

[REDACTED]

**FIBER LEASE AGREEMENT
BY AND BETWEEN**

[REDACTED]

AND

Netoperator Nederland B.V.

This document contains the the Dark Fiber Lease of [REDACTED]

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[REDACTED] is located in [REDACTED]
Netoperator Nederland B.V. is located in Alblaserdam, The Netherlands

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PREAMBLE

This lease agreement, ("Agreement"), is made and entered into on this 1st day of Februari 2019 ("Effective Date"), by and between

[REDACTED]

and

Netoperator Nederland B.V. a corporation ("Lessee"), with an office at Nieuwland Parc 10A, 2952DA Alblasterdam, registered at the Chamber of Commerce under number 39089380.

[REDACTED] and Lessee may be referred to herein individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement".

Unless otherwise defined herein, terms in this Agreement and in the attached Exhibits have the meanings set forth in Exhibit 1. Exhibit 1 and all other Exhibits to this Agreement are incorporated herein by this reference as though set forth in full.

RECITALS

Whereas:

- A. [REDACTED] has constructed a Fiber Optic Infrastructure within the jurisdictional boundaries of the businesspark Airport Business Park Lijnden located in city of Lijnden (Haarlemmermeer). The Fiber Optic Infrastructure is to facilitate the application of state-of-the-art telecommunications services to accommodate the requirements of [REDACTED], the inhabitants of the businesspark and potentially other companies. Title to the Fiber Optic Infrastructure, and every part thereof, is vested exclusively in [REDACTED].
- B. The Fiber Optic Infrastructure has (partly) been designed with fiber strand capacity (dark fiber) available for leasing or licensing ("Leaseable Fiber(s)"). [REDACTED] is to construct, install, operate, maintain, repair, disconnect, replace and remove facilities, cable and other equipment necessary for the Fiber Optic Infrastructure.
- C. Lessee is now duly authorized, licensed or otherwise qualified to operate as required by applicable state or local laws ("Qualified Party") and that it intends to use Leaseable Fibers from the Fiber Optic Infrastructure for lawful purposes.

AGREEMENT PROVISIONS

In consideration of the Recitals above and the mutual promises contained in this Agreement, the Parties agree as follows:

Article 1 Grant and Scope of Lease

- 1.1 Authority.** [REDACTED] is an corporation which exclusively owns the rights to own an underground Fiber Optic Infrastructure in mentioned businesspark and in the neighbourhood of mentioned businesspark allowing to, *inter alia*, establish, purchase, and operate public works to furnish inhabitants with means of communications. [REDACTED] owns the Fiber Optic Infrastructure as a private works which it operates.
- 1.2 Fiber Optic Infrastructure.** [REDACTED] has constructed a Fiber Optic Infrastructure located either underground in conduits or overhead on utility enclosures in the general route set forth in Exhibit 2. Any future expansions to the Fiber Optic Infrastructure owned by [REDACTED] may, if [REDACTED] wishes to do so, be included in the definition of "Leasable Fibers".
- 1.3 Discrimination.** [REDACTED], will not unduly discriminate against any Lessee or potential Lessee in leasing Leasable Fiber or additional Leaseable Fiber. [REDACTED] shall, in good faith, make all commercially reasonable efforts to require equivalent Adequate Assurance (Article 10) from each Lessee based upon the total Lease Payment due by that Lessee.
- 1.4 Grant.** Subject to the provisions of this Agreement and Exhibits 1 through 11, inclusive which are incorporated by this reference as though set forth in full, [REDACTED] grants to Lessee, and Lessee accepts from [REDACTED], the right and privilege ("Lease") to use certain of the Leaseable Fibers ("Leased Fiber(s)"), Attachment Points, Backbone Extensions, Service Drops, Private Property Access, Lateral Extensions, Building Entrances (as set forth in Exhibits 3 and 4 and referred to herein collectively as "Leased Infrastructure") and any additional Leased Infrastructure later specifically leased to Lessee by an executed Exhibit 11. ("Additional Leased Infrastructure").
- 1.5 Leased Fibers.** This Lease establishes the right of Lessee to use the Leased Infrastructure described in Exhibits 3, 4 and executed versions of Exhibit 11.
- 1.5.1** The Leased Fibers under this Agreement are set forth in Exhibits 3, 4 and executed versions of Exhibit 11.
- 1.5.2 Additional Leased Fibers.** In the future, [REDACTED] may lease to Lessee additional Leaseable Fibers requested by Lessee during the remainder of the Term of this Agreement, if capacity is available and the following conditions are met:
- 1.5.2.1** Lessee shall be granted a Lease of additional Leaseable Fibers as [REDACTED] sees fit to do so and/or capacity remains available and Lessee is not in material breach of this Agreement. If Lessee is currently, or in the past has been, in material breach of this Agreement, then it is within the discretion of the Director of [REDACTED] to allow or deny the lease of additional Leaseable Fiber to Lessee: provided, however, that the Director of [REDACTED] shall not unreasonably deny the lease of additional Leaseable Fiber to Lessee.
- 1.5.2.2** The Director of [REDACTED] has the authority delegated to agree to the lease of additional Leaseable Fibers to Lessee. Lessee shall make a request for additional Leaseable Fibers by submitting the Request Form attached as Exhibit 11, executed by a person authorized to bind Lessee. The price, terms and conditions of leasing additional Leaseable Fiber shall be negotiated in good faith and agreed upon by the Parties. Upon mutual agreement of the Parties as to the price, terms and conditions, Exhibit 11 shall be revised and executed by an Authorized Representative of Lessee and the Director, and an amendment to this Agreement shall have occurred without the necessity of further action by either Party. All other

terms and conditions set forth in this Agreement will apply to the Additional Leased Fibers. The Lease as to the Additional Leased Fibers shall commence on the Date of Delivery thereof and shall terminate at the end of the specified Term.

1.6 Attachment Points. Lessee shall have use of, and access to, the Leased Fibers through Attachment Points listed on Exhibit 4 or subsequently added by an executed Exhibit 11. All Attachment Points are an integral part of the Fiber Optic Infrastructure and are the property of [REDACTED].

1.6.1 Cost of Attachment Points. [REDACTED] will provide Lessee with the Attachment Points listed on Exhibit 4 and with the Attachment Points listed on any executed versions of Exhibit 11 at the cost set forth in Article 3 "Lease Payment and Other Fees-Attachment Points".

1.6.2 Lessee's Infrastructure Unavailable. If [REDACTED] has been requested to perform construction of Leased Infrastructure, and if at the time [REDACTED] completes that construction Lessee is not prepared to complete the connection, then Lessee shall be responsible for splicing its fiber to the ten (10) meter fiber drop provided by [REDACTED] as agreed in paragraph 5.2.2. If Lessee desires [REDACTED] to provide fiber drop cable in excess of the ten meter drop, or if Lessee desires [REDACTED] to splice the drop to Lessee's Infrastructure, then when applicable Lessee will pay the fees specified in Article 3 "Lease Payment and Other Fees-Attachment Points".

1.6.3 Splicing. If Lessee provides cable from Lessee's Infrastructure to [REDACTED] in a timely manner (i.e. other than as stated in paragraph 1.6.2), then upon Lessee's request, [REDACTED] shall splice Lessee-provided fiber cable at [REDACTED]-owned Attachment Points. [REDACTED] shall be responsible for pulling Lessee's fiber cable, and splicing Lessee's fiber strand within [REDACTED]-owned Fiber Optic Infrastructure. Ownership of fiber on the [REDACTED]'s side of the Demarcation Points shall be vested with [REDACTED]. When applicable, Lessee shall pay [REDACTED] the fees specified in Article 3 "Lease Payment and Other Fees-Attachment Points".

1.6.4 Splicing on [REDACTED]'s Side of Demarcation. Splicing of fibers located within the Fiber Optic Infrastructure, if required to accommodate Lessee, shall be performed only by [REDACTED]'s personnel or designated independent contractors, or both. [REDACTED] shall assume responsibility for the construction taken on behalf of Lessee in accordance with Exhibit 7. When applicable, Lessee shall pay to [REDACTED] the fees specified in Article 3 "Lease Payment and Other Fees-Attachment Points".

1.6.5 Additional Attachment Points. If, after execution of this Agreement by the Parties, Lessee desires to attach to other Attachment Points not listed in Exhibit 4 ("Additional Attachment Points"), then Lessee shall submit a request through a Request Form (attached hereto as Exhibit 11) executed by a person authorized to bind Lessee ("Authorized Representative"). [REDACTED] shall cooperate in accommodating Lessee's requests for Additional Attachment Points so long as adequate space exists to attach Lessee to that Attachment Point, the request to be attached to Additional Attachment Points is not unreasonable, and the Additional Attachment Points do not materially and adversely affect the Fiber Optic Infrastructure. The terms and conditions of leasing Additional Attachment Points shall be negotiated and agreed upon by the Parties; the price for Additional Attachment Points is set forth in Article 3. If the Director and the Authorized Representative execute Exhibit 11, then an amendment to this Agreement has occurred; Exhibit 4 may be modified to reflect the Additional Attachment Points. All other terms and conditions set forth in this Agreement will apply to the Additional Attachment Points.

1.7 Backbone Extensions. [REDACTED] will install the Backbone Extensions at the locations shown in Exhibit 4 or any executed Exhibit 11, and shall make its commercially reasonable efforts to complete construction by the estimated completion dates set forth in that Exhibit.

- 1.7.1 If [REDACTED] has the monetary resources and manpower reserved to construct the requested Backbone Extension at the time it is requested by Lessee, then there shall be no charge to Lessee for engineering or construction services. Lessee shall be billed for added fiber at the rate set forth in Exhibit 5.
- 1.7.2 If the Backbone Extension is one that [REDACTED] had not anticipated building at the time Lessee requests it, or if [REDACTED] does not have reserved the monetary resources or manpower to construct the Backbone Extension at the time it is requested by Lessee, then Lessee shall pay the amount set forth in Article 3 "Lease Payment and Other Fees-Backbone Extensions".
- 1.7.3 If Lessee desires Additional Backbone Extensions, then Lessee shall submit a request through a Request Form (attached hereto as Exhibit 11) executed by an Authorized Representative. The terms, conditions and estimated delivery dates for the construction and leasing of Additional Backbone Extensions shall be negotiated and mutually agreed upon by the Parties. If the Director and the Authorized Representative execute Exhibit 11, then [REDACTED] agrees to build the Additional Backbone Extensions, and an amendment to this Agreement has occurred.

1.8 Service Drops. [REDACTED] will install the Service Drops at the locations shown in Exhibit 4 or any executed Exhibit 11, and shall make its commercially reasonable efforts to complete construction by the estimated completion dates set forth in that Exhibit. Upon installation of such Service Drops by [REDACTED] and acceptance of such Service Drops by lessee in accordance with Article 4, Lessee shall be billed for additional fiber at the rate set forth in Exhibit 5 and shall be charged for construction and engineering costs based on the terms set forth in Exhibit 4 or an executed Exhibit 11.

1.8.1 [REDACTED] charges Lessee for construction of Service Drops, which amount is set forth in Article 3 "Lease Payment and Other Fees-Service Drops" based on terms set forth in Exhibit 4 or an executed Exhibit 11.

1.8.2 If Lessee desires Additional Service Drops, Lessee shall submit a request through a Request Form (attached hereto as Exhibit 11) executed by an Authorized Representative. The terms, conditions and estimated delivery dates of building or leasing Additional Service Drops shall be negotiated and agreed upon by the Parties and set forth in Exhibit 11. If the Director and the Authorized Representative execute Exhibit 11, then an amendment to this Agreement has occurred. All other terms and conditions set forth in this Agreement will apply to the Additional Service Drops.

1.9 Private Property Access. [REDACTED] will install the Private Property Access at the locations shown in Exhibit 4 or any executed Exhibit 11, and shall make its commercially reasonable efforts to complete construction by the estimated completion dates set forth in that Exhibit. Lessee is billed for added fiber miles at the rate set forth in Exhibit 5 and shall be charged for construction and engineering costs based on the terms set forth in Exhibit 4 or an executed Exhibit 11.

1.9.1 If the Private Property Access is to a location where other potential Lessees desire to run fiber, and if [REDACTED] has the monetary resources, and manpower to construct the requested Private Property Access at the time it is requested by Lessee, then there shall be no charge to Lessee for engineering or construction services.

1.9.2 If the Private Property Access is one that no other Lessee desires, then it is treated as a Service Drop. If the Private Property Access is to a location where other potential Lessees desire to run fiber, but [REDACTED] had not anticipated building that Private Property Access at the time Lessee requests it, or if [REDACTED] does not have the monetary resources or manpower to construct the Private Property Access at the time it is requested by Lessee, then Lessee shall pay the amount set forth in Article 3 "Lease Payment and Other Fees-Private Property Access". The price associated with the Private Property Access is set forth in Exhibit 5 and the cost of engineering and

construction of a Private Property Access is set forth in Exhibit 4 or an executed Exhibit 11.

- 1.9.3** If Lessee desires Additional Private Property Access, then Lessee shall submit a request through a Request Form (attached hereto as Exhibit 11) executed an Authorized Representative. The terms, conditions and delivery dates for the construction and leasing of Additional Private Property Access shall be negotiated and mutually agreed upon by the Parties. If the Director and the Authorized Representative execute Exhibit 11, then [REDACTED] agrees to perform the Additional Private Property Access, and an amendment to this Agreement has occurred.
- 1.10 Building Entrances and [REDACTED] Point-of Presence.** [REDACTED] will deliver Lessee to the Building Entrances or [REDACTED] Point-of Presence at the locations so [REDACTED] on Exhibit 4 or any executed Exhibit 11.
- 1.10.1** Some [REDACTED] Attachment Points are at Building Entrances and so long as [REDACTED] has space available in its rack at the Building Entrance, [REDACTED] will agree to provide Lessee with that Building Entrance. However, the number of Lessee's fibers to be connected at the specific Building can be maximized by a sole decision of [REDACTED]. Entrance shall be set forth in Exhibit 4 or 11. Unless negotiated and agreed upon between [REDACTED] and Lessee, Lessee shall not be entitled to demand connection of more than the offered Leased Fibers passing by that Building Entrance to that Building Entrance. [REDACTED] has a finite number of connections allowed in each Building Entrance and possible numerous Lessees. The number of Lessee's fibers to be connected at a Building Entrance is a negotiated number but a maximum of 4 fibers.
- 1.10.2** Some [REDACTED] Attachment Points are not in Building Entrances but are located in meet-me-boxes located on the private property near the building. Unless [REDACTED] expressly agrees in writing to negotiate a Right-of-Entry which results in a Building Entrance, [REDACTED] shall only deliver Lessee to the meet-me-box at that [REDACTED] Attachment Points. Lessee shall be responsible for negotiating the Right-of-Entry and securing the Building Entrance on its own behalf.
- 1.10.3** Where no Building Entrance or Attachment Points exists at the location Lessee desires to have its fiber, then [REDACTED] shall determine (i) whether sufficient other Lessees desire to locate at that Attachment Points such that engineering and construction costs should be [REDACTED]'s or if the build should be treated as a Service Drop and (ii) whether the Lessee or [REDACTED] shall be responsible for securing the Right-of-Entry.
- 1.10.4** If [REDACTED] agrees to deliver Lessee to a new Building Entrance and [REDACTED] assumes the obligation of securing the Right-of-Entry, then all completion dates for connections to Building Entrances are estimated completion dates and shall not be guaranteed by [REDACTED].
- 1.10.5** Lessee is always responsible for obtaining a Service Agreement on its own behalf enabling Lessee to have Lessee's Infrastructure located within a private building.
- 1.11 Dedicated Tubes.** Lessee shall have exclusive use of all Leased Fibers. To the extent practical, [REDACTED] will provide Leased Fibers to Lessee within Tubes dedicated solely to Lessee.
- 1.12 No Exclusivity.** Nothing in this Agreement is to limit [REDACTED]'s right of use of, or right to lease or license Attachment Points, Backbone Extensions, Service Drops, Private Property Access, Building Entrances, conduit or the remaining [REDACTED] Fiber or Leaseable Fiber not leased in this Agreement to others.
- 1.13 Limitations.** This is a Lease for the use of the Leased Infrastructure only, subject to the terms and conditions herein. [REDACTED] is not transferring or granting to Lessee any other interest or estate in the Leased Fibers, the Fiber Optic Infrastructure, Attachment Points, Backbone Extensions, Service Drops, Private Property Access, Building Entrances, conduit or any other property interest, including any fee, easement, or any franchise rights. This

Agreement is not a contract for electric service. This is not a franchise agreement for providing cable services.

- 1.14 No Agency.** Lessee is not [REDACTED]'s agent and shall have no authority, express or implied, to act as agent of [REDACTED] or any of its related companies for any purpose. [REDACTED] is not Lessee's agent and shall have no authority, express or implied, to act as agent of Lessee for any purpose.

Article 2 Term

2.1 Effective Date of Agreement. This Agreement shall be binding on the Parties beginning on the Effective Date.

2.2 Term of Lease. The Term of this Lease is the Initial Term plus any exercised Renewal Terms. The Initial Term is defined in Exhibit 5.

2.3 Renewal Terms. Provided Lessee is not in default of any of the material terms or provisions of this Lease (including but not limited to payment of all fees and charges) beyond the applicable cure period, Lessee may renew this Lease for up to ten (10) Renewal Terms. Each Renewal Term is for one (1) year after the initial 15 year period. The manner in which to set price for a Renewal Term is set forth in Article 3, "Lease Payment and Other Fees". To request a Renewal Term, Lessee shall:

2.3.1 Deliver to the Director, a written request to extend the Term as early as one hundred and eighty (180) calendar days, and no later than ninety (90) calendar days, prior to the expiration of the then effective term, Initial, Renewal or otherwise. (Time-is-of-theessence may be invoked by the [REDACTED] with respect to this notification period.)

2.3.2 For any request to renew this Lease the Parties shall mutually agree upon a rate that is consistent with market prices at that time. For any request to renew this Lease beyond two Renewal Terms, the Parties shall also agree upon the Term length. A Renewal Term shall not be unreasonably withheld.

Article 3 Lease Payment and Other Fees

3.1 Lessee shall pay to [REDACTED] in Euro's the Lease Payment as calculated in Exhibit 5 for the Lease and use of the Leased Infrastructure, as well as any other applicable fees as set forth below. Beginning on the second anniversary of the Effective Date and on each subsequent anniversary date, the lease rates will be adjusted to reflect annual changes in the Consumer Price Index. The base for computing the Consumer Price Index (CPI) shall be the most current Consumer Price Index as published by the Centraal Bureau voor de Statistiek (CBS).

3.2 General Criteria. The Lease Payment is based on:

3.2.1 The total number of Leased Fiber-drops to endpoints (end-user addresses) leased by Lessee as shown in Exhibit 3;

3.2.2 The length of the Leased Fibers (fiber miles) to the nearest meter as shown on Exhibit 3; and

3.2.3 Availability of the Leased Fiber. Lease charges for the Leased Fiber are to accrue from the Date of Delivery in the quarter the Leased Fiber is delivered and for the number of calendar days following the Date of Delivery that the Leased Fiber is available to Lessee (see 3.2.4). In any subsequent quarter, the Leased Fiber is deemed available to Lessee for 91 calendar days. Notwithstanding the foregoing, no Lease Payment shall be due for any fibers specifically [REDACTED] as not being in compliance with the Fiber Specifications set forth in Exhibit 7 hereto unless and until same shall have

[REDACTED]

been found to have been in compliance in accordance with the provisions of Article 4 below. The Rate Schedule is set forth in Exhibit 5.

- 3.2.4 Prorated Lease Payment.** If a Delivery Date occurs in the middle of a quarter, the Lease Payment is prorated. The Lease Payment for any quarter shall be based on the criteria set forth in paragraph 3.2 of the Agreement, in accordance with the following calculation:

$$\text{Lease Payment} = \sum \text{Monthly amount agreed upon in Exhibit 5} \times [\text{Days of availability/Month}]$$

- 3.3 Lease Payment.** The Lease Payment for any month shall be based on the criteria set forth in paragraph 3.2, in accordance with the calculation set forth in Exhibit 5. Charges for the first Lease Payment shall commence to accrue on the Date of Delivery.

3.3.1 Due Date of Lease Payments. Except in instances in which Lessee has elected the pre-payment option (paragraph 3.4 below) Lease Payments shall be paid on a monthly basis. Lease Payments are due and payable on or before the commencement of a Calendar month. For the Date of Delivery for any Leased Fiber that has been delivered to Lessee, Lessee shall pre-pay for use of that Leased Fiber for the coming month. For any Leased Fiber delivered to Lessee for which the Date of Delivery occurs after the commencement of a month, Lessee shall have use of that Leased Fiber and shall pay the pro-rated amount at the end of the month in which the Leased Fiber was delivered.

- 3.3.2** [REDACTED] shall send an invoice dated 14 days (14) calendar days prior to the start of the month, to Lessee as a reminder of the total amount of the monthly Lease Payment due fourteen (14) calendar days later. If Lessee does not receive such an invoice, it is still bound to pay the monthly Lease Payment in a timely manner, which amount is set forth in Exhibit 5. Lessee shall make each monthly payment to [REDACTED] under this Agreement in a timely manner via wire transfer to:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- 3.3.3** If the Lease Payment is not paid as required herein, simple interest on unpaid, undisputed amounts of the Lease Payment shall accrue, until paid, at one percent (1%) per month.

- 3.4 Pre-Payment Option.** Lessee may choose to pre-pay the entire Initial Term of the Lease and receive a discounted price upon execution of the Lease. Lessee may also elect, at any time in the future, to prepay any remaining balance of the Annual Payments due under the Initial Term, or any Renewal Term, of this Agreement by sending a written notification to [REDACTED]. Within ten (10) business days of receipt of such notice, [REDACTED] shall respond by sending Lessee an invoice for the net present value of the remaining Annual Payments, which net present value shall be determined by discounting the sum of the remaining future payments due under the Initial Term or the Renewal Term, as applicable, of this Agreement by five percent (5%) per year. The amount due shall reflect the monthly price per fiber at the rate prevailing at the time of prepayment. Lessee shall pay such invoice within thirty (30) days of receipt thereof, or shall forfeit the election to prepay the remainder of the Initial Term or the applicable Renewal Term. Any Lessee electing to pre-

[REDACTED]

pay the Lease shall be required to pay a Maintenance Fee as set forth in paragraph 3.5 Below.

- 3.5 Maintenance Fees.** For Lessees making monthly lease payments pursuant to paragraph 3.3 above, no Maintenance Fee is charged. For Lessees electing to pre-pay the Lease (paragraph 3.4 above), Lessee will make annual payments of twenty euro's (€ 20,-) per Fiberdrop endpoint, with a minimum of twenty euro's, for ongoing fiber maintenance and administration. Payment will be due annually, at the beginning of each calendar year. Lessee shall make this annual payment to [REDACTED] in a timely manner via wire transfer to:
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] shall send an invoice to Lessee dated thirty (30) calendar days prior to the first of the year as a reminder of the amount due. If the Lease Payment is not paid as required herein, simple interest on unpaid, undisputed amounts of the Lease Payment shall accrue, until paid, at one percent (1%) per month.

- 3.6 Lease Payment for Renewal Term.** At the cessation of the Initial Term Lessee may elect to renew this Lease ("Renewal Term") as set forth in section 2.3 for that Renewal Term and at the Rate Schedule for Renewal Term as set forth in Exhibit 5.

3.6.1 Price Inflation Adjustment. During any Renewal Period, the Rate shall be adjusted annually for price inflation ("CPI") for each successive year after the first year of the Renewal Term. The base for computing the CPI-index shall be the most current Consumer Price Index (CPI) published by the Centraal Bureau voor de Statistiek (CBS) available on December 1 of each year.

3.6.2 Market Rate Adjustment. The Rate Schedule shall be adjusted at the commencement of each Renewal Term to reflect prevailing market conditions at that time. The change in the Rate in the first year of any such rate adjustment period shall not exceed plus or minus 20 percent relative to the Rate charged in the immediately preceding 15-year (initial) or 1-year (after initial) period. For a rate adjustment to take effect, [REDACTED] shall give Lessee a 30 day notice.

- 3.7 Construction Costs and Engineering Fees.** [REDACTED] charges for engineering services and construction of infrastructure under certain circumstances as set forth below. Unless otherwise specified below, payment for those services shall be invoiced upon completion by [REDACTED], and payment of that invoice is due fourteen (14) days from the date on the invoice. If payment of the invoice is not paid on the Due Date, then simple interest on the unpaid, undisputed amounts shall accrue until paid, at one percent (1%) per month. If Lessee fails to pay any invoice, then [REDACTED] may subject the applicant to the Notice & Cure Rights of the Lessee, then the provisions of Article 11.1.2 apply and [REDACTED] may draw against the Adequate Assurance posted by Lessee pursuant to Article 10.

3.7.1 Preliminary Engineering Fees. Subsequent to execution of this Agreement and delivery of the Adequate Assurance, but prior to the Date of Delivery of the Leased Fiber and prior to the first Due Date of a Lease Payment for that fiber, it is anticipated that [REDACTED] will be required to provide to Lessee Preliminary Engineering Services. [REDACTED] will perform these Preliminary Engineering Services upon deposit of the Adequate Assurance. [REDACTED] shall render an invoice every thirty (30) days detailing the hours of Preliminary Engineering Services performed for Lessee at a

rate of eighty-five euro's (€ 85,-) per hour. Lessee shall pay for the Engineering Services performed, which payment is due within fourteen (14) days of date on the invoice.

- 3.7.2 Construction of the Configuration.** In general, [REDACTED] does not charge Lessee for the engineering services or construction costs of splicing Lessee's basic ring configuration. However, if Lessee does not make its first Lease Payment or this Agreement is otherwise terminated due to no fault of [REDACTED] prior to the Due Date of the first Lease Payment, then Lessee shall pay [REDACTED] for Construction of the Configuration of Lessee's Leased Fiber (as set forth in Exhibits 3 and 4). Lessee shall be liable for any attorney fees expended by [REDACTED] in attempting to recover any fees that are the subject of this Paragraph. This attorney fees provision does not apply to any other sections of this Agreement.
- 3.7.3 Attachment Points.** If an Attachment Point currently exists on the Backbone and if space is available for Lessee to attach at that location, then the charge to Lessee is the cost of splicing plus twenty percent (20%). If an Attachment Point is not available and if [REDACTED] agrees to construct an Attachment Point at the location desired by Lessee, then upon installation of such Attachment Point by [REDACTED] and Acceptance of such Attachment Point by Lessee in accordance with Article 4, Lessee shall pay all the costs of engineering services and costs of construction of that Attachment Point, plus twenty percent (20%). No other Lessees will be attached to any Attachment Point.
- 3.7.4 Backbone Extensions.** Assuming [REDACTED] has adequate resources available, [REDACTED] may agree to construct a Backbone Extension at [REDACTED] expense upon a request made by Lessee pursuant to Exhibit 11. If [REDACTED] does not then have adequate resources to construct the Backbone Extension immediately upon Lessee's request, [REDACTED] may nonetheless agree to construct the Backbone Extension at Lessee's expense. Upon installation of such Backbone Extension by [REDACTED] and Acceptance of such Backbone Extension by Lessee in accordance with Article 4, Lessee shall pay all the costs of engineering services and costs of construction of that Backbone Extension, plus twenty percent (20%).
- 3.7.5 Service Drop.** Lessee shall pay to [REDACTED] the cost of engineering services and the cost of construction plus twenty percent (20%) of any Service Drop. Though, by definition, it is not anticipated that any other lessee will desire to use that Service Drop.
- 3.7.6 Private Property Access.** If a Private Property Access currently exists from the Backbone to a Building Entrance and if space is available on that Private Property Access, then the charge to Lessee is the cost of splicing plus twenty percent (20%). If a Private Property Access is not available and if [REDACTED] agrees to construct a the Private Property Access at the location desired by Lessee, [REDACTED] may treat that Private Property Access as a Backbone Extension or Service Drop, depending upon whether other potential lessees desire to go to that building. If [REDACTED] chooses to treat the Private Property Access as a Backbone Extension, then [REDACTED] shall pay the costs of construction. If [REDACTED] chooses to treat the Private Property Access as a Service Drop, then Lessee shall pay all the costs of engineering services and costs of construction of that Private Property Access, plus twenty percent (20%).
- Lessee may cancel this Lease as to a Private Property Access upon thirty (30) days written notice to [REDACTED], so long as Lessee has paid [REDACTED] any applicable engineering or construction fees. No Termination fee or other

charge will be assessed by [REDACTED] to Lessee for termination of the Private Property Access.

3.7.7 Building Entrances. [REDACTED] has obtained Building Entrance to certain privately-owned locations. If [REDACTED] has fiber available to a Building Entrance, Lessee shall be charged the cost of connecting Lessee to that Building Entrance plus twenty percent (20%) and any fees charged to [REDACTED] by the building owner or tenant, which are directly attributable to Lessee's connection at that Building Entrance. If a Building Entrance is not available and if [REDACTED] believes that other lessees would desire entrance at that location, then [REDACTED] may agree to negotiate an entrance agreement and construct to and connect to the Building Entrance at the location desired by Lessee. [REDACTED] shall pay the costs of negotiating the entrance agreement and construction to the Building Entrance. Lessee is responsible for obtaining permission to locate Lessee Infrastructure in the building. [REDACTED] will not likely agree to negotiate a Building Entrance at locations if no owners or renters expresses any interest. Lessee may cancel this Lease to a Building Entrance upon thirty (30) days written notice to [REDACTED], so long as Lessee has paid [REDACTED] any applicable engineering, construction fees or connection fees. No Termination fee or other charge will be assessed by [REDACTED] to Lessee for termination of the Building Entrance.

3.8 Third Party Charges. Lessee will reimburse [REDACTED] for charges assessed or imposed on [REDACTED] by third parties, including but not limited to any fees for Building Entrances directly attributable to Lessee's entrance into that building, which may be incurred by [REDACTED] in accommodating Lessee's Infrastructure requirements, or as required by law relating to this Agreement.

[REDACTED] will advise Lessee, in advance, of potential or anticipated costs imposed by third parties for accommodating Lessee's Infrastructure and which are directly attributable to Lessee, to the extent [REDACTED] is aware of those charges in advance and can obtain an estimate from that third party. If Lessee does not agree to the charge imposed by the third party, then Lessee shall be responsible for negotiating with that third party and shall hold [REDACTED] harmless from any claim of delay in completing the subject work due to Lessee's negotiations of the third party charges. If Lessee chooses not to pay the third party charges, then [REDACTED] shall not perform the work requested by Lessee.

3.9 Taxes and Franchise Fees. None of the Lease Payments charged to Lessee pursuant to this Agreement includes any tax or franchise fee charged by any governmental entity. Lessee shall be solely responsible for paying any and all taxes, franchise fee or assessments by any governmental entity related to the Leased Infrastructure, if any, when due.

3.9.1 [REDACTED] represents that currently, there is no tax imposed by [REDACTED] that would be levied on Lessee associated with this Agreement. [REDACTED] does charge a franchise fee for use of fiber to operate as a cable service, and Lessee must enter into a franchise agreement with [REDACTED] in order to provide those services through leased fibers. Providing cable services without a franchise agreement constitutes a material breach of this Agreement.

3.9.2 Notice is hereby given that the property interest vested in Lessee may create a possessory interest which entities (other than [REDACTED]) may deem subject to property taxation and Lessee may be subject to payment of (property) taxes therefore.

3.9.3 Lessee shall be solely responsible for opposing, protesting, appealing or challenging any tax or franchise fee imposed or asserted by any entity.

Article 4 Construction and Acceptance of Leased Fiber

- 4.1 Notice of Completion.** [REDACTED] has constructed and shall continue to cause to be constructed the Fiber Optic Infrastructure. [REDACTED] shall notify Lessee in writing upon the completion of construction of the configuration of all of the Leased Infrastructure as set forth in Exhibits 3 and 4 attached hereto ("Notice of Completion"). Unless the Parties otherwise agree, the first Notice of Completion shall not be sent to Lessee until all items listed in Exhibits 3 and 4 have been completed by [REDACTED]. Charges for any Leased Fiber shall commence on the Date of Delivery of such Leased Fiber. Thereafter, if Lessee requests pursuant to an executed Exhibit 11, that [REDACTED] construct and/or lease to Lessee additional Leaseable Fiber, Attachment Points, Backbone Extensions, Service Drops, Private Property Access, Lateral Extensions, or Building Entrances, [REDACTED] shall provide Lessee with a Notice of Completion as soon as construction is complete. [REDACTED] shall use its commercially reasonable efforts to complete construction of the Leased Infrastructure as set forth in Exhibits 3 and 4, or any future Leased Fiber, Attachment Points, Backbone Extensions, Service Drops, Private Property Access, lateral Extensions, or Building Entrances added by an executed Exhibit 11. Upon the completion of construction of the foregoing, [REDACTED] shall perform testing in accordance with standards and procedures enumerated in Exhibit 7.
- 4.2 New Construction.** Upon the completion of construction of any Leased Fiber, Attachment Point, Backbone Extension, Service Drop, Private Property Access, Lateral Extension, or Building Entrance, [REDACTED] shall promptly conduct construction tests, at its sole cost and expense, in order to verify that the particular item meets the Performance Specifications set forth in Exhibit 7 ("Post-Construction Testing"). The results of such tests shall be provided to Lessee concurrently with the Notice of Completion, at no cost to Lessee.
- 4.3 Existing Fiber Optic Infrastructure.** If any Leased Fiber, Attachment Point, Backbone Extension, Service Drop, Private Property Access, Lateral Extension, or Building Entrance is to be provided from the Fiber Optic Infrastructure that is not newly constructed, [REDACTED] shall perform verification testing to verify that the item to be leased meets the Performance Specifications set forth in Exhibit 7 ("Verification Testing"). The results of such tests shall be provided to Lessee, within five (5) business days of completion thereof, at no cost to Lessee.
- 4.4 Lessee's Acceptance Testing.** Lessee may conduct its own testing of the Leased Infrastructure or of additional Leased Fibers, Attachment Points, Backbone Extensions, Private Property Access, Service Drops, lateral Extensions, or Building Entrances added by an executed Exhibit 11 upon receipt of the Notice of Completion or Verification Testing as to any of those items in order to verify that the Leased Infrastructure or individual item meets the Performance Specifications set forth in Exhibit 7 ("Acceptance Testing"). Lessee is solely responsible for ensuring that Lessee has installed the necessary Lessee Infrastructure or obtained required entrance agreements to perform its own Acceptance Testing.
- 4.4.1** The time for Lessee performing Acceptance Testing shall not be extended because Lessee has failed to install Lessee Infrastructure or obtain entrance into private locations (unless [REDACTED] has specifically assumed, in writing, that responsibility for gaining that entrance into a Building Entrance or Private Property Access). Lessee shall complete Acceptance Testing within thirty (30) calendar days of the later of receipt of (a) the Notice of Completion as to the Leased Infrastructure or any additional

Leased Fibers, Attachment Points, Backbone Extensions, Private Property Access, Service Drops, Lateral Extensions, or Building Entrances added by an executed Exhibit 11 or (b) receipt of the results of the [REDACTED] Post-Construction or Verification Tests as to the same.

4.4.2 [REDACTED] will cooperate in conducting such tests, and participate in joint testing, if requested, in each case at Lessee's sole cost and expense. Lessee shall provide [REDACTED] with no less than ninety-six (96) hours notice of the time it desires [REDACTED] to participate in joint testing.

4.4.3 If Lessee shall have failed to complete Acceptance Testing within the time period set forth in this Article, it shall be deemed to have waived its rights to conduct Acceptance Testing as to the Leased Fibers, Attachment Points, Backbone Extensions, Private Property Access, Service Drops, Lateral Extensions, or Building Entrances that are the subject of the Notice of Completion and said items shall be deemed accepted by Lessee upon expiration of such thirty-day period;

4.4.4 If Lessee chooses to perform Acceptance Testing, it may do so and then notify [REDACTED] within thirty (30) calendar days of the later of the date of receipt of (a) the Notice of Completion as to the Leased Infrastructure or any Leased Fiber Attachment Point, Backbone Extension, Private Property Access, Service Drop, Lateral Extension, or Building Entrance added by an executed Exhibit 11 or (b) the results of [REDACTED] Post-Construction or Verification Tests as to the same. Lessee shall indicate in a Notice of Acceptance/Rejection (Exhibit 6) what portion of the Leased Infrastructure (Exhibit 3 and 4) or which of the Leased Fibers, Attachment Point, Backbone Extension, Private Property Access, Service Drop, Lateral Extension, or Building Entrance added by an executed Exhibit 11, failed to pass the Acceptance Testing, and the reason therefore.

4.5 Notice of Rejection. In the event Lessee delivers a Notice of Rejection to [REDACTED], [REDACTED] shall use its commercially reasonable efforts to correct or repair Leased Fibers, Attachment Points, Backbone Extensions, Private Property Access, Service Drops, Lateral Extensions, or Building Entrances that are not in compliance. Thereafter, [REDACTED] shall again give Lessee a Notice of Completion with respect to the particular item previously indicated in Lessee's Notice of Rejection as not in compliance. The foregoing procedure shall apply again and successively thereafter until [REDACTED] has remedied all defects or failures that are not in conformance with the Performance Specifications of Exhibit 7. Once compliance with the Performance Specifications set forth in Exhibit 7 is achieved and demonstrated by [REDACTED], Lessee shall within ten (10) business days execute a Notice of Acceptance with respect to the accepted Leased Infrastructure. Lessee shall not unreasonably withhold acceptance.

4.6 Use of Fiber. Unless otherwise agreed by the Parties, Lessee may not use any part of the Leased Infrastructure as set forth in Exhibits 3 and 4 until acceptance of the entire Leased Infrastructure has been received by [REDACTED] from Lessee.

4.6.1 If the majority of the Leased Infrastructure can be completed by [REDACTED] by a certain date, but certain Backbone Extensions, Service Drops, Private Property Access, Lateral Extensions, or Building Entrances cannot be completed until a much later date, the Parties can mutually agree that [REDACTED] can issue one Notice of Completion for the majority of the Leased Infrastructure, and later Notices of Completion for the Backbone Extensions, Service Drops, Private Property Access, Lateral Extensions, or Building Entrances that cannot be delivered at the same time. If the Parties so agree, that agreement shall be set forth in writing, preferably in Exhibit 4. Upon issuance of a Notice of Completion for the initial portion of the Leased Infrastructure, Lessee and [REDACTED] shall be subject to all the

requirements of paragraphs 4.1 through 4.5. Upon receipt by [REDACTED] of the Notice of Acceptance as to the agreed portion of the Leased Infrastructure, Lessee may use that portion of the Leased Infrastructure and its Lease Payment for that portion of the Leased Infrastructure delivered, is due.

- 4.6.2** Lessee may not use Leased Infrastructure to provide cable services unless and until it has obtained a franchise to provide cable television services.
- 4.7 Date of Delivery.** Upon the use of by Lessee of any Leased Fiber or upon receipt by [REDACTED] of an executed Notice of Acceptance, the Leased Infrastructure that is the subject of the Notice of Acceptance shall be deemed to have been ready for immediate use and interconnection by Lessee to Lessee's Infrastructure as of the Date of Delivery. The earliest of the date on which Lessee first uses the Leased Fiber, or the date that [REDACTED] sent the Notice of Completion to Lessee (which was subsequently executed by Lessee as accepted) shall be the "Date of Delivery" of the affected Leased Infrastructure and payment shall be due.
- 4.8 As-Built Drawings.** [REDACTED] provides as-built drawings to Lessees only for Service Drops constructed for that Lessee. [REDACTED] will not share detailed as-built drawings of its Fiber Optic Infrastructure with the public, nor will it provide those as-builts to its Lessees. A general configuration of Lessee's route is attached hereto as Exhibit 2.

Article 5 Lessee's Interface with [REDACTED] Infrastructure

- 5.1 Lessee's Fiber Route. 5.1.1** Any time Lessee applies for a permit for additional fiber routes within the [REDACTED] network boundaries for interconnection to the Fiber Optic Infrastructure, Lessee shall, in addition to any other required [REDACTED] permit processes, submit an "Engineering Information Form", substantially in the form of Exhibit 8 to the person identified in Exhibit 9. Lessee shall also provide interconnection status information as may be requested by the Director from time to time. To the extent Lessee deems any such information is Confidential Information, it shall comply with the provisions of Article 22 of this Agreement. Following completion of the installation of Lessee's Infrastructure and fiber route within the [REDACTED] network boundaries, Lessee shall, within thirty (30) calendar days of completion and to the extent necessary, identify the location of Lessee's Infrastructure located nearby any point of the [REDACTED] network, providing [REDACTED] with information accurately reflecting the actual location of Lessee's Infrastructure and fiber route configurations located nearby the [REDACTED] network ("AsBuilt Infrastructure"). Lessee's As-Built Infrastructure will be treated as Confidential Information, will be labeled as such and shall be treated as set forth in Article 22 below. Lessee's As-Built Infrastructure shall be used solely by [REDACTED] for purposes of joint testing and trouble diagnosis (e.g., to determine trouble origination as [REDACTED] or Lessee's facility problem).
- 5.1.2** From time to time either Party may request that the other Party perform installation work on its behalf as an adjunct to installation work occurring and related to their respective Infrastructures. Each Party will cooperate with the other in accommodating such requests, but is not obligated to do so if it is deemed to introduce delays or complications to the planned work. Any costs incurred by one Party on behalf of the other Party shall be documented and then reimbursed by the Party receiving the benefit, with the exception of personnel time or overhead unless each Party has explicitly agreed that personnel time be included and that time exceeds eight (8) hours.

[REDACTED]

5.2 Lessee's Infrastructure. Lessee shall assume ownership, installation, and maintenance responsibility for Lessee's Infrastructure beginning at least thirty centimeters from [REDACTED] owned splice cases, pull boxes, or other [REDACTED]-owned structures.

5.2.1 At each Attachment Point, [REDACTED] shall provide a capped, stubbed-out conduit, one-foot in length, from the Fiber Optic Infrastructure to the Demarcation Point.

5.2.2 At each capped, stubbed-out conduit, [REDACTED] shall provide a fiber drop cable in the amount of ten (10) meters. In accordance with paragraph 1.6.2 [REDACTED], and not Lessee, shall be responsible for splicing its (own) fiber to that 10 meter drop, unless the Parties agree otherwise in writing.

5.2.3 Lessee shall be responsible for installation and interconnection of fiber within structures located on Lessee's side of the Demarcation Points, which structures are the sole responsibility of Lessee.

5.2.4 Installation of conduit, fiber, splice cases and other structures on Lessee's side of the Demarcation Points shall be the responsibility of Lessee, and title shall be vested with Lessee, if and as appropriate.

5.3 Lessee Covenants. Except as expressly authorized by applicable laws or this Agreement, in the exercise and performance of its rights and obligations under this Agreement, Lessee covenants and agrees:

5.3.1 Lessee shall comply with applicable laws in the exercise and performance of its rights and obligations under this Agreement. Lessee shall comply with any [REDACTED] permit issued to Lessee in connection with the location of Lessee's Infrastructure within the public right-of-way. Lessee shall obtain, as required, any and all necessary approvals for the design, construction, installation, operation and testing of Lessee's Infrastructure.

5.3.2 Lessee shall not interfere in any manner with the existence and operation of any and all public and private rights-of-way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, electroliers, cable television, and other telecommunications, utility-, and private- and municipal property without the express written approval of the owner or owners of the affected property or properties. Lessee shall not do or permit anything to be done by anyone under its direct control or doing work on its behalf, other than [REDACTED], its employees, subcontractors, and agents, within the public or private right-of-way or to permit anyone under its direct control or doing work on its behalf, other than [REDACTED], its employees, subcontractors, and agents, to do anything that which may in any way obstruct or interfere with the rights of any person located within the public or private right-of-way, or injure them, or use or allow the public right-of-way to be used by under its direct control or doing work on its behalf for any improper or unlawful purpose. Notwithstanding the foregoing, this shall not be construed to prohibit Lessee from installing Infrastructure connecting with [REDACTED] infrastructure or otherwise exercising its rights and carrying out its obligations under this Agreement, provided however that this sentence is not intended nor shall it be construed to increase Lessee's rights under this Agreement.

5.3.3 Lessee shall keep all parts of the Leased Infrastructure that belong to [REDACTED] free of any liens that may be created or which may attach as the result of the acts or omissions of Lessee, its employees, subcontractors or agents. If such lien is filed, Lessee shall indemnify and hold harmless [REDACTED] from any and all costs to remove such lien including but not limited to reasonable attorneys' fees through appeal;

5.3.4 Lessee shall be permitted to pledge this Agreement as an asset for purposes of obtaining financing; however, if any entity to whom this Agreement has been pledged actually perfects its interest therein, that entity must comply with the provisions of Article 17 "Assignment". Lessee may not, under any circumstances pledge the actual dark fiber or

Leased Infrastructure as an asset to anyone for any purpose. The Leased Infrastructure is private property owned by [REDACTED] and shall not be pledged to any party.

5.3.5 Lessee shall not do or permit anything to be done by anyone under its direct control or doing work on its behalf, other than [REDACTED], its employees, subcontractors, and agents, in, on or about the Leased Infrastructure, which is prohibited by, or will in any way conflict with, any laws now in force by [REDACTED] or which may hereafter be enacted or promulgated by an entity other than [REDACTED]. However, if any laws, rules, ordinances, resolutions, or other regulations which are enacted or promulgated by a governmental entity after the Effective Date of this Agreement materially (a) change the economics of this Agreement, or (b) interfere with Lessee's rights provided hereunder, [REDACTED] shall provide Lessee sixty (60) days notice of the required change and if the Lessee does not agree to comply, Lessee shall have the right to terminate this Agreement without penalty.

5.3.6 Lessee shall not, in connection with this Agreement, commit, cause, maintain or permit nor suffer, or allow to be committed, caused, maintained or permitted by anyone under its direct control or doing work on its behalf, other than [REDACTED], its employees, subcontractors, and agents, any waste, abuse or destructive use within the public or private right-of-way, nor any public or private nuisance, nor any other act or thing which may disturb the quiet enjoyment of any other person lawfully using the public or private right-of-way;

5.3.7 Lessee shall be solely and fully responsible for the reporting of all hazardous materials releases to the appropriate agencies, when such releases are caused by, or result from, Lessee's activities or by anyone under its direct control or doing work on its behalf other than [REDACTED], its employees, subcontractors, and agents. Lessee shall take all necessary precautions to prevent any hazardous materials used by Lessee or by anyone under its direct control or doing work on its behalf, from entering into any storm or sewage drain system or from being released within the public or private right-of-way.

5.4 [REDACTED] Covenants.

5.4.1 [REDACTED] shall comply with applicable laws in the exercise and performance of its rights and obligations under this Agreement. [REDACTED] shall comply with any ([REDACTED]) permit issued in connection with the Fiber Optic Infrastructure within the public right-of-way. [REDACTED] shall obtain, as required, any and all necessary approvals for the design, construction, installation, operation and testing of [REDACTED] Infrastructure;

5.4.2 [REDACTED] shall not do or permit anything to be done by anyone under its direct control or doing work on its behalf in, on or about the Leased Infrastructure or Lessee's Infrastructure, which is prohibited by or will in any way conflict with any laws now in force or which may hereafter be enacted or promulgated. However, if any laws, rules, ordinances, resolutions or other regulations which are enacted or promulgated by a governmental entity after the Effective Date of this Agreement materially (a) change the economics of this Agreement, or (b) interfere with Lessee's or Lessor's rights provided hereunder, [REDACTED] shall provide Lessee sixty (60) days notice of the required change and if the Lessee does not agree to comply, [REDACTED] shall have the right to terminate this Agreement without penalty.

5.5 Cooperation. Lessee shall use reasonable commercial efforts to cooperate with [REDACTED] concerning construction, installation and testing activities involving other leases or licensees under separate agreements with [REDACTED], in each case at the [REDACTED] sole cost and expense. [REDACTED] will provide Lessee with reasonable advance notice, in writing, of the necessity for any such cooperation. [REDACTED] shall reimburse Lessee for any and all

documented direct costs and expenses incurred as a direct consequence of [REDACTED] requesting such cooperation; however, Lessee shall not charge [REDACTED] for personnel time or overhead unless [REDACTED] explicitly requested that personnel time and that time exceeds 8 hours for each request.

- 5.6 No Access by Lessee.** Other than as authorized in this Agreement, Lessee is prohibited from accessing, directly or indirectly, the Fiber Optic Infrastructure, or any part thereof, the transmission pathway, or any part thereof, or any [REDACTED] electric or other utility facility on [REDACTED] side of the Demarcation Points. Unauthorized access by Lessee to, or use of, the Fiber Optic Infrastructure, the transmission pathway, or any [REDACTED] electric or other utility facility shall constitute a material breach of this Agreement. [REDACTED] may terminate for cause this Agreement upon the delivery of written Notice of Termination to Lessee, effective thirty (30) calendar days after its receipt by Lessee.

Article 6 **Fiber Optic Infrastructure Monitoring, Maintenance, Repairs and Alterations**

- 6.1 General.** [REDACTED] shall maintain the Fiber Optic Infrastructure in good operating condition and in accordance with the specifications set forth on Exhibit 7, throughout the term of this Lease.
- 6.2 Contact Persons or Representatives**
- 6.2.1** Lessee shall furnish to [REDACTED], and update as changes occur, the current name, title, telephone number, and personal communications device number (including facsimile transmission number, cellular telephone number and email address) of a representative of Lessee who shall be kept informed of [REDACTED] maintenance schedules ("Lessee's Representative"). This information shall be provided on the Personnel Contact Form set forth as Exhibit 9 and provided to the [REDACTED] Representative. If Lessee fails to keep [REDACTED] informed of its current Representative, then [REDACTED] shall not be held liable for any failure to meet any notification or response provisions, resulting directly therefrom.
- 6.2.2** [REDACTED] shall provide to Lessee's Representative a 24/7/365 telephone number Lessee may call to report any perceived damage to or failure, interruption or impairment of the Leased Infrastructure ("[REDACTED] Representative"). This information shall be provided on the Personnel Contact Form set forth as Exhibit 9 and provided to the Lessee's Representative.
- 6.3 Routine Monitoring.**
- 6.3.1** [REDACTED] shall, on request, monitor (at least) one fiber in the Fiber Optic Infrastructure for cable continuity on a 24-hour day, seven days per week, basis as per request for a period of 4 weeks at its sole cost and expenses. [REDACTED] shall not monitor the Leased Fibers.
- 6.3.2** [REDACTED], at its sole cost and expense, shall undertake timely maintenance and repairs to cure deficiencies in the Fiber Optic Infrastructure. Lessee is responsible for all maintenance and repairs on Lessee's side of the Demarcation Points. Where routine monitoring reveals a potential maintenance issue, each Party shall, with regard to their respective Infrastructure, take reasonable and timely steps to address the issue prior to it affecting the operation or functionality of their respective Infrastructures. With regard to emergency repairs, see section 6.5 below.
- 6.3.3** Lessee may conduct independent diagnostic testing, fault isolation, repair verification, and end-to-end network testing, as it deems appropriate, on Lessee's side of the Demarcation Points. Lessee may notify the [REDACTED]

Representative in writing if it is determined as a result of its independent testing and surveillance programs, review of [REDACTED]-provided reports, or otherwise, that any part of the Leased Infrastructure does not conform to the performance standards set forth in Exhibit 7. The Parties shall confer to expedite trouble resolution and resolve possible differences in interpretation of trouble reports.

6.4 Routine Operations.

[REDACTED], at its sole cost and expense, shall schedule and perform Fiber Optic Infrastructure alterations, and routine operations, maintenance and repairs. [REDACTED] shall identify the time, location, and nature of each alteration or maintenance and repair job potentially affecting the Leased Infrastructure and/or Lessee's Infrastructure, and notify Lessee's Representative, via Email or facsimile transmission, at the earliest possible time but not less than 48 hours prior to the scheduled time.

6.5 Emergency Repairs.

6.5.1 Scope of Work. [REDACTED] shall provide all equipment, manpower, supervision, certified fiber optic splicers, consumable materials, equipment, tools, construction equipment and machinery, utilities, transportation, any and all applicable taxes, and other facilities and work as necessary for the proper execution and completion of temporary and permanent emergency restoration for operation of the fiber optic communications network, as outlined in the following sections, to the satisfaction of Lessee for the Work performed under this Agreement.

6.5.1.1 The Work consists of [REDACTED] providing emergency maintenance response and restoration services, including appropriate supervision, technical expertise, labor, equipment, and materials to assess and restore functionality to [REDACTED] fiber optic network and facilities whenever necessary. Emergency maintenance provided in this section does not apply to fiber optic facilities not owned by [REDACTED], but owned and operated by the Lessee or third parties.

6.5.1.2 Execution of the Work shall include, at a minimum, the ability to respond as required herein upon report of damage to [REDACTED] Fiber Optic facilities and to perform:

6.5.1.2.1 Underground and aerial defect discovery work to ascertain the extent of damage to fiber optic cables and/or facilities.

6.5.1.2.2 Underground Trenching and placement/repair of conduit and infrastructure [REDACTED] Standards.

6.5.1.2.3 Placement of underground fiber optic cable and facilities in conduit system.

6.5.1.2.4 Setting poles and/or repair of aerial facilities for fiber optic cable.

6.5.1.2.5 Splicing, termination and testing of fiber optic cable to [REDACTED] Fiber Optics Standards.

6.5.2 [REDACTED] Serviceability Requirements.

[REDACTED] fiber optic network shall be the only system eligible for service under this Agreement.

6.5.3 [REDACTED] Service Requirements.

[REDACTED] agrees to provide, and Lessee agrees to accept service according to the following standards:

6.5.3.1 Emergency Service Definition:

[REDACTED]

An emergency is defined as an abrupt failure of fiber optic cable functionality. [REDACTED] will provide emergency restoration services to splice or bridge around the fiber failure. This service will be provided for all fiber optic cable up to and including patch panel terminations.

6.5.3.2 Point of Contact: [REDACTED] will provide a designated point of contact available by direct telephone service to initiate restoration service and from that point on will provide a designated point of contact by direct telephone service at the restoration site until all temporary or permanent restoration is complete. Lessee will provide an authorized Representative as a designated point of contact to the [REDACTED] to exchange required communications regarding restoration during the Emergency Service.

6.5.3.3 Coverage Area and Time: [REDACTED] shall provide Emergency Restoration Services for its Fiber Optic Network. [REDACTED] Emergency Restoration Services will be available 7 days/week, 52 weeks/year, 24 hours/day, including [REDACTED] observed holidays.

6.5.3.4 Response Time: Upon receipt of notification from Lessee's authorized

representative to [REDACTED] indicating the existence of a potential problem, [REDACTED] restoration supervisor shall be at the [REDACTED] Fiber Optic Network Operating Centre (NOC) or other agreed upon location within three (3) hours. [REDACTED] shall have appropriate restoration/repair personnel and equipment on site to begin restoration of fiber optic network functionality within five (5) hours of such notification.

6.5.3.5 Status Reports: [REDACTED] will initiate no less than hourly and on demand status reports to the designated Lessee's Representative during emergency temporary restoration. [REDACTED] will communicate all information regarding the condition and restoration through the [REDACTED] Representative.

6.5.4 Network Demarcation. Emergency restoration services are in support of [REDACTED] backbone single mode fiber cable, service lateral cables, and intra-building distribution cables. This agreement does not provide support for Lessee's equipment and/or network.

6.5.5 Permanent Restoration. After temporary restoration is complete, a permanent repair and site restoration plan will be proposed by [REDACTED] within 3 working days. Upon [REDACTED] approval this work will be scheduled and initiated.

6.5.6 Additional Information. Identification of communication system, contact and method to be used during Temporary Emergency Restoration activities (e.g., two-way radios and/or mobile phones).

6.5.7 Route Modifications. [REDACTED] at its sole cost and expense, may upon reasonable notice, modify the Fiber Optic Infrastructure as conditions and circumstances may warrant. These modifications may cause portions of the Fiber Optic Infrastructure to be relocated, permanently or temporarily, to one or more alternate locations within the public right-of-way, public utility easements, and licensed service properties.

6.5.8 Relocation of Leased Infrastructure shall not affect the price Lessee pays for use of that Infrastructure.

6.5.9 [REDACTED] shall use its commercially reasonable efforts to ensure such action shall not directly or substantially interfere with the performance or operations of Lessee's Leased Infrastructure and/or Lessee's Infrastructure. Lessee shall cooperate with [REDACTED] to effect any such modifications, in each case at the [REDACTED] sole cost and expense.

Article 7 Access to Lessee's Infrastructure

- 7.1 Grant of Access.** From time to time access to Lessee's Infrastructure located within [REDACTED] may facilitate scheduled and non-scheduled maintenance and repair work associated with the Leased Infrastructure and related Fiber Optic Infrastructure. Lessee will cooperate with [REDACTED], its officers, employees, agents, representatives and contractors to allow ingress and egress for repairs to Leased Infrastructure and the Fiber Optic Infrastructure, at [REDACTED] sole cost and expense. Notwithstanding the foregoing, [REDACTED] shall have no right to alter, maintain or repair Lessee's Infrastructure. In no event shall [REDACTED], its officers, employees, agents, representatives, contractors, or subcontractors have access to Lessee's Infrastructure unless a representative of Lessee is present.
- 7.2 Written Notice.** So long as an emergency situation does not exist, [REDACTED] shall provide a written request at least forty-eight (48) hours notice in advance of any required ingress to Lessee's Infrastructure. If an emergency situation exists, [REDACTED] shall provide a verbal request to the person identified pursuant to paragraph 6.2.1.

Article 8 Joint Marketing

[REDACTED] will cooperate with Lessee in joint marketing efforts to the extent that this does not conflict with [REDACTED] interests or those of other network service providers who otherwise may lease capacity from [REDACTED].

Article 9 Utilities and Other Services

Other than the services described herein, no other utility or other service is provided by [REDACTED] to Lessee pursuant to this Agreement. Other such services, if provided, are either governed by [REDACTED] Rules and Regulations or by separate agreement between the Parties.

Article 10 Adequate Assurance

Within seven (7) business days of the Effective Date or within seven days of the date on which this Agreement is presented to the Director of [REDACTED], whichever is later, Lessee shall furnish to [REDACTED] and maintain throughout the remainder of the Term of this Agreement, Adequate Assurance in the form of a cash deposit equal to the value of two (2) months Lease Payment, securing the faithful performance by Lessee of its obligations under this Agreement. If [REDACTED] has drawn against the cash deposit as set forth in Article 11, Lessee is required to replenish the cash deposit, provided, however, that Lessee will not be required to replenish any cash deposit or provide any Adequate Assurance in excess of the value of the remaining Lease Payments up to the expiration of the then-current Term. Failure to replenish the cash deposit on demand by [REDACTED] as set forth in this Article 10 is a material breach of this Agreement.

Article 11 Default and Remedies for Default

- 11.1 Grounds for Default.** This Agreement may be terminated by either Party ("Non-Defaulting Party"), pursuant to Article 11.2 below, upon the occurrence of a material breach of this Agreement by the other Party ("Defaulting Party"), including, but not limited to, any of the following:

- 11.1.1 Failure to make any Lease Payment within five (5) business days following the Due Date constitutes a material breach and default of this Agreement, unless Lessee in good faith disputes all or any portion of such Lease Payment in which case Lessee shall pay only the undisputed portion, if any, until such dispute is resolved. If Lessee fails to make a Lease Payment, [REDACTED] will send a Notice of Default to Lessee as set forth in paragraph 11.2.1. If Lessee fails to pay the amount due within ten (10) business days of the date on the Notice of Default, then [REDACTED] may elect to pay the Lease Payment from the Adequate Assurance, or to terminate the Agreement. However, if Lessee does cure the default as specified in paragraph 11.2.1, the breach shall not be considered material and shall not be a basis for consideration of future renewals or additions by means of Exhibit 11;
- 11.1.2 Failure to pay an invoice within five (5) business days following the Due Date constitutes a material breach and default of this Agreement, unless Lessee in good faith disputes all or any portion of such invoice in which case Lessee shall pay only the undisputed portion, if any, until such dispute is resolved. If Lessee fails to pay an invoice, [REDACTED] will send a Notice of Default to Lessee as set forth in paragraph 11.2. If Lessee fails to pay the amount due within ten (10) business days of the date on the Notice of Default, then [REDACTED] may elect to pay the invoice from the Adequate Assurance, or to terminate the Agreement. However, if Lessee does cure the default as specified in paragraph 11.2, the breach shall not be considered material and shall not be a basis for consideration of future renewals or additions by means of Exhibit 11;
- 11.1.3 Failure to perform any other obligation requiring the payment of money under the provisions of this Agreement, unless the Party in good faith disputes all or any portion of such obligation, in which case that Party shall pay only the undisputed portion, if any, until such dispute is resolved;
- 11.1.4 Failure to observe, perform or comply with any material provision of this Agreement, unless said "failure" was a result of the other Party's failure to perform;
- 11.1.5 Assignment or transfer of Defaulting Party's interest in this Agreement, whether voluntarily or by operation of law, in violation of the provisions of this Agreement;
- 11.1.6 General assignment of assets for the benefit of creditors;
- 11.1.7 Abandonment of Lessee's Infrastructure in the public right-of-way or a failure to notify [REDACTED] of such abandonment;
- 11.1.8 Filing of a petition to have a Party to this Agreement adjudicated bankrupt, or a petition for a reorganization or arrangement under any Law relating to bankruptcy or insolvency, and the Party is not current in its payment of all Lease Payments (default under paragraph 11.1.1), then the Party is immediately in default. If the Party is current on all Lease Payments and does not thereafter become in default under paragraph 11.1.1 then, the Party shall have one hundred eighty (180) calendar days after the filing of the petition within which to have it dismissed without being declared in default. It is agreed by the Parties that this Agreement constitutes a true lease within the meaning of Dutch applicable law.
- 11.1.9 A Person (other than a Party to this Agreement) obtains an order or decree in any court of competent jurisdiction enjoining or prohibiting the Defaulting Party from performing under this Agreement and the Party is not current in its payment of all Lease Payments (or otherwise in default of paragraph 11.1.1), then the Party is immediately in default. If the Party is current on all Lease Payments and continues to remain current on any Lease Payments, then the Party shall have one hundred eighty (180) calendar days after the issuance of the order to have the order vacated, without being declared in default; or
- 11.1.10 Any material representation, warranty, or statement made by a Party with regard to this Agreement that shall prove to have been incorrect in any material respect when made which adversely affects the rights of others.

11.2 Notice in Event of Default. In the event of a material breach of this Agreement, the NonDefaulting Party shall give Notice of Default to the Defaulting Party. Except for failure to make a payment, the Defaulting Party shall have thirty (30) calendar days from receipt of the Notice of Default to cure the material breach and the Non-Defaulting Party shall have the right to demand Adequate Assurance.

11.2.1 If Lessee receives a Notice of Default for failure to make a Lease Payment or to pay an invoice, then Lessee has ten (10) business days from the date on the Notice of Default to cure the non-payment. The Lease Payment must be received in hand by [REDACTED] no later than the tenth day following the date on the Notice of Default;

11.2.2 If, at the time of a breach for non-payment, Lessee has Adequate Assurance in the form of a Letter of Credit, security bond or cash deposit in place naming [REDACTED] as beneficiary, [REDACTED] shall be entitled to draw on that Adequate Assurance to cover all outstanding amounts owed, on the thirtieth (30th) day following the Due Date;

11.2.3 [REDACTED] total damages for any material breach by Lessee shall be limited to, or the equivalent of, the applicable Termination Payment;

11.2.4 When the cure reasonably requires more than thirty (30) calendar days, the Defaulting Party shall commence to cure within thirty (30) calendar days of receipt of said Notice of Default and thereafter diligently and continuously prosecute such cure to completion. Failure to cure the material breach within the time limits set forth above shall constitute a default ("Default"). Lessee may not claim that a breach of an obligation to pay requires more than thirty (30) calendar days to cure;

11.2.5 Where a Default has occurred, and in no case any earlier than thirty (30) calendar days from the date a Notice of Default was issued, the Non-Defaulting Party may terminate this Agreement by issuing a Notice of Termination. Any extension of time by the Nondefaulting Party in issuing the Notice of Default or Notice of Termination shall not constitute waiver of any right of the Non-Defaulting Party;

11.3 The rights and remedies provided by law and under this Agreement are cumulative and either Party may seek the specific performance of the terms of this Agreement, unless this Agreement provides otherwise.

Article 12 Termination

This Agreement may be terminated upon the occurrence of any of the following events:

12.1 Either Party may terminate this Agreement for default or material breach;

12.2 Lessee exercises its right to terminate this Agreement for convenience, pursuant to Article 13, for all or a portion of the Leased Infrastructure. In the event such termination pursuant to Article 13 is a partial termination, Lessee shall continue to make quarterly Lease Payments with respect to any Leased Infrastructure that have not been the subject of the termination. However, Lessee does not have the right to terminate this Agreement for convenience as to any stranded fiber, which fiber is stranded due to the manner in which Lessee chose to route or splice the Leased Fiber.

12.3 Issuance of a Notice of Termination pursuant to Article 11 due to a material breach by [REDACTED]. If a tribunal later determines that the breach was not material, then Lessee shall owe back payment of all Lease payments not made, as well as the Termination Payment as of the date of the decision rendered.

12.4 [REDACTED] failure to deliver the Leased Infrastructure (excluding any new extensions of new construction to accommodate the unique requirements of Lessee) on or before the date mutually agreed upon by the Parties and set forth in Exhibit 4, unless such failure is due to reasons beyond the control of [REDACTED] or Force Majeure. Such termination shall be without liability to either [REDACTED] or Lessee unless, and to the extent that, the failure to meet the deadline is caused by Lessee.

12.5 An event of Force Majeure that destroys Lessee's Infrastructure located near [REDACTED] Infrastructure such that substantially all of Lessee's Infrastructure located near [REDACTED] Infrastructure cannot be repaired, restored or replaced at a reasonable cost within sixty (60) calendar days after an event of destruction. Lessee shall be excused from its obligations to make lease payments during the pendency of the event of Force Majeure, not to exceed six (6) months from the date of the destruction. [REDACTED] may elect to terminate this Agreement if Lessee does not commence Lease Payments within six (6) months of the date of destruction, in which case no Termination Payment shall be owed by either Party.

12.6 [REDACTED] may elect to terminate this Agreement if the Fiber Optic Infrastructure is substantially destroyed by Force Majeure such that it cannot be repaired at a reasonable cost and within six (6) months from the date of destruction, and Lessee shall not owe [REDACTED] any Lease Payment or shall be entitled to an appropriate credit if prepayments are involved. If [REDACTED] elects to terminate this Agreement as set forth above, Lessee shall not owe [REDACTED] any Lease Payment or shall be entitled to an appropriate credit if prepayments are involved, for the period from the date of destruction until the Agreement either is terminated or the Fiber Optic Infrastructure is repaired by [REDACTED]. Lessee may elect to terminate this Agreement if the Fiber Optic Infrastructure is substantially destroyed such that [REDACTED] cannot repair the Fiber Optic Infrastructure within sixty (60) calendar days of the date of destruction, in which case no Termination Payment shall be owed by either Party.

Article 13 Termination Payment

13.1 Lessee may terminate the lease of fiber of any Service Drop, Building Entrance, Lateral Extension, or a Private Property Access to a Building Entrance without penalty and without paying the Termination Payment for that fiber so long as Lessee has fully paid all engineering and construction costs, or accrued third party charges for entrance fees (provided lessee was obligated to pay [REDACTED] for any such engineering and construction costs or accrued third party charges for entrance fees), due to [REDACTED] for that item. Lessee's Lease Payment shall be reduced by the amount of fiber that it no longer leases in that Service Drop, Building Entrance, or Private Property Access to the Building Entrance.

13.2 For termination of this Agreement with regard to any portion of the Leased Infrastructure other than a Service Drop, Private Property Access or a Building Entrance as set forth in paragraph 13.1 above, Lessee may elect to terminate this Agreement for convenience, for all (or a portion of) Leased Fibers. At the time of Termination, Lessee would pay a Termination Fee equal to three times the (apportioned) annual payment due within the subsequent four quarters, or 40 percent of remaining (apportioned) lease payments due under terms of the Agreement, whichever is less. Termination Fees are to be based on current year prices (at the time of Termination) without inclusion of going forward CPI adjustments.

[REDACTED]

Note: Stranded fiber may not be terminated for convenience without Lessee paying a termination fee with respect to such stranded fiber.

Article 14 Limitation of Liability

- 14.1** Except as provided for in this Agreement, neither Party shall be liable to the other for any consequential, indirect, liquidated, or special damages or lost revenue or lost profits arising out of the performance or non-performance of any provision of this agreement, even if such party has been informed of the possibility of such damages. [REDACTED] total liability for any claim or demand of the lessee arising out of this agreement shall not exceed the value of 6 months of lease payments owed by this Lessee.
- 14.2** [REDACTED] shall not be liable to Lessee in any manner for any delays and/or lack of completion of construction for reasons beyond control of [REDACTED].
- 14.3** [REDACTED] is not liable to Lessee for damage caused to the Fiber Optic Infrastructure by independent third parties not under contract with [REDACTED] that are engaged in construction or other business operations which damage the Fiber Optic Infrastructure. [REDACTED] will respond and repair any damage to the Fiber Optic Infrastructure caused by such a third party as if it were an Emergency Repair under Article 6.
- 14.4** Inability to use the Leased Fiber due to an electrical power outage is not covered by this Agreement. This Agreement is a lease of dark fiber. Any issues arising out of the inability of Lessee to obtain electricity shall not be handled under this agreement.
- 14.5** Neither Party shall be in default in the performance of any obligation under this Agreement when a failure to perform its obligations under this Agreement shall be due to Force Majeure (as defined in Exhibit 1). For the duration of the Force Majeure, but for no longer period, the obligations of the Party claiming the event (other than the obligations to make payments then due or becoming due with respect to performance prior to the event) shall be suspended to the extent required.
- 14.6** Either Party rendered unable to fulfill any of its obligations by reason of Force Majeure shall give prompt written notice and full details of the event to be confirmed in writing to the other Party, as soon as possible, but in no event later than five (5) days after the occurrence (unless additional time is required by virtue of Force Majeure). The Party claiming Force Majeure shall exercise due diligence to remove such inability within a reasonable time period.

Article 15 Hold Harmless/Indemnification

- 15.1 By Lessee.** Subject to the terms of Section 14, Lessee shall indemnify, defend and hold harmless [REDACTED], its commissioners, employees, officers, directors, subcontractors, consultants and agents from and against any and all claims, demands, causes of action, losses, damages, costs and expenses of every kind and character arising on account of

[REDACTED]

all personal injury or death or damage to [REDACTED] property caused by or resulting from the acts or omissions of Lessee, its employees, subcontractors or agents.

15.2 By [REDACTED]. Subject to the terms of Section 14, [REDACTED] shall indemnify, defend and hold harmless Lessee its employees, officers, directors, subcontractors, consultants and agents from and against any and all claims, demands, causes of action, losses, damages, costs and expenses of every kind and character arising on account of all personal injury or death or damage to Lessee's property caused by or resulting from the acts or omissions of [REDACTED], its employees, subcontractors or agents.

Article 16 Representations and Warranties

16.1 By [REDACTED]: [REDACTED] represents and warrants:

- 16.1.1** It is a commercial corporation duly organized and validly existing and in good standing under the Laws of the Netherlands. It has all requisite corporate power and authority to own its property, real and personal (including but not limited to the Fiber Optic Infrastructure), and operate its business as and where it is now being conducted.
- 16.1.2** It has the power and authority to enter into this Agreement and perform its obligations hereunder. The execution, delivery and performance of this Agreement have been duly authorized by all necessary actions and proceedings. This Agreement and any other instruments, documents or writings to be executed and delivered by [REDACTED] pursuant to this Agreement, will not conflict with or violate any provision and will be legal, valid and binding obligations of [REDACTED], and enforceable against [REDACTED] in accordance with the provisions hereof except as may be limited by applicable laws.
- 16.1.3** The execution and delivery by [REDACTED] of this Agreement and of any other instrument, document or writing contemplated by this Agreement will not conflict with or violate or constitute a breach or default, or the provision of any mortgage, trust, indenture, bond, lien, pledge, release, agreement, guaranty, or instrument to which [REDACTED] is subject.
- 16.1.4** There are no known unresolved claims or disputes between Lessee and [REDACTED]. There are no known actions, suits, or proceedings pending or, to the knowledge of [REDACTED], threatened against [REDACTED] that, if adversely determined to [REDACTED], would materially and adversely affect the ability of [REDACTED] to perform its obligations under this Agreement.
- 16.1.5** [REDACTED] agrees to obtain and maintain any certificates, licenses, or approvals required by law that relate to its obligations under this Agreement.
- 16.1.6** [REDACTED] shall maintain the Fiber Optic Infrastructure in good operating condition for normal use as contemplated by the manufacturers and in accordance with the specifications set forth in Exhibit 7. [REDACTED] otherwise expressly disclaims any express or implied warranty beyond the manufacturer's warranty as to the fitness of any materials, equipment or any other part or all of the Fiber Optic Infrastructure or the Leased Infrastructure, constructed or to be constructed. The warranties and remedies set forth above constitute the only warranties and remedies with respect to this Agreement and are in lieu of all other warranties, written or oral, statutory, express or implied, including, without limitation, the warranty of merchantability or fitness for a particular purpose or use.

16.2 By Lessee: Lessee represents and warrants:

- 16.2.1 It is a duly organized and validly existing corporation in good standing under the Laws of the Netherlands and authorized to do business in the Netherlands. It has all requisite corporate power and authority to own its property, real and personal, and operate its business as and where it is now being conducted.
- 16.2.2 It has the power and authority to enter into this Agreement and perform its obligations hereunder. The execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate actions and proceedings. This Agreement is, and any other instruments, documents or writings to be executed and delivered by Lessee pursuant to this Agreement will be, legal, valid and binding obligations of Lessee, and enforceable against Lessee in accordance with the provisions hereof except as may be limited by applicable laws.
- 16.2.3 The execution and delivery by Lessee of this Agreement and of any other instruments, documents or writings contemplated by this Agreement will not conflict with or violate or constitute a breach or default under the Articles of Incorporation or bylaws of Lessee or the provision of any mortgage, trust, indenture, bond, lien, pledge, release, agreement, guaranty or instrument to which Lessee is subject.
- 16.2.4 There are no known unresolved claims or disputes between Lessee and [REDACTED]. There are no known actions, suits or proceedings pending or, to the knowledge of Lessee, threatened against Lessee that, if adversely determined to Lessee, would materially and adversely affect the ability of Lessee to perform its obligations under this Agreement.
- 16.2.5 Lessee agrees to obtain and maintain any certificates, licenses or approvals required by law that relate to its obligations under this Agreement.

Article 17 Assignment

- 17.1 Except as otherwise permitted by this Article, Lessee shall not assign, sublease or otherwise transfer in whole or in part (whether voluntarily or by action of law), directly, indirectly, or contingently this Lease or any interest herein to any third party, without the prior written consent of [REDACTED], which consent shall not be unreasonably withheld.
- 17.2 Without [REDACTED] prior consent, Lessee may assign, sublease or otherwise transfer in whole or in part (whether voluntarily or by action of law), directly, indirectly, or contingently this Lease or any interest herein to an Affiliate, so long as that Affiliate provides information to [REDACTED] within thirty (30) days of the assignment, establishing that it either (i) has the ability to meet the financial obligations under this Lease or (ii) concurrently with the assignment, Lessee assigned to Affiliate the right to the Adequate Assurance provided by Lessee to [REDACTED] pursuant to paragraph 10 herein or (iii) Affiliate has otherwise provided [REDACTED] with substitute Adequate Assurance. If Affiliate fails to meet one of the three criteria set forth above, the Assignment shall be null and void.
- 17.3 Lessee may assign, sublease or transfer, pursuant to a merger, sale or transfer of all or substantially all of the assets or stock of Lessee, all of its rights and obligations under this Agreement to any party which provides similar services as Lessee, so long as the surviving or purchasing entity assumes, in writing, all of the obligations of Lessee under this Agreement and provides information acceptable to [REDACTED] within thirty (30) days after the transfer, merger or sale, sufficient to satisfy [REDACTED] that the proposed Assignee can meet those obligations. If the proposed Assignee cannot meet those financial obligations, then Adequate Assurance acceptable to [REDACTED] will be provided within sixty (60) days of the date of the transfer, merger or sale. If Assignee fails to provide Adequate Assurance, the Assignment shall be null and void.
- 17.4 Any assignment, transfer, sublease, conveyance, sale, hypothecation or encumbrance hereof by Lessee not authorized by this Article shall be null and void, and, at the option of [REDACTED], acting by and through the Director, shall constitute a material breach of this Agreement by Lessee hereunder;

17.5 Lessee, as assignor, and any person, including an Affiliate, as assignee, to whom the rights and obligations of Lessee under this Agreement are assigned shall be and remain jointly and severally liable for the performance of all obligations of Lessee under this Agreement.

Article 18 Waiver

The consent by a Party to any act by the other Party shall not be deemed to imply consent to, or to constitute the waiver of, a breach of any provision of this Agreement nor shall any custom or practice which may arise between the Parties in the administration of any part of the provisions of this Agreement be construed to waive or lessen the right of a Party to insist upon the performance by the other Party in strict accordance with the provisions of this Agreement.

Article 19 Insurance Requirements

19.1 During the term of this Agreement, Lessee shall purchase and maintain in full force and effect the following insurance policies:

19.1.1. Commercial general liability (including bodily injury and property damage);

19.1.2. Business automobile liability insurance, and

19.1.3. Worker's compensation employer's liability

19.2 Said policies shall be maintained with respect to employees and vehicles assigned to the performance of work under this Agreement with coverage amounts and with the required endorsements, certificates of insurance and coverage verifications as defined in Exhibit 10. Lessee shall make its best effort to secure, and thereafter maintain in effect, such insurance policies. In the event that any required insurance policy expires or is terminated for any reason, Lessee agrees to replace the policy prior to any lapse in coverage. In the event any policy required under this Agreement is allowed to lapse, [REDACTED] may, (after providing Lessee notice and ten (10) business days therefrom to cure) in its sole discretion, elect to purchase the required insurance policy and the cost of such policy shall be charged to Lessee under this Agreement.

Article 20 Dispute Resolution

Any documented dispute between the Parties which arises during the performance of this Agreement and which the Parties cannot then resolve, shall be subject to the following administrative remedy prior to any litigation occurring between the Parties:

20.1 **Internal Resolution.** Both Parties shall attempt to resolve any controversy claim, problem or dispute arising out of, or related to, this Agreement through good faith consultation in the ordinary course of business. In the event that any problem or dispute is not resolved by the project managers of each party, either party may upon written notice to the other request that the matter be referred to senior management officials within each respective organization with express authority to resolve the problem or issue ("Request for Internal Resolution"). A written Request for Internal Resolution shall be given by either Party within thirty (30) calendar days of the Parties' knowledge of the claim. Senior management officials

shall meet or confer at least once in good faith, to negotiate a mutually acceptable resolution within ten (10) business days of the Request for Internal Resolution.

20.2 Notice. Senior management officials are required to only meet once, but may mutually agree to meet more than once if it appears that further meetings may successfully resolve the issue. If the Parties do not successfully resolve the dispute by Internal Resolution, then the Party finding the Internal Resolution unsatisfactory shall provide written notice to the other Party, demanding mediation ("Request for Mediation"). The Request for Mediation may not be given prior to the first meeting for Internal Resolution, and shall not be given any later than ninety (90) calendar days following the completion of the first Internal Resolution meeting. The Request for Mediation shall be sent certified mail-return receipt requested to the other Party, and shall set forth all of the issues that Party deems outstanding that must be submitted to mediation. The Party in receipt of the Request for Mediation shall respond within twenty (20) business days listing any issues it deems appropriate for submission to the Mediator.

20.3 Mediation. Any controversies between [REDACTED] and Lessee regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach (except those for which the appropriate remedy should be injunctive relief) shall be mediated within sixty (60) calendar days of the date on the written Request for Mediation, or the soonest date thereafter that the mediator is available.

20.4 Mediator. Within twenty (20) calendar days or less of the written Request for Mediation, the Parties shall agree on one mediator. If they cannot agree on one mediator within such twenty-day period each Party shall list the names of three (3) potential mediators and shall supply them to the Party demanding the mediation. The Party demanding the mediation shall merge the names of all the potential mediators into a single list, not indicating which Party submitted the name. On that same date as all names are received by the demanding Party, the Parties shall jointly sign a letter directed to the Presiding Judge of the Court of the Province of Utrecht, requesting that the Judge appoint a mediator from the enclosed list. If the Court refuses to appoint a mediator within ten (10) business days, the Parties shall make the same request of the nearest Judicial Arbitration and Mediation Service, paying whatever fee is required for making the appointment. If a Party refuses or fails to submit three (3) names within the three day period to the Party preparing the letter, then the letter shall be sent on the fifth day without input from the Party failing to submit names. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.

20.5 Costs. The costs of mediation shall be borne by the Parties equally.

20.6 Discovery. If, during any dispute between the Parties, Lessee makes a demand for documents under a specific law, [REDACTED] shall have reciprocal rights to demand documents from Lessee.

20.7 Condition Precedent to Filing Suit. Except as provided in Article 20.3 (injunctive relief), mediation under this section is a condition precedent to a Party filing an action in any court, unless that Party has made demand for mediation and the other Party has failed or refused to engage in mediation. In the event of litigation arising out of any dispute related to this Agreement, the Parties shall

[REDACTED]

each pay their respective attorneys fees, expert witness costs and cost of suit, regardless of the outcome of the litigation.

Article 21 Notice

21.1 Unless otherwise stated herein, all notices which shall or may be given pursuant to this Agreement shall be in writing and delivered by means of certified Postal Service mail, return receipt requested, or private overnight delivery systems, or by facsimile transmission, provided a copy of the facsimile is also sent on that same date by Postal Service mail or by private express delivery systems, addressed as follows:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

To Lessee:

Netoperator Nederland B.V.
t.a.v. de Network Operations Manager (NOC)
Nieuwland Parc 10A

2952DA Alblasterdam
telephone: +31 (0)85-2732400
facsimile: +31 (0)85-2732499
NOC: +31 (0)85-2732407

21.2 Notices shall be deemed received on the same day as a facsimile is sent, the day following the date on which the Notice was sent via an overnight mail service, and three (3) calendar days from the date postmarked by the Postal Service. If Notice is given pursuant to two different methods receipt shall be deemed to occur on the earliest date.

Article 22 Confidentiality

22.1 General. Lessee acknowledges that [REDACTED] is a private company subject to the requirements of the regulatory rules of the ACM (independent Post and Telecommunications Authority). [REDACTED] acknowledges that Lessee may submit information to [REDACTED] that Lessee considers confidential, proprietary, or trade secret information. Lessee acknowledges that [REDACTED] may submit to Lessee information that [REDACTED] considers confidential or proprietary or not subject to disclosure pursuant to an law. Any Party desiring to claim that information shared with the other Party is "Confidential Information", shall clearly label written information "Confidential" before releasing it to the other Party, and in the case of oral information, shall state that such information is confidential when given and shall confirm in writing the confidentiality of such information promptly thereafter.

22.2 Requests Made Under the Public Records Act. Upon request or demand of any third person or entity not a party to this Agreement ("Requestor") for production, inspection and/or copying of information [REDACTED] by a the party disclosing the Confidential Information ("Disclosing Party") as "Confidential Information" (i) that is made under the Public Records Act, and (ii) is not exempt from disclosure under the Public Records Act, the party that is the recipient of the Confidential

Information ("Receiving Party"), as soon as is practical but in any event within three (3) business days of receipt of the request, shall notify the Disclosing Party by telephone call, letter sent via facsimile and/or by postal mail to the address and facsimile number listed at the end of the Agreement that such request has been made. The Disclosing Party shall be responsible for taking whatever legal steps are necessary to protect information deemed by it to be "Confidential Information" and to prevent release of information to the Requestor by the Receiving Party, including prosecuting any defense that the information demanded is exempt from disclosure under the Public Records Act. The Receiving Party will provide reasonable cooperation and assistance to the Disclosing Party in preventing the release of the Confidential Information without compensation; however, if Disclosing Party requires significant dedication of Receiving Party's time, the Parties shall agree on a fair compensation or limit the hours Receiving Party is taken from duties at its employer. If the Disclosing Party takes no such action within seven (7) days after receiving the foregoing notice from the Receiving Party, the Receiving Party notify Requestor that it requires the allowed ten (10) day extension under the Public Records Act. If Disclosing Party fails to take any action within twenty (20) days of the date on the original Public Records Act demand, then Receiving Party is required by law to comply with the demand and is not required to defend against it.

22.3 All Other Requests. Except for disclosures expressly required under the Public Records Act, the Parties acknowledge and agree that any information properly labeled in accordance with paragraph 22.1 and provided now or in connection with this Agreement, [including without limitation, the terms and conditions of this Agreement set forth in Exhibits 3, 4, 5, 8, and 11], shall be considered Confidential Information of the Disclosing Party. [It is acknowledged by the Parties that this Lease Agreement and Exhibits 1, 2, 6, 7, 9, and 10, can be public record.] The Receiving Party shall afford such Confidential Information the same care and protection it generally affords its own confidential and proprietary information (which shall not be less than reasonable care, in any case), and further agrees not to use or disclose to any third party the Confidential Information of the Disclosing Party, except as required for performance of its obligations under this Agreement.

22.3.1 Each Party shall restrict dissemination of Confidential Information to only those persons in its respective organizations, or to its agents, funding partners, fiber optic consultants, legal and financial advisors and lenders who must have access to such Confidential Information in order to perform the obligations required by the Parties under this Agreement or obtain financing; provided, however, that such person or entities shall be made aware of the confidentiality of such information and are subject to or agree to be bound by substantially similar restrictions on its use and disclosure.

22.3.1 Neither Party shall be required to hold confidential any information which (i) is or becomes publicly available other than through the Receiving Party; (ii) is independently developed by the Receiving Party; (iii) becomes available to the Receiving Party without restriction from a third party that has no duty of confidentiality with respect to such information; or (iv) is legally required to be disclosed (including securities and regulatory filings and statements), provided that in such circumstances the Receiving Party first provides the Disclosing Party with notice of such required disclosure and takes reasonable steps to allow the Disclosing Party to seek a protective order with respect to the Confidential Information. The Receiving Party will cooperate and assist the Disclosing Party in connection with such protective order at the Disclosing Party's request as detailed in paragraph 22.2 above.

[REDACTED]

22.4 Permitted Disclosures: Notwithstanding the other provisions of this Article and without waiver of any obligations hereunder, [REDACTED] may disclose the identity of Lessee as a customer of [REDACTED], and Lessee may disclose the identity of [REDACTED] as a supplier of Lessee. The body of this Agreement shall be private record, and Exhibits 3, 4, 5, 8, and 11 shall be held as confidential. No other disclosures, including press releases or other public announcements about this Agreement may be disclosed, except with the prior written consent of the Parties hereto.

22.5 General. Confidential information shall be deemed to be the property of the Disclosing Party. All Confidential Information, unless otherwise specified in writing, shall be used by the Receiving Party only for the intended purpose, and such written Confidential Information, including all copies thereof, shall be returned to the Disclosing Party or destroyed upon the request of the Disclosing Party. If the Receiving Party loses or makes an unauthorized disclosure of Confidential Information it shall immediately notify the Disclosing party and use reasonable efforts to find, retrieve and/or stop the dissemination of such Confidential Information. The provisions of this Article shall survive expiration or earlier termination of this Agreement.

Article 23 Entire Agreement

This Agreement, and its Exhibits contain the entire understanding between the Parties with respect to the subject matter herein. There are no representations, warranties, agreements or understandings (whether oral or written) between the Parties relating to the subject matter hereof which are not fully expressed herein.

Article 24 Amendment

This Agreement may not be amended except pursuant to a written instrument signed by each of the Parties.

Article 25 Headings

The Article headings hereof are inserted for convenience of reference only, are not a part hereof and shall have no effect on the construction or interpretation hereof. All Exhibits referred to in this Agreement and any addenda, attachments, and schedules which may, from time to time, be referred to in any duly executed amendment to this Agreement are incorporated by this reference into this Agreement and shall be deemed a part hereof.

Article 26 Governing Law

This Agreement shall be governed by and construed in accordance with the Laws of the Netherlands without regard to its conflict of laws, rules or principles. In the event that suit is brought by a Party, the Parties agree that trial of such action shall be vested exclusively in the state courts of the Netherlands or the local courts in the province of Utrecht.

[REDACTED]

Article 27 Severability

If any provision of this Agreement is held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision shall be deemed severable from the remaining provisions and shall in no way affect the validity of the remaining portions hereof. To the extent the provisions of this Agreement and any other agreement required to be obtained by Lessee from [REDACTED] are in conflict, the provisions of the agreement which impose the higher or greater legal duty or obligation shall take precedence.

Article 28 Construction of Agreement

28.1 Each Party and its counsel have reviewed this Agreement. Accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the construction and interpretation of this Agreement.

28.2 For the purposes hereof, the time in which an act is to be performed shall be computed by excluding the first day and including the last. If the time in which an act is to be performed falls on a Saturday, Sunday, or any day observed as an official holiday by [REDACTED], the time for performance shall be extended to the following business day.

The Parties acknowledge and accept the terms and conditions stated herein as evidenced by the following [REDACTED] of their duly authorized representatives. It is the intent of [REDACTED] and Lessee that this Agreement shall become operative on the Effective Date first set forth in the preamble, above.

Signed,

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

