made approving a petition filed by any of the creditors or, if the Permittee is an entity, by any of the stockholders, members, partners, beneficiaries or any other Person holding a beneficial interest in the Permittee, 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;

11.2.3 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 Permittee and shall not be dismissed or vacated within sixty (60) calendar days after the filing thereof;

11.2.4 Except to the extent permitted under Article X of this Supplement, the interest of the Permittee under this Supplement and/or the System, or any portion thereof shall be transferred to, pass to or devolve upon, by operation of law or otherwise, any other Person;

11.2.5 The Permittee, if an entity, shall, without the prior written consent of the Port Authority, become a possessor or merged entity in a merger, a constituent entity in a consolidation, or an entity in dissolution unless (i) the entity resulting from a merger or dissolution has a financial standing as of the date of the merger or consolidation at least as good as that of the Permittee, by which is meant that its ratio of current assets to current liabilities, its ratio of fixed assets to fixed liabilities and its tangible net worth shall each be at least as favorable as that of the Permittee and (ii) such resulting entity at all times is able to make the representation and warranties and satisfy the covenants set forth in Section 14.2;

11.2.6 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

Permittee, or any execution or attachment shall be issued against the Permittee or any of its property, whereupon possession of any part of the System shall be taken by someone other than the Permittee, and any such possession or control shall continue in effect for a period of at least thirty (30) calendar days;

11.2.7 Any lien is filed against the System or any part thereof because of any act or omission of the Permittee and is not bonded or discharged within sixty (60) calendar days;

11.2.8 The Permittee shall (i) conduct any other form of business activity other than System Operations (except that the Permittee shall be permitted to conduct the business activities permitted under the TNAS Agreement and this Supplement without violating the foregoing) or (ii) control any other Person or own any equity interest in any other Person; or

11.2.9 The Permittee or any of its affiliates, subsidiaries, directors, officers, members or employees commits fraud, embezzlement or theft against the Port Authority or its affiliates.

11.3 Schedule Milestone Defaults. The Permittee shall be in default of this Supplement if it fails to meet any Initial Schedule Milestone or the Retail Schedule Milestone (any such default, a "Schedule Milestone Default").

11.3.1 Regardless of the Port Authority's knowledge of such Schedule Milestone Default, and in addition to the remedies set forth this Section 11.3 and Section 11.8, upon the occurrence of any Schedule Milestone Default, the Permittee at no cost to the Port Authority, shall (i) use best efforts to complete the Initial System Construction Work and any other work that was required to be completed by the applicable Initial Schedule Milestone or the Retail Schedule Milestone at the earliest possible time following such milestone and (ii) prepare and issue to the Port Authority within one (1) business day after the applicable Initial Schedule Milestone or the Retail Schedule Milestone an analysis and narrative statement that outlines the cause of the Schedule Milestone Default and the steps taken and to be taken by the Permittee to complete the Initial System Construction Work and any other work that was required to be completed by such Initial Schedule Milestone or the Retail Schedule Milestone.

11.3.2 Upon the occurrence of any Schedule Milestone Default (subject to extension of the applicable Initial Schedule Milestones pursuant to Section 7.2.1, 7.3 or Section 11.10, if applicable) other than a Grand Opening Milestone Default, the Permittee shall incur liquidated damages in the amount of One Thousand Five Hundred Dollars ($1,500) for each day that such Schedule Milestone Default has not been cured from and after the twentieth (20th) day following the applicable Initial Schedule Milestone.

11.3.3 Upon the occurrence of a Grand Opening Milestone Default (subject to extension pursuant to Section 7.2.1, 7.3 or Section 11.10, if applicable), the Permittee shall incur liquidated damages in the following amounts: (i) Seven Thousand Five Hundred Dollars ($7,500) for each day that such Grand Opening Milestone Default has not been cured from the eleventh (11th) day following the Grand Opening Milestone until and through the fortieth (40th) day following such Grand Opening Milestone, (ii) Twelve Thousand Five Hundred Dollars ($12,500) for each day that such Grand Opening Milestone Default has not been cured from the

forty-first (41st) day following the Grand Opening Milestone until and through the seventieth (70th) day following such Grand Opening Milestone, and (iii) Fifteen Thousand Dollars ($15,000) for each day that such Grand Opening Milestone Default has not been cured from and after the seventieth (70th) day following such Grand Opening Milestone, provided, however, that if the Permittee does not cure such Grand Opening Milestone Default within eighty-five (85) days after the Grand Opening Milestone or otherwise comply with the provisions of this Section 11.3, the Port Authority may terminate this Supplement on account of such Grand Opening Milestone Default upon not less than two (2) calendar days written Notice to the Permittee. Notwithstanding anything to the contrary contained in this Supplement (including, without limitation, Section 11.1), termination of this Supplement pursuant to this Section 11.3 shall not result in the automatic termination of the TNAS Agreement solely on account of such Grand Opening Milestone Default (although nothing in this sentence shall restrict or otherwise limit any otherwise applicable or available termination rights with respect to the TNAS Agreement, whether under this Supplement, under the TNAS Agreement or otherwise).

11.3.4 The Parties acknowledge and agree that (i) the liquidated damages described in Sections 11.3.2 and 11.3.3 are a reasonable estimate of and bear a reasonable relationship to the damages that would be suffered and costs incurred by the Port Authority as a result of the applicable Schedule Milestone Defaults, (ii) the actual damages suffered and costs incurred by the Port Authority as a result of any such Schedule Milestone Defaults would be extremely difficult and impractical to determine and (iii) the applicable amounts shall be and constitute valid liquidated damages on account of such Schedule Milestone Defaults.

11.4 Major Defaults. The Port Authority may terminate this Supplement on not less than twenty (20) calendar days written Notice to the Permittee if the Permittee shall default in the performance or observance of any other material term, condition or covenant contained in this Supplement not falling under Section 11.2 or Section 11.3 (any such default, a "Major Default") and such Major Default shall continue for a period of thirty (30) calendar days after the earlier of written notice thereof (a "Major Default Notice") shall have been received by the Permittee or such time as the Permittee has become aware of such Major Default, provided that a ten (10) calendar day period shall apply with respect to any failure to make a monetary payment hereunder. Notwithstanding the foregoing, if such a Major Default (other than a monetary default) is such that it is reasonably susceptible to cure but cannot reasonably be remedied within thirty (30) calendar days and the Permittee has, in good faith, commenced cure of such Major Default within ten (10) calendar days after being notified or becoming aware of any such Major Default, then the Port Authority shall not be entitled to terminate this Supplement pursuant to this Section 11.4 for a sixty (60) calendar day period following such Major Default Notice or the date upon which the Permittee became aware of such Major Default so long as the Permittee is diligently prosecuting the cure to its completion. By way of example only, and without limitation, the Parties acknowledge and agree that the occurrence any of the following events shall be deemed to be a Major Default: (a) the Permittee's failure to make payments as and when due under this Supplement, (b) repeated System Performance Violations that together evidence a pattern and practice which is materially inconsistent with the standard of service required by the System Performance Standard or (c) repeated defaults by the Permittee in the performance or observance of any term, condition or covenant contained in this Supplement that together evidence a pattern and practice inconsistent with the Permittee's obligations under this Supplement.

11.5 Other Defaults. The Permittee shall be in default of this Supplement if it defaults in the performance or observance of any term, condition or covenant contained in this Supplement not falling under Section 11.2, Section 11.3 or Section 11.4 (an "Other Default") and such default shall continue for a period of thirty (30) calendar days after written notice thereof (an "Other Default Notice") shall have been received by the non-defaulting party specifying such default and requesting that the same be remedied in such thirty (30) calendar day period, provided that a ten (10) calendar day period shall apply with respect to any failure to make a monetary payment hereunder; and provided further that if such Other Default (other than a monetary default) is such that it is reasonably susceptible to cure but cannot reasonably be remedied within thirty (30) calendar days and the Permittee has, in good faith, commenced cure of such Other Default within ten (10) calendar days after being notified of any such Other Default, then the Port Authority shall not be entitled to terminate this Supplement pursuant to this Section 11.4 so long as the Permittee is diligently prosecuting the cure to its completion.

11.6 Default Notices. The Port Authority shall notify the Permittee in writing of any default condition it observes, provided that the Port Authority's failure to provide any such notification shall in no event have any effect on any other provision of the other provisions of this Article XI.

11.7 Self-Help. If at any time (i) the Permittee shall fail to pay or perform any of its obligations in accordance with the terms and provisions of this Supplement, (ii) such failure is not of the type described in Section 39 of the Original Agreement (as incorporated in this Supplement pursuant to Section 11.10) and (iii) such failure shall continue for a period of five (5) calendar days after receipt of written notice thereof to the Permittee (except in the event of an emergency in which case written notice shall be furnished as soon as reasonably possible), then the Port Authority may, without limitation of any other available remedies, perform the same or arrange for alternative performance of the same until such time as the Permittee cures its failure to perform. The Port Authority shall be entitled to payment from the Permittee for all costs and expenses (including reasonable attorneys' fees) paid or incurred by the Port Authority in performing such work.

11.8 Remedies; No Waiver. Upon the occurrence of and during the continuation of any default described in Sections 11.2, 11.3 or 11.4 or otherwise, all or any one or more of the rights, powers, privileges and other remedies available to the Port Authority against the Permittee under this Supplement or at law or in equity may be exercised by the Port Authority at any time and from time to time. Any such actions taken by the Port Authority shall be cumulative and concurrent and may be pursued independently, singly, successively, together or otherwise, at such time and in such order as the Port Authority may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of the Port Authority permitted by law, equity or contract or as set forth herein. No acceptance by the Port Authority of fees 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 Permittee shall be deemed a waiver of any right on the part of the Port Authority to terminate this Supplement. No waiver by the Port Authority of any default on the part of the Permittee in performance of any of the terms, covenants or conditions hereof to be performed, kept or observed by the Permittee shall be or be construed to be a waiver

by the Port Authority of any other or subsequent default in performance of any of the said terms, covenants and conditions.

11.9 Imputation of Actions of Carrier Users. Without in any way affecting the obligations of the Permittee under this Supplement, all acts and omissions of the Carrier Users shall be deemed acts and omissions of the Permittee hereunder, provided, however, that the Permittee shall not be or be deemed to be in default to the extent that any of the foregoing shall constitute a breach hereof if the causes thereof are beyond the control of the Permittee or if the Permittee shall have commenced to remedy said default within twenty (20) calendar days after receipt of notice thereof from the Port Authority and continues diligently to pursue such remedy without interruption.

11.10 Applicable Provisions of the TNAS Agreement: Force Majeure. Section 39 of the Original Agreement shall be and hereby is incorporated in this Supplement and made applicable to the WTC Site as if fully set forth herein, except that, for purposes of this Supplement, (i) the capitalized terms used within such provisions shall have the applicable meanings given to such terms in Article I of this Supplement if so defined therein (otherwise, such capitalized terms shall have the applicable meanings given to such terms in the Original Agreement) and (ii) the phrase "this Agreement" or "hereunder" as used in any such provision shall be construed to refer to this Supplement.

11.11 Termination Without Cause. Without limiting any other rights of the Port Authority under this Supplement (including, without limitation, the rights set forth in this Article XI), the Port Authority shall have the right to terminate this Supplement without cause effective on the date of the expiration of the Term of the TNAS Agreement upon not less than ninety (90) days' prior written notice to the Permittee. The Port Authority shall not have the right to terminate this Supplement under this Section 11.11 if the Port Authority intends to work with, or is working with or contemplates working with, a third party (including, without limitation, any investors, Carrier Users or any affiliate of any of them) to have such third party provide or finance (in whole or in part) the termination fee payable under this Section 11.11). If the Port Authority so elects to terminate this Supplement, then this Supplement shall be terminated on the date of the expiration of the Term of the TNAS Agreement and, notwithstanding anything to the contrary contained in the TNAS Agreement, the Port Authority shall, within ten (10) days after the effective date of such termination, pay to the Permittee an amount determined as follows:

11.11.1 An amount equal to DAS Net Income less the DAS Variable Fee payable to the Port Authority under Carrier Agreements in place as of the date of termination for the remaining term of such Carrier Agreements during what would have been the remaining Term of this Supplement if this Supplement had not been terminated without cause, plus an amount equal to the Wi-Fi Net Income less the Wi-Fi Variable Fee payable to the Port Authority reasonably forecasted (as agreed by the Parties) to be earned for each Annual Period (or portion thereof) during what would have been the remaining Term of this Supplement if this Supplement had not been terminated without cause, shall be calculated for each Annual Period.

11.11.2 The present value of the stream of payments described in Section 11.11.1 on the date of termination without cause by the Port Authority shall be determined using a discount rate of nine percent (9%) per year (the "Base Net Present Value Amount").

11.11.3 The portion of the Initial System Capital Cost plus the capital cost of any additions to the System approved by the Port Authority as constituting an additional capital investment in the System, which in each case constituted actual unreimbursed payments made to unaffiliated third parties for the acquisition and installation of the System (including, without limitation, any unreimbursed Base Infrastructure Cost Reimbursement and any unreimbursed Additional Base Infrastructure Cost Reimbursement paid to the Port Authority, in each case less the Base Infrastructure Credit), shall be determined and the amount so determined, together with a twenty-five percent (25%) accrued annual return on such amount, and the aggregate amount shall be multiplied by a fraction the denominator of which is the number of days in the Term originally contemplated under this Supplement but for its termination without cause by the Port Authority and the numerator of which is the number of days from the date of the termination of this Supplement without cause by the Port Authority to the expiration date originally contemplated under this Supplement (the "Base Unamortized Capital Amount").

11.11.4 The "WTC Termination Amount" shall be the sum of the Base Net Present Value Amount plus the Base Unamortized Capital Amount.

For the avoidance of doubt and notwithstanding anything to the contrary contained in the TNAS Agreement, any termination without cause of the TNAS Agreement pursuant to Section 36 of the TNAS Agreement shall be effective only as to Port Authority facilities other than the World Trade Center and the "Termination Amount" payable pursuant to Section 36 of the Original Agreement shall not include any amounts attributable to the World Trade Center.

In the event the Port Authority terminates this Supplement pursuant to this Section 11.11, the Port Authority shall, upon payment of the WTC Termination Amount, have the right to (1) direct the Permittee to remove the System or the portions thereof designated by the Port Authority, at the Port Authority's expense, and (2) to use the System or any portion or portions thereof as are not so removed free and clear of any claim of ownership by the Permittee, including all the Permittee's rights to all System software licenses, equipment warranties and service contracts. Title to the portion or portions of the System as are not so removed shall thereupon vest in the Port Authority without any further act or deed by the Permittee if title thereto is not already in the Port Authority.

11.12 Right of Use Upon Termination.

11.12.1 In the event the Port Authority terminates this Supplement pursuant to this Article XI or otherwise in accordance with this Supplement during the Term (other than pursuant to Section 11.11, for which the provisions of Section 11.11 shall govern), the Port Authority shall, at no cost or expense to the Port Authority, either (1) direct the Permittee to remove the System or the portions thereof designated by the Port Authority, or (2) operate the System or any portion or portions thereof as are not so removed free and clear of any claim of ownership by the Permittee, including all the Permittee's rights to all Carrier Agreements, System software licenses, equipment warranties and service contracts. Such foregoing rights of

the Port Authority to use the System shall not in any manner affect, alter or diminish any of the obligations of the Permittee under this Supplement, and shall in no event constitute an acceptance of surrender of this Supplement.

11.12.2 The rights of the Port Authority under Section 11.12.1 to use the System shall include the right of the Port Authority to use and/or operate the System or any portion thereof and the right to continue in effect the terms and provisions of the Carrier Agreements or to enter into a new agreement with any Person to use and/or operate the System or any portion thereof for a period of time the same as or different from the balance of the Term remaining under this Supplement, and on terms and conditions the same as or different from those set forth in this Supplement. The Port Authority shall also, upon a termination as described in Section 11.1, or otherwise upon the exercise of its rights pursuant to this Section 11.11, have the right to repair or to make physical or other changes in the System, including changes which alter its wireless telecommunications and other electronic characteristics, without affecting, altering or diminishing the obligations of the Permittee under this Supplement.

11.12.3 The Port Authority will honor Carrier Agreements in the event of the expiration or termination of this Supplement in accordance with the terms thereof.

ARTICLE XII

SECURITY FOR PERFORMANCE OF PERMITTEE'S OBLIGATIONS

12.1 Initial Construction and Reimbursement Obligations. In connection with this Supplement, Boingo Wireless, Inc. ("Boingo"), the parent of the Permittee, shall execute a completion and payment guaranty pursuant to which Boingo guarantees (i) the lien-free payment and performance of the Initial System Construction Work in accordance with all provisions of this Supplement and (ii) the payment of the Port Authority Base Infrastructure Costs in accordance with all provisions of this Supplement.

ARTICLE XIII

REPORTING

13.1 Periodic Reports During Initial Construction. Prior to the completion of the Initial System Construction Work, the Permittee shall maintain and deliver to the Port Authority a report in form reasonably acceptable to the Port Authority containing the following information with respect to the System and its obligations under this Supplement within thirty (30) calendar days after the end of each calendar month (or within thirty (30) calendar days after the end of such other period as may be agreed between the Parties) (each such month or other period being referred to in this Section 13.1 as a "Period"):

13.1.1 A statement of Wi-Fi Gross Revenues and DAS Gross Revenues for the Period and cumulatively for the Annual Period to date and the amount of all payments made to the Port Authority for the Period and cumulatively for the Annual Period to date pursuant to this Agreement;

13.1.2 A statement of capital receipts (on an invoice basis) for the Period and cumulatively for the Annual Period to date;

13.1.3 A statement showing the Wi-Fi Allowable Deductions, DAS Allowable Deductions and other expenditures made by the Permittee for the Period and the cumulative Wi-Fi Allowable Deductions, DAS Allowable Deductions and other expenditures made by the Permittee for the Annual Period to date;

13.1.4 A statement showing the capital expenditures and significant maintenance items of a capital nature for the Period and cumulatively for the Annual Period to date;

13.1.5 A statement of Capital Costs expended during the Period, cumulatively for the Annual Period to date and cumulatively for Initial System Construction Work;

13.1.6 A management report summarizing significant events or activities affecting the System, the Permittee's obligations under this Supplement or Carrier Agreements which occurred during the Period or which are likely to occur in subsequent months, including, without limitation, detailed information regarding the System's performance with respect to the System Performance Standards;

13.1.7 Updated information and projections regarding the status of the Initial System Construction Work and targeted completion and commissioning dates for the various phases and elements of such work (including as related to the Initial Schedule Milestones and the Retail Schedule Milestone);

13.1.8 A management report regarding operational and maintenance issues, including in-process, completed and anticipated operating and capital activities and expenses; and

13.1.9 Any other information or statements reasonably requested by the Port Authority from time to time.

13.2 Periodic Reports Following Initial Construction. From and after the completion of the Initial System Construction Work, the Permittee shall maintain and deliver to the Port Authority a report in form reasonably acceptable to the Port Authority containing the following information with respect to the System and its obligations under this Supplement within thirty (30) calendar days after the end of each calendar quarter (or within thirty (30) calendar days after the end of such other period as may be agreed between the Parties) (each such quarter or other period being referred to in this Section 13.2 as a "Period"):

13.2.1 A statement of Wi-Fi Gross Revenues and DAS Gross Revenues for the Period and cumulatively for the Annual Period to date and the amount of all payments made to the Port Authority for the Period and cumulatively for the Annual Period to date pursuant to this Agreement;

13.2.2 A statement of capital receipts (on an invoice basis) for the Period and cumulatively for the Annual Period to date;

13.2.3 A statement showing the Wi-Fi Allowable Deductions, DAS Allowable Deductions and other expenditures made by the Permittee for the Period and the cumulative Wi-Fi Allowable Deductions, DAS Allowable Deductions and other expenditures made by the Permittee for the Annual Period to date;

13.2.4 A statement showing the capital expenditures and significant maintenance items of a capital nature for the Period and cumulatively for the Annual Period to date;

13.2.5 A management report summarizing significant events or activities affecting the System, the Permittee's obligations under this Supplement or Carrier Agreements which occurred during the Period or which are likely to occur in subsequent months, including, without limitation, detailed information regarding the System's performance with respect to the System Performance Standards;

13.2.6 An estimate of any operating expenses and other items required to be paid by the Permittee hereunder becoming due during the ensuing month and the dates on which such amounts will become due;

13.2.7 A management report regarding operational and maintenance issues, including in-process, completed and anticipated operating and capital activities and expenses; and

13.2.8 Any other information or statements reasonably requested by the Port Authority from time to time.

13.3 Inventory and Depreciation. In addition to the reports required pursuant to Section 13.1 and Section 13.2, as applicable, the Permittee shall deliver to the Port Authority, from time to time upon request of the Port Authority, a report in form reasonably acceptable to the Port Authority setting forth an inventory of all equipment, machinery and other property in connection with the System showing their current depreciated values, each as of the date(s) specified by the Port Authority in such request.

ARTICLE XIV

MISCELLANEOUS

14.1 Additional Applicable Provisions of the TNAS Agreement. The following provisions of the TNAS Agreement shall be and hereby are incorporated in this Supplement and made applicable to the WTC Site as if fully set forth herein, except that (i) the capitalized terms used within such provisions shall have the applicable meanings given to such terms in Article I of this Supplement if so defined therein (otherwise, such capitalized terms shall have the applicable meanings given to such terms in the Original Agreement) and (ii) the phrase "this Agreement" or "hereunder" as used in any such provision shall be construed to refer to this Supplement:

14.1.1 Leases of Facilities. Section 6(c), except that, for purposes of this Supplement, (i) the term "Summary Basis of Design" as used in Section 6(c)(ii) of the Original Agreement shall mean the Summary Basis of Design attached hereto as Exhibit C and (ii) no

equitable adjustment of the Variable Fees or any other amounts owing or due pursuant to this Supplement shall be available or effected pursuant to such Section 6(c) as incorporated in this Supplement.

14.1.2 Governmental Requirements. Section 9, except that, for purposes of this Supplement, (i) the text after the phrase "fulfilling such obligation" in the second sentence of Section 9(a) thereof shall not be part of this Supplement, (ii) the reference to "Section 12" as used in Section 9(c) thereof shall mean Section 12 of the Original Agreement as incorporated in this Supplement pursuant to Section 14.1.4 and (iii) the following text shall be added to the last sentence of Section 9(b) thereof:

> except that the Permittee shall pay the Port Authority's standard fees and charges in connection with the Port Authority's review of the System in its capacity as governmental agency with jurisdiction over the WTC Site, as more specifically provided in Section 7.2.2 of this Supplement.

14.1.3 Prohibited Acts. Section 10 of the Original Agreement.

14.1.4 Casualty. Section 12 of the Original Agreement, except that, for purposes of this Supplement, (i) Section 12(d) of the Original Agreement shall not be incorporated in this Supplement and (ii) the following text shall be inserted after the phrase "telecommunications network access system" in the third sentence of Section 12(c): "or such other Wi-Fi System and/or DAS System".

14.1.5 Indemnity. Section 13 of the Original Agreement, except that, for purposes of this Supplement, the phrase "Paging Carrier User" as used in Section 13(a) shall not be incorporated in this Supplement.

14.1.6 Consequential Damages. Section 14 of the Original Agreement.

14.1.7 Condemnation. Section 18 of the Original Agreement, except that, for purposes of this Supplement, the references to "Section 38" as used in Section 18(b) of the Original Agreement shall mean Section 38 of the Original Agreement as incorporated in this Supplement pursuant to Section 7.5.

14.1.8 Waiver of Redemption. Sections 22 and 23 of the Original Agreement.

14.1.9 Surrender. Section 24 of the Original Agreement, except that, for purposes of this Supplement, the text "except as may otherwise be provided in Section 6(b)" in the second sentence of Section 24(b) of the Original Agreement shall not be incorporated in this Supplement.

14.1.10 Disputes. Section 26 of the Original Agreement.

14.1.11 Payments. Section 28 of the Original Agreement.

14.1.12 Recording. Section 29 of the Original Agreement.

14.1.13 Quiet Enjoyment. Section 30 of the Original Agreement, except that, for purposes of this Supplement, the references to "Section 20" as used in Section 30 of the Original Agreement shall mean Article XI of this Supplement.

14.1.14 Headings. Section 31 of the Original Agreement.

14.1.15 Performance of Permittee's Obligations. Section 32 of the Original Agreement.

14.1.16 Publicity and Advertising. Section 33 of the Original Agreement.

14.1.17 Liability Insurance. Section 40 of the Original Agreement.

14.1.18 Non-Discrimination. Section 41 of the Original Agreement, except that, for purposes of this Supplement, the reference to "Section 20" as used in Section 41(c) of the Original Agreement shall mean Article XI of this Supplement.

14.1.19 Affirmative Action. Section 42 of the Original Agreement, except that, for purposes of this Supplement, the reference to "Section 20" as used in Section 41(c) of the Original Agreement shall mean Article XI of this Supplement.

14.1.20 Permittee's Additional Ongoing Affirmative Action – Equal Opportunity Commitment. Section 43 of the Original Agreement, except that, for purposes of this Supplement, the reference to "Sections 41 and 42" as used in Section 43(b) of the Original Agreement shall mean Section 41 and Section 42 of the Original Agreement as incorporated in this Supplement pursuant to Section 14.1.18 and Section 14.1.19, respectively.

14.1.21 Suitability of Port Authority Facilities. Section 45 of the Original Agreement, except that, for purposes of this Supplement, the reference to "Section 44" as used in Section 45 of the Original Agreement shall mean Article IX of this Supplement.

14.1.22 Non-Liability of Individuals. Section 47 of the Original Agreement.

14.1.23 Non-Disturbance. Section 49 of the Original Agreement.

14.1.24 Labor Harmony Obligation. Section 50 of the Original Agreement.

14.1.25 Severability. Section 53 of the Original Agreement.

14.1.26 Counterparts. Section 54 of the Original Agreement.

14.1.27 Rules of Interpretation. Section 55 of the Original Agreement.

14.1.28 Third Party Beneficiaries. Section 56 of the Original Agreement.

14.1.29 Governing Law. Section 57 of the Original Agreement.

14.2 Permittee's OFAC Representations, Warranties and Covenants.

14.2.1 The Permittee hereby represents and warrants to the Port Authority that Permittee, including each of its affiliates and subsidiaries and each of its employees, is not a person or entity with whom U.S. persons or entities (including the Port Authority) are restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the United States Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated Nationals and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order on Terrorist Financing, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit or Support Terrorism), or other governmental action and is not engaging, and shall not engage, in any dealings or transactions or be otherwise associated with such persons or entities. The Permittee acknowledges that the Port Authority is entering into this Supplement in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing the Port Authority to enter into and execute this Supplement. In the event of any breach of the foregoing representations and warranties by the Permittee, the Port Authority shall have the right, in addition to any and all other remedies provided under this Supplement, or at law or in equity, to immediately terminate this Supplement upon written notice to the Permittee. In the event of any such termination by the Port Authority, the Permittee, immediately upon receipt of said termination notice, shall have no further right to access the World Trade Center, the WTC Site or any portion thereof and shall surrender the System and all books and records in the Permittee's possession or control with respect to the System and its services under this Supplement to the Port Authority pursuant to Section 24 of the Original Agreement (as incorporated in this Supplement pursuant to Section 14.1.9). Termination on the aforesaid basis shall be a termination for cause.

14.2.2 The Permittee hereby agrees, on behalf of itself and its employees, subsidiaries and affiliates to be used by it in performing the duties under this Supplement directly or indirectly (each, a "Representative"), that Permittee shall require that each potential Representative, service provider, contractor, subcontractor and any other Party engaged by the any Representative with respect to or in connection with this Supplement represent and warrant to the Port Authority and provide the Port Authority with documentation indicating that such Persons do not constitute (i) a government, individual or entity that is subject to U.S. Economic Sanctions, (ii) a Person that resides or has a place of business in a country or territory subject to U.S. Economic Sanctions or (iii) the agent of any of the foregoing Persons, and are not identified on the List of Specially Designated Nationals and Blocked Persons maintained by OFAC, available on the Internet at http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf.

14.3 Audit Rights. The Port Authority may from time to time carry out an independent audit or inspection of the Permittee's books, accounts, records or any other information related to the WTC Site and/or its obligations or performance under this Supplement, including, without limitation, with respect to the capital costs of the DAS and Wi-Fi systems (and management of the construction account, including Carrier User payments), maintenance and refurbishment expenses, ongoing operations costs, revenues, cash flows, fee calculations and any systems or metrics that are used in computing revenues, expenses, costs or fees. The Port Authority may engage such third parties as it deems necessary or desirable in connection with any such audit, provided that in no event shall the Port Authority engage an auditor on a contingency or percentage fee basis. Each audit shall be at the Port Authority's expense, provided, however,

that if any such audit discloses a variance of 5% or more in any amount (on an aggregate basis), Permittee shall promptly pay to the Port Authority the cost of such audit.

14.4 No Broker. The Permittee hereby represents and warrants that it has not had any contacts, dealings, acts or conversations with any broker in connection with the negotiation of this Supplement or in connection with the rights and permissions granted to the Permittee hereunder. The Permittee shall indemnify and save harmless the Port Authority from any and all claims for brokerage or commission made by any Person for services in connection with the negotiation and execution of this Supplement or in connection with the rights and permissions granted to the Permittee hereunder arising out of the contacts, dealings, acts or conversations of the Permittee, except for claims arising solely out of any contacts, dealings, acts or conversations of the Port Authority.

14.5 Notices. All notices, demands, consents, reports and other communications provided for in this Supplement (each a "Notice") shall be in writing, shall be given by a method prescribed in this Section 14.5 and shall be given to the Party to whom it is addressed at the address set forth below or at such other address(es) as such party hereto may hereafter specify by at least fifteen (15) calendar days' prior written notice.

To the Port Authority:

The Port Authority of New York and New Jersey
115 Broadway, 19th floor
New York, New York 10006
Attn: Director, World Trade Center Redevelopment
Telephone: (212) 435-6426
Facsimile: (212) 435-6535

With a copy to:

The Port Authority of New York and New Jersey
225 Park Avenue South
New York, New York 10003
Attn: General Counsel
Telephone: (212) 435-3515
Facsimile: (212) 435-6610

With a copy to:

DLA Piper LLP (US)
1251 Avenue of the Americas
New York, New York 10020-1104
Attn: Jeffrey R. Keitelman, Esq.
Telephone: (212) 335-4660
Facsimile: (301) 717-1122

To the Permittee:

New York Telecom Partners, LLC
2150 S. Central Expressway
Attn: Mark Deshaies
McKinney, Texas 75070
Telephone: (972) 542-3555 ext. 8933
Facsimile: (310) 586-4060

With a copy to:

Boingo Wireless, Inc.
10960 Wilshire Blvd. Suite 800
Los Angeles, California 90024
Attn: Legal Department
Telephone: (310) 586-4064
Facsimile: (310) 586-4060

A Notice may be mailed by United States certified mail, return receipt requested, postage prepaid, deposited in a United States post office or a depository for the receipt of mail regularly maintained by the post office. A Notice may also be delivered (i) by hand or nationally recognized overnight courier which maintains evidence of receipt or (ii) by facsimile with a confirmation copy delivered by overnight courier which maintains evidence of receipt. A Notice shall be deemed given when received at the address for which such party has given notice in accordance with the provisions hereof. A Notice shall be effective only upon receipt or refusal of receipt after delivery in accordance with the methods hereinabove set forth in this Section 14.5.

14.6 Port Authority Additional Provisions. The additional provisions set forth in this Section 14.6 shall apply to the Permittee's obligations under this Supplement. In the event of any inconsistency between the provisions of this Section 14.6 and any other provision of this Supplement, the provisions of this Section 14.6 shall be deemed to control:

14.6.1 Definitions. For the purposes of this Section 14.6, the following terms shall have the following meanings:

(a) "Agency" or "Governmental Agency" means any federal, state, city or other local agency, including departments, offices, public authorities and corporations, boards of education and higher education, public development corporations, local development corporations and others.

(b) "Director" means the then-incumbent Executive Director of the Port Authority.

(c) "Investigation" means any inquiries made by any federal, state or local criminal prosecuting agency and any inquiries concerning civil anti-trust investigations made by any Governmental Agency. Except for inquiries concerning civil anti-trust investigations, the term does not include inquiries made by any civil government agency concerning compliance with any regulation, the nature of which does not carry criminal

penalties, nor does it include any background investigations for employment, or Federal, state, and local inquiries into tax returns.

(d) "Officer" means any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the Permittee, by whatever titles known.

(e) "Parent" means an individual, partnership, joint venture or corporation that owns more than 50% of the voting stock of the Permittee.

14.6.2 Notification of Security Requirements. The Port Authority has the right to impose multiple layers of reasonably required security requirements on the Permittee and its employees on-site at the World Trade Center, depending upon the level of security required, as determined by the Port Authority. These security requirements may include, but are not limited to, the following:

(a) Identity checks and background screening of the Permittee and its on-site employees, including but not limited to inspection of not less than two (2) forms of valid/current government issued identification (at least one having an official photograph) to verify each employee's name and residence; screening federal (including terrorist identification files), state, and/or local criminal justice agency information databases and files; multi-year check of personal, employment and/or credit history; access identification to include some form of biometric security methodology such as fingerprint, facial or iris scanning, or the like;

(b) Issuance of photo identification cards; and

(c) Access control, inspection, and monitoring by security guards.

The Permittee may be required to have its staff authorize the Port Authority or its designee to perform background checks on its on-site employees. Such authorization shall be in a form reasonably acceptable to the Port Authority. The Port Authority may impose, increase, and/or upgrade security requirements for the Permittee and its employees during the term of this Supplement to address changing security conditions and/or new governmental regulations.

14.6.3 Insurance. In connection with any work performed by or on behalf of the Permittee, the Permittee shall take out, maintain, and pay the premiums on Commercial General Liability Insurance, including but not limited to premises-operations, products-completed operations, and independent contractors coverage, with contractual liability language covering the obligations assumed by the Permittee under this Supplement and, if vehicles are to be used to carry out the performance of this Supplement, then the Permittee shall also take out, maintain, and pay the premiums on Automobile Liability Insurance covering owned, non-owned, and hired autos in the following minimum limits:

1. Commercial General Liability Insurance: $5 million combined single limit per occurrence for bodily injury and property damage liability; and

2. Automobile Liability Insurance: $5 million combined single limit per accident for bodily injury and property damage liability.

3. Workers' Compensation Insurance: In accordance with the requirements of law in the state(s) where work will take place.

4. Employer's Liability Insurance: Not less than $1 million each accident.

The Port Authority may, at any time during the term of this Supplement upon not less than thirty (30) calendar days' prior written notice, change or modify the limits and coverages of insurance required hereunder. Such insurance policies shall name the Persons listed on Schedule 1 attached hereto as additional insureds, including but not limited to premise-operations and products-completed operations on the Commercial General Liability Policy. Moreover, the Commercial General Liability Policy shall not contain any provisions for exclusions from liability other than provisions for exclusion from liability forming part of the most up to date ISO form or its equivalent unendorsed Commercial General Liability Policy. The liability policies and certificate of insurance shall contain cross-liability language providing severability of interests so that coverage will respond as if separate policies were in force for each insured. The certificates of insurance and liability policies must contain the following endorsement for the above liability coverages: "The insurer(s) shall not, without obtaining the express advance written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the Tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statues respecting suits against the Port Authority."

Each such insurance policy shall additionally be specifically endorsed to contain a provision that the policy may not be canceled, terminated, or modified without thirty (30) calendar days' prior written notice to the Port Authority and to the Port Authority's General Manager, Risk Management. The Permittee shall submit original certificate(s) of insurance to the Port Authority on the Commencement Date, which certificate(s) must be approved by the General Manager, Risk Management of the Port Authority prior to the commencement of any work under this Agreement by the Permittee. Upon request by the Port Authority, the Permittee shall furnish to the Port Authority's General Manager, Risk Management, a certified copy of each policy, including the premiums.

(a) If at any time the insurance required pursuant to this Section 14.6.3 or otherwise pursuant to this Supplement should be canceled, terminated, or modified so that the insurance is not in effect as above required, then, if the Port Authority shall so direct, the Permittee shall suspend performance of any affected work at the World Trade Center. If the work is so suspended, no extension of time shall be due on account thereof. If the work is not suspended (whether or not because of omission of the Port Authority to order suspension), then the Port Authority may, at its option, obtain insurance affording coverage equal to the above required, the cost of such insurance to be immediately payable, without demand, by the Permittee to the Port Authority.

(b) Renewal certificates of insurance or policies shall be delivered to the Port Authority at least fifteen (15) calendar days prior to the expiration date of each expiring policy. The General Manager, Risk Management must approve the renewal certificate(s) of insurance before work can resume on the facility. If at any time any of the certificates or policies shall become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory certificate and policy.

(c) The requirements for insurance procured by the Permittee shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Permittee under this contract. The insurance requirements are not a representation by the Port Authority as to the adequacy of the insurance to protect the Permittee against the obligations imposed on them by law or by this Supplement or any other contract.

14.6.4 Certification Of No Investigation (Criminal Or Civil Anti-Trust), Indictment, Conviction, Debarment, Suspension, Disqualification And Disclosure Of Other Information. By signing this Supplement, the Permittee certifies that the Permittee and Parent, except as previously disclosed to the Port Authority, have not:

(a) been indicted or convicted of a felony in any jurisdiction;

(b) been suspended, debarred, found not responsible or otherwise disqualified from entering into any agreement with any Governmental Agency or been denied a government agreement for failure to meet standards related to the integrity of the Permittee;

(c) had an agreement terminated by any Governmental Agency for breach of agreement or for any cause, in each case based in whole or in part on an indictment or conviction of a felony;

(d) Have not ever used a name, trade name or abbreviated name other than the name Project Mammoth, Inc.;

(e) had any business or professional license suspended or revoked or had any sanction imposed as a result of any judicial or administrative proceeding with respect to any violation of a federal, state or local environmental law, rule or regulation;

(f) had any sanction by a governmental authority imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, proposal rigging, embezzlement, misrepresentation or anti-trust regardless of the dollar amount of the sanctions or the date of their imposition; or

(g) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency.

14.6.5 Non-Collusive Proposing And Code Of Ethics Certification, Certification Of No Solicitation Based On Commission, Percentage, Brokerage, Contingent Or Other Fees. Except as previously disclosed to the Port Authority, the Permittee certifies, to the extent applicable, that:

(a) The Permittee has not, to the best of its knowledge, made any offers or agreements or taken any other action with respect to any Port Authority employee or former employee or immediate family member of either which would constitute a breach of ethical standards under the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which has been delivered to the Permittee), nor does the Permittee 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 this organization which constitutes a breach of the ethical standards set forth in said Code; and

(b) The Permittee has not offered, promised or given, demanded or accepted, any undue advantage, directly or indirectly, to or from a public official or employee, political candidate, party or party official, or any private sector employee (including a person who directs or works for a private sector enterprise in any capacity), in order to obtain, retain, or direct business or to secure any other improper advantage in connection with this Supplement. The foregoing certifications shall be deemed to be made by the Permittee as follows:

(A) If the Permittee is a corporation or limited liability company, such certification shall be deemed to have been made not only with respect to the Permittee itself, but also with respect to its Parent; or

(B) if the Permittee is a partnership, such certification shall be deemed to have been made not only with respect to the Permittee itself, but also with respect to each partner.

Moreover, the foregoing certifications, if made by an entity, shall be deemed to have been authorized by the Board of Directors of the Permittee, and such authorization shall be deemed to include the signing and submission of the proposal and the inclusion therein of such certification as the act and deed of the corporation. In any case where the Permittee cannot make the foregoing certifications, the Permittee shall so state and shall furnish to the Port Authority a signed statement setting forth in detail the reasons therefor. The foregoing certifications or signed statement shall be deemed to have been made by the Permittee with full knowledge that they would become a part of the records of the Port Authority and that the Port Authority will rely on their truth and accuracy in executing this Supplement. In the event that the Port Authority should determine at any time prior or subsequent to the execution of this Supplement that the Permittee has falsely certified as to any material item in the foregoing certifications or has willfully or fraudulently furnished a signed statement which is false in any material respect, or has not fully and accurately represented, in all material respects, any circumstance with respect to any item in the foregoing certifications required to be disclosed, the Port Authority may exercise such remedies as are provided to it by this Supplement with respect to these matters. In addition, the Permittee and Parent are advised that knowingly providing a false certification or statement pursuant hereto may be the basis for prosecution for offering a false instrument for filing (see, e.g., New York Penal Law, Section 175.30, et seq.). The Permittee and Parent are also advised that the inability to make such certification will not in and of itself disqualify a consultant, and that in each instance the Port Authority will evaluate the reasons therefor provided by such Person.

14.6.6 No Gifts, Gratuities, Offers Of Employment, Etc. During the term of this Supplement, the Permittee shall not knowingly offer, give or agree to give anything of value to an employee, officer or director of the Port Authority, or knowingly 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, officer or director of the Port Authority of duties involving transactions with the Permittee on behalf of the Port Authority, whether or not such duties are related to this Supplement or any other Port Authority agreement or matter. As used herein "anything of value" shall include, but not be limited to, but only to the extent any such thing has more than a de minimis value, any (a) favors, such as meals, entertainment and transportation (other than that contemplated by this Supplement or any other Port Authority agreement), and (b) 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 Supplement or any other Port Authority agreement. The Permittee shall instruct all employees that no gratuities of any kind or nature whatsoever shall be solicited or accepted by it and by its personnel for any reason whatsoever from the tenants, customers or other persons utilizing the building for commercial purposes (i.e. repairmen, contractors, deliverymen). In addition, during the term of this Supplement, the Permittee shall not make an offer of employment or use confidential information in a manner proscribed by the Code of Ethics and Financial Disclosure dated April 11, 1996 (a copy of which has been delivered to the Permittee). The Permittee shall include the provisions of this clause in each subagreement entered into under this Supplement.

14.7 Entire Agreement. This Supplement constitutes the entire agreement between the Port Authority and the Permittee regarding the World Trade Center (as more specifically set forth in Section 14.1) and may not be changed, modified, discharged or extended except by instrument in writing duly executed on behalf of both the Port Authority and the Permittee. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Supplement. The submission of any unexecuted copy of this Supplement shall not constitute an offer to be legally bound by the provisions of the document submitted.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Supplement as of the day and year first above written.

PORT AUTHORITY:

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By: _____
Name: Patrick J. Foye
Title: Executive Director

PERMITTEE:

NEW YORK TELECOM PARTNERS, LLC

By: _____
Name: Peter Hevener
Title: Authorized Person

Schedule 1

List of Additional Insureds

1. The Port Authority of New York and New Jersey
2. WTC Retail LLC
3. 1 World Trade Center LLC
4. The Port Authority Trans-Hudson Corporation
5. STV Construction, Inc.
6. NYS Department of Transportation
7. Tishman Construction Corporation
8. Tishman Realty & Construction Co., Inc.
9. Tishman Construction Corporation of New York
10. Silverstein Freedom Tower Development LLC, and its Affiliates
11. 2 World Trade Center LLC
12. 3 World Trade Center LLC
13. 4 World Trade Center LLC
14. World Trade Center Properties LLC
15. 2 WTC Holdings LLC
16. 3 WTC Holdings LLC
17. 4 WTC Holdings LLC
18. Silverstein Properties, Inc.
19. Silverstein East WTC Facility Manager LLC
20. WTC Redevelopment LLC
21. Silverstein WTC Mgmt. Co. LLC
22. Silverstein WTC Mgmt. Co. II LLC
23. Silverstein WTC Properties LLC
24. Silverstein WTC LLC
25. Silverstein 2/3/4 WTC Redevelopment LLC
26. Spring World Inc.
27. Spring WTC Holdings Inc.
28. WTC Investors LLC
29. Net Lessees' Association of the World Trade Center
30. WTC Management and Development LLC
31. Silverstein WTC Management and Development LLC
32. WTC Investors Management and Development LLC
33. Larry A. Silverstein

34. World Trade Center Hold Co. Ltd
35. 3 WTC Mezz LLC
36. The City of New York
37. The Lower Manhattan Development Corporation
38. National September 11 Memorial & Museum at the World Trade Center Foundation
39. Metropolitan Transportation Authority
40. New WTC Retail JV LLC
41. PA Retail Newco LLC
42. New WTC Retail Member LLC
43. New WTC Retail Owner LLC
44. Tower 5 LLC
45. Tower 1 Member LLC
46. Tower 1 Joint Venture LLC
47. Tower 1 Holdings LLC
48. WTC Tower 1 LLC
49. PA Retail Newco LLC
50. Tower 1 Rooftop Holdings LLC

Schedule 2

Sample DAS System Availability and Downtown Calculation Methodology

- Assume the total quantity of remote active devices is "X". There are a total of 8760 * X remote-active-device-hours per year or 8760 * X / 12 remote-active-device-hours per month. Of those, 5475 * X hours are peak hours (5475 * X / 12 month) and 3285 * X hours are off-peak.
- For an on-peak 99.9% weighted System availability, the total population of remote active devices must have a total up-time per month of at least 0.999 * 5475 * X/12 hours during Peak Hours. For all hours (Peak Hours and Non-Peak Hours), the total monthly device uptime must be at least 0.995 * 8760 * X / 12. These sample calculations assume 365 days in a year and that a month is 1/12 of a year; for the purposes of monthly reporting and annual calculations, the actual hours in a month and actual hours in a year shall be used.
- The total allowable System down-time monthly would be 0.001 * 5475 * X / 12 hours during Peak Hours. For all hours (Peak Hours and Non-Peak Hours), the total allowable down-time monthly would be 0.005 * 8760 * X / 12.
- For active devices that provide coverage to more than one antenna location but not the entire System, weighted system availability shall factor the number of antenna locations the device feeds. For example, if a remote module feeds four (4) remote antenna locations, the total system downtime is calculated as four times the downtime of the remote module and factored accordingly for calculating the total weighted network outage.

Exhibit D

Initial Schedule Milestones

Initial Temporary System Areas

September 16, 2014	Complete, commission and activate Temporary System in Initial Temporary System Areas

DAS Phase 1 Areas and Wi-Fi Designated Coverage Areas

October 15, 2014	Complete design of permanent System for DAS Phase 1 Areas and Wi-Fi Designated Coverage Areas
November 15, 2014	Begin installation of permanent System in DAS Phase 1 Areas and Wi-Fi Designated Coverage Areas
April 15, 2015	Begin testing and commissioning of permanent System in DAS Phase 1 Areas and Wi-Fi Designated Coverage Areas
August 1, 2015	Complete testing and commissioning of permanent System in DAS Phase 1 Areas and Wi-Fi Designated Coverage Areas
August 15, 2015	Activate permanent System in DAS Phase 1 Areas and Wi-Fi Designated Coverage Areas (the "Grand Opening Milestone")

DAS Phase 2 Areas

May 31, 2015	Complete design of permanent System for DAS Phase 2 Areas
June 31, 2015	Begin installation of permanent System in DAS Phase 2 Areas
November 31, 2015	Begin testing and commissioning of permanent System in DAS Phase 2 Areas
March 15, 2016	Complete testing and commissioning of permanent System in DAS Phase 2 Areas
March 31, 2016	Activate permanent System in DAS Phase 2 Areas

DAS Phase 3 Areas

February 1, 2016	Complete design of permanent System for DAS Phase 3 Areas
March 1, 2016	Begin installation of permanent System in DAS Phase 3 Areas
August 1, 2016	Begin testing and commissioning of permanent System in DAS Phase 3 Areas
November 15, 2016	Complete testing and commissioning of permanent System in DAS Phase 3 Areas
December 1, 2016	Activate permanent System in DAS Phase 3 Areas

DAS Phase 4 Areas

The Initial Schedule Milestone to activate the permanent System in the DAS Phase 4 Areas is intended to be the date that the Retail Premises within 2 WTC are scheduled by the Port Authority or its net lessee to open. The remaining Initial Schedule Milestone for the DAS Phase 4 Areas shall generally be consistent in substance and relative timeline to the Initial Schedule Milestones for the DAS Phase 1 Areas. As the date that the Retail Premises within 2 WTC are scheduled to open is not known as of the date of this Supplement, the Parties shall use best efforts to agree upon the applicable date for activation of the permanent System in the DAS Phase 4 Areas and the remaining Initial Schedule Milestones in the manner contemplated by this paragraph at the earliest practicable time following the Port Authority's good faith determination of the anticipated schedule for opening of the Retail Premises within 2 WTC.