

After Recording, Return to:  
Tower Communication Systems Corp.  
c/o Communications Transmission, Inc.  
5000 Plaza on the Lake, Suite 100  
Austin, Texas 78746  
Attn: Legal Department

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WIRELINE AGREEMENT  
CROSSING

Mile Post 20.08 Chicago Sub.  
South Holland, Cook County, Illinois

Folder No. 435-43

U. P. R. Co.  
Agreement

Audit No. 146670

THIS AGREEMENT is made and entered into as of the 27<sup>th</sup> day of February, 19 89, by and between MISSOURI PACIFIC RAILROAD COMPANY, a Delaware corporation, and CSX TRANSPORTATION, INC., a Virginia corporation (hereinafter collectively the Licensor) and TOWER COMMUNICATIONS SYSTEMS CORPORATION, a Texas corporation, of 3307 Northland Drive, Suite 500, Austin, Texas 78731 (hereinafter the Licensee).

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSE FEE.

Upon the execution of this Agreement, the Licensee shall pay to the Licensor a license fee of six hundred dollars (\$600.00).

Article 2. LICENSOR GRANTS RIGHT.

In consideration of the license fee to be paid by Licensee and in further consideration of the covenants and agreements herein contained to be by the Licensee kept, observed and performed, the Licensor hereby grants to the Licensee the right to construct and thereafter, during the term hereof, to maintain and operate a fiber optic telephone wireline crossing (hereinafter called the Wireline) in the location shown and in conformity with the dimensions and specifications indicated on the attached print marked Exhibit A.

Article 3. CONSTRUCTION, MAINTENANCE AND OPERATION

The grant of right herein made to the Licensee is subject to each and all of the terms, provisions, conditions, limitations and covenants set forth herein and in Exhibit B, hereto attached.

Article 4. TERM.

This Agreement shall take effect as of the date first herein written and shall continue in full force and effect until terminated as herein provided.

DEPT-01 RECORDING \$19.00

T#8888 TRAN 8757 09/07/90 10:34:00

#6924 # H \* -90-436559

COOK COUNTY RECORDER

Wire/Pipe Line Agmt Crossing  
Form App 8/86  
AVP-Law

90436559

\$ 19.00

After Recording Return to  
Tower Communication System  
Two Communications Transmission  
2808 Plaza on the Lake, Suite 100  
Austin, Texas 78746  
Legal Department

MIRALIS AGREEMENT  
ARTICLE I  
GENERAL

10/1/00

2000 Hillside, Suite 100, Austin, Texas 78746  
2000 Hillside, Suite 100, Austin, Texas 78746

THIS AGREEMENT is made and entered into on this 1st day of October, 2000, by and between MIRALIS, INC., a Delaware corporation, and ONE COMMUNICATIONS CORPORATION, a Texas corporation (hereinafter collectively the Licensor) and TOWER COMMUNICATIONS CORPORATION, a Texas corporation (hereinafter the Licensee) (collectively the Licensees).

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO THAT:  
ARTICLE 1. LICENSE TERM  
Upon the execution of this Agreement, the Licensee shall be deemed to have accepted the license for a term of six (6) months, beginning on the date of execution of this Agreement.

ARTICLE 2. LICENSE RIGHTS  
In consideration of the Licensee's payment to the Licensor of the sum of \$100,000.00 (one hundred thousand dollars) by the Licensee hereunder, the Licensor hereby grants to the Licensee the right to use the Licensee's software and related materials to maintain and operate a fiber optic network and related services (collectively the "Network") in the state of Texas and in other states as may be determined by the Licensee, subject to the terms and conditions set forth herein.

ARTICLE 3. CONTRACT, WARRANTY AND LIABILITY  
The grant of right herein made to the Licensee is subject to the terms and conditions, provisions, conditions, limitations and restrictions set forth herein and in Exhibit A, which are incorporated herein by reference.

ARTICLE 4. TERM  
This Agreement shall be in full force and effect until terminated as provided herein.

Witness my hand and seal of office this 1st day of October, 2000, at Austin, Texas.

# UNOFFICIAL COPY

9 0 4 3 6 5 5 9

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

Witness:

G. P. Maple

MISSOURI PACIFIC RAILROAD COMPANY

By [Signature]

Gen. Director-Contracts and Real Estate

Witness:

[Signature]

CSX TRANSPORTATION, INC.

By [Signature]

DIRECTOR CONTRACTS

Witness:

X R. Francis Ferguson

TOWER COMMUNICATIONS SYSTEMS CORPORATION

X [Signature]

President

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IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed and the date first herein written.

ALLEGEDLY SIGNED BY THE CONTRACTOR

Witness: [Signature]

\_\_\_\_\_  
[Illegible text]

FOR TRANSMISSION TO THE

Witness: [Signature]

DIRECTOR CONTRACTS

\_\_\_\_\_  
[Illegible text]

FOR TRANSMISSION TO THE

Witness: [Signature]

\_\_\_\_\_  
[Illegible text]

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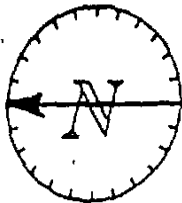
Property of Cook County Clerk's Office

Witness: [Signature]

INDICATE NORTH DIRECTION

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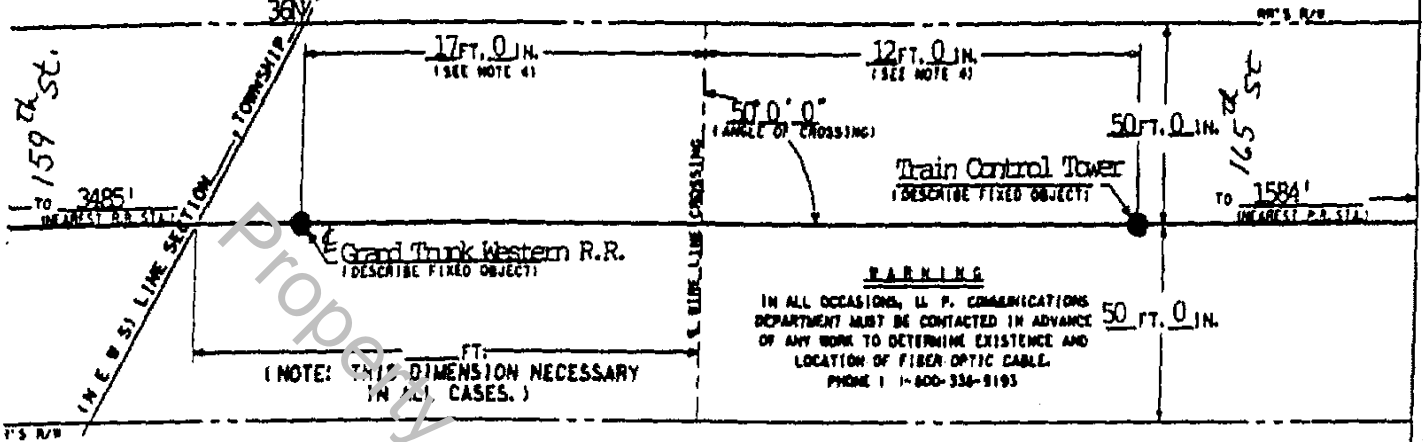
(REVISED FEB. 11, 1988)



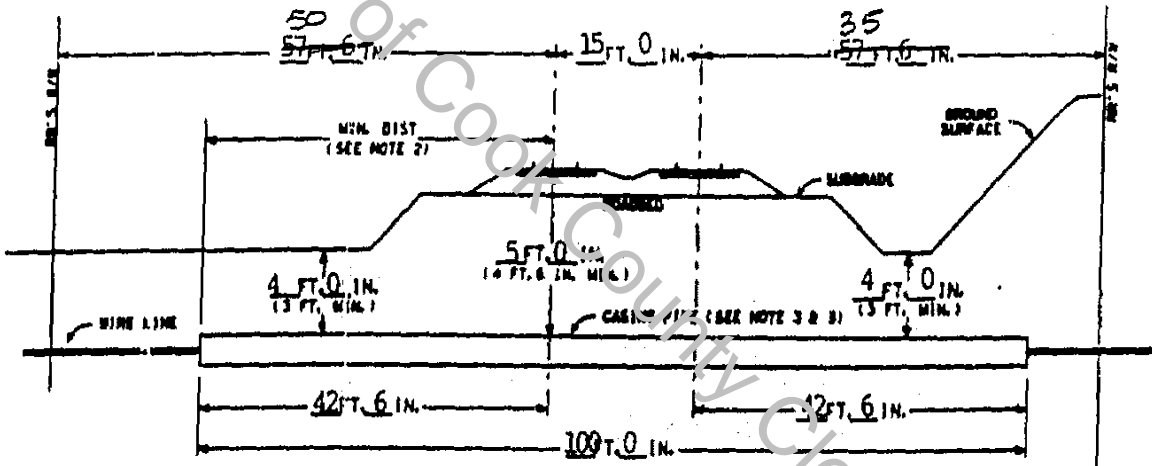
NO SCALE

# APPLICATION FOR UNDERGROUND WIRE LINE CROSSING 600 VOLTS OR LESS

NOTE: ALL AVAILABLE DIMENSIONS MUST BE FILLED IN TO PROCESS THIS APPLICATION.



**WARNING**  
 IN ALL OCCASIONS, U. P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE.  
 PHONE 1-800-334-8193



90436559

YES :

ALL HORIZONTAL DISTANCES TO BE MEASURED AT RIGHT ANGLES FROM CENTER LINE OF TRACK.  
 CASING MUST EXTEND A MINIMUM OF 30' OUT FROM CENTER LINE OF TRACK, MEASURED AT RIGHT ANGLES.  
 CASING MATERIAL : STEEL, RIGID METALIC CONDUIT , ETC., 3" OR LESS IN DIAMETER (NO PVC).  
 MINIMUM OF 50' FROM THE END OF ANY RAILROAD BRIDGE, CENTERLINE OF ANY CULVERT, OR FROM ANY SWITCHING AREA.  
 SIGNAL REPRESENTATIVE MUST BE PRESENT DURING INSTALLATION IF RAILROAD SIGNALS ARE IN THE VICINITY OF CROSSING.

\_\_\_\_\_ FT. TO RR'S MILE POST NO.

IS WIRE LINE CROSSING WITHIN DEDICATED STREET ? NO YES;  NO;

NAME OF STREET N/A

VOLTAGE TO BE CARRIED UNDER TRACK N/A

CASING TYPE TO BE INSTALLED Black Iron Pipe

METHOD OF INSTALLING CASING PIPE UNDER TRACK(S):  
 DRY BORE AND JACK (WET BORE NOT PERMITTED) ;  
 TUNNEL ; OTHER \_\_\_\_\_

DISTANCE FROM CENTER LINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES TO TRACK 42.5 FT.

APPLICANT HAS CONTACTED D.D. Tholen  
 OF U. P. COMMUNICATION DEPARTMENT AND HAS DETERMINED FIBER OPTIC CABLE DOES ;  DOES NOT ; EXIST IN VICINITY OF WORK TO BE PERFORMED .

FOR RAILROAD USE ONLY

**EXHIBIT "A"**

MISSOURI PACIFIC RAILROAD CO.

CHICAGO

M.P. 20.08 THORNTON Jct.

GMS SEGMENT NO : 2010

FIBRE OPTICS WIRE LINE

CROSSING FOR  
TOWER COMM SYS. CORP.  
AT SOUTH HOLLAND - COOK - ILL

FILE NO : 435-43

OFFICE OF CHIEF ENGINEER  
 DATE : 03-24-88

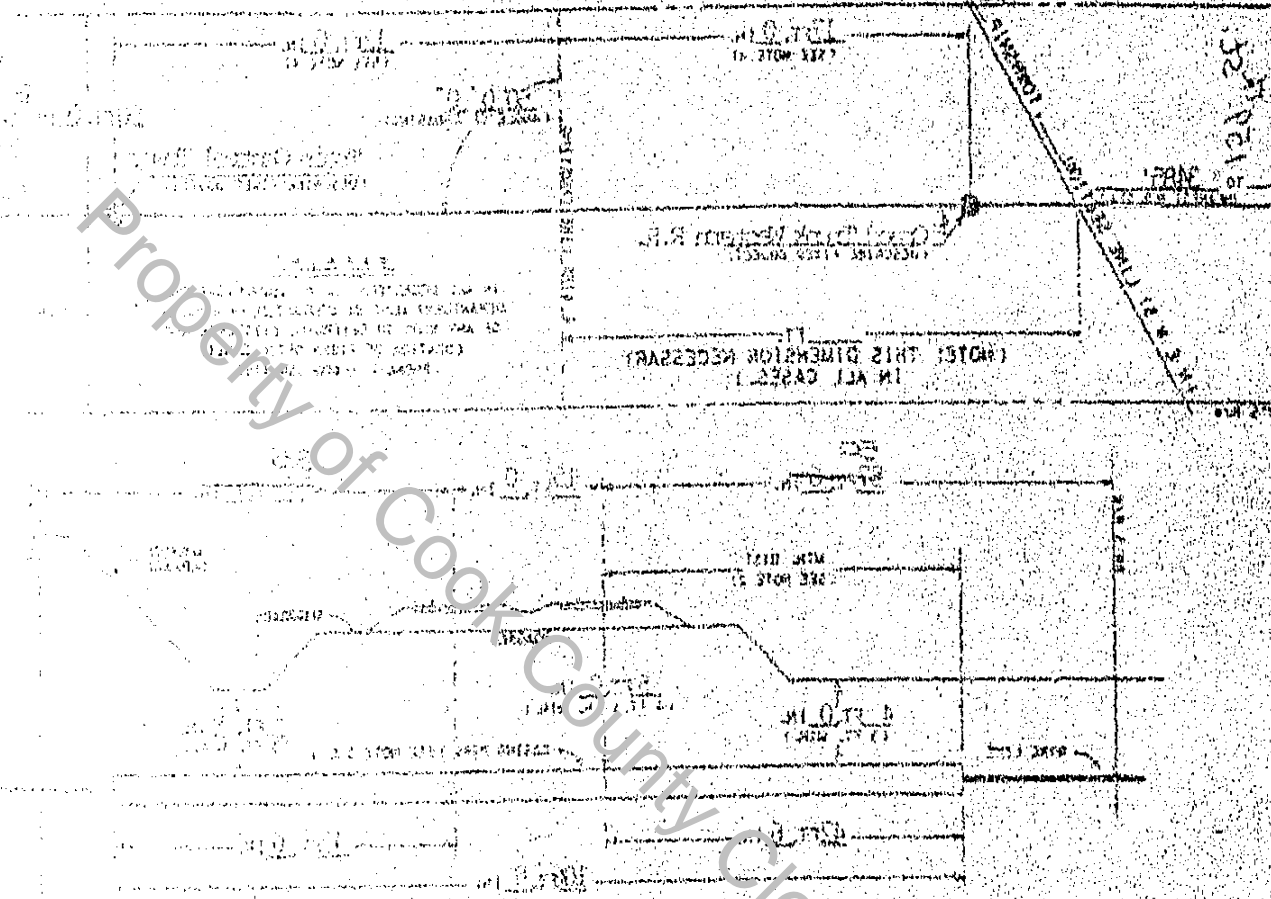
APPLICATION FOR UNDERGROUND  
WIRE LINE CROSSING

600 VOLTS OR LESS

NOTE: ALL APPLICABLE DIMENSIONS MUST BE  
FILLED IN TO PROCESS THIS APPLICATION



NO SCALE



ALL HORIZONTAL DISTANCES TO BE MEASURED AT RIGHT ANGLES FROM CENTER LINE OF STREET TO CENTER OF WIRE LINE. DISTANCE FROM CENTER LINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES TO TRACK.

APPLICANT HAS CONTACTED THE CHICAGO POLICE DEPARTMENT AND HAS DETERMINED WHETHER ANY POLICE CABLE DOES OR DOES NOT EXIST IN VICINITY OF PROPOSED CROSSING.

METHOD OF INSTALLING CARRYING PIPE UNDER TRACKS TO BE INDICATED BY CHECKING ONE OF THE FOLLOWING:

BY BORE AND JACK (WET BORE NOT PERMITTED)

TUNNEL; OTHER

TYPE OF STREET VIA WHICH WIRE LINE CROSSING WITHIN DESIGNATED STREET TO BE CARRIED UNDER TRACKS TO BE INDICATED BY CHECKING ONE OF THE FOLLOWING:

TO BE CARRIED UNDER TRACKS

TO BE CARRIED UNDER TRACKS

TO BE CARRIED UNDER TRACKS

APPLICANT'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_

STATE: \_\_\_\_\_

DATE: \_\_\_\_\_

APPLICANT'S SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

DATE: \_\_\_\_\_

## EXHIBIT B

### Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

(a) The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Licensor to use and maintain its entire property including the right and power of the Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Licensor without liability to the Licensee or to any other party for compensation or damages.

(b) The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Licensor's property, and others) and the right of the Licensor to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

### Section 2. CONSTRUCTION, MAINTENANCE AND OPERATION.

(a) If the Wireline or any part thereof is to be located above the top of the rails of any track or communication and signal lines, including static wires, overhead clearance provided by the Wireline shall be no less than that shown on Exhibit A. The Wireline shall be constructed, operated, maintained, repaired, renewed, modified and/or reconstructed by the Licensee in strict conformity with the Specifications prescribed in the current issue of the National Electrical Safety Code of the American National Standards Institute. In the event such Specifications conflict in any respect with the requirements of any federal, state or municipal law or regulation, such requirements shall govern on all points of conflict, but in all other respects the Specifications shall apply.

(b) All work performed on property of the Licensor in connection with the construction, maintenance, repair, renewal, modification or reconstruction of the Wireline shall be done under the supervision and to the satisfaction of the Licensor.

(c) If the Wireline is an existing one not conforming in its construction to the above provisions of this Section 2, the Licensee shall, within ninety (90) days after the date hereof, reconstruct it so as to conform therewith.

(d) The Wireline shall be constructed, maintained and operated by the Licensee in such manner as not to be or constitute a hazard to aviation. With respect to the Wireline the Licensee, without expense to the Licensor, will comply with all requirements of law and of public authority, whether federal, state or local, including but not limited to aviation authorities.

(e) In the operation of the Wireline, the Licensee shall not transmit electric current at a difference of potential in excess of the voltage indicated on Exhibit A. If the voltage indicated is in excess of six hundred (600) volts, and the Wireline is, or is to be, buried at any location on the property of the Licensor outside track ballast sections or roadbed, the Licensee shall install metallic conduit, or non-metallic conduit encased in a minimum of three (3) inches of concrete with a minimum of four (4) feet of ground cover the entire length of the Wireline on the property of the Licensor. A Wireline buried by removal of the soil shall have, at a depth of one (1) foot beneath the surface of the ground directly above the Wireline, a six (6) inch wide warning tape bearing the warning, "Danger-High Voltage," or equivalent wording. A Wireline encased in conduit, jacked or bored under the property of the Licensor, must be identified by placing warning signs, to be installed and properly maintained at the expense of the Licensee, at each edge of the Licensor's property. The Licensee shall not utilize the signs in lieu of the warning tape where portions of the casing are installed by direct burial.

### Section 3. NOTICE OF COMMENCEMENT OF WORK.

If an emergency should arise requiring immediate attention, the Licensee shall provide as much notice as practicable to Licensor before commencing any work. In all other situations, the Licensee shall notify the Licensor at least ten (10) days (or such other time as the Licensor may allow) in advance of the commencement of any work upon property of the Licensor in connection with the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the Wireline. All such work shall be prosecuted diligently to completion.

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## Section 4. LICENSEE TO BEAR ENTIRE EXPENSE.

The Licensee shall bear the entire cost and expense incurred in connection with the construction, maintenance, repair and renewal and any and all modification, revision, relocation, removal or reconstruction of the Wireline, including any and all expense which may be incurred by the Licensor in connection therewith for supervision or inspection, or otherwise.

## Section 5. RELOCATION OR REMOVAL OF WIRELINE.

(a) The license herein granted is subject to the needs and requirements of the Licensor in the operation of its railroad and in the improvement and use of its property, and the Licensee shall, at the sole expense of the Licensee, move all or any portion of the Wireline to such new location, as the Licensor may designate, whenever in the furtherance of its needs and requirements, the Licensor shall find such action necessary or desirable.

(b) All the terms, conditions and stipulations herein expressed with reference to the Wireline on property of the Licensor in the location hereinbefore described shall, so far as the Wireline remains on the property, apply to the Wireline as modified, changed or relocated within the contemplation of this section.

## Section 6. INTERFERENCE.

In the operation and maintenance of the Wireline the Licensee shall take all suitable precaution to prevent any interference (by induction, leakage of electricity, or otherwise) with the operation of the signal, communication lines or other installations or facilities of the Licensor or of its tenants; and if, at any time, the operation or maintenance of the Wireline results in any electrostatic effects which the Licensor deems undesirable or harmful, or causes interference with the operation of the signal, communication lines or other installations or facilities, as now existing or which may hereafter be provided by the Licensor and/or its tenants, the Licensee shall, at the sole expense of the Licensee, immediately take such action as may be necessary to eliminate such interference.

## Section 7. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

(a) Fiber optic cable systems may be buried on the Licensor's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall telephone the Licensor at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the Licensor's premises to be used by the Licensee. If it is, Licensee will telephone the telecommunication company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Licensor's premises.

(b) In addition to the liability terms elsewhere in this Agreement, the Licensee shall indemnify and hold the Licensor harmless against and from all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of the Licensee, its contractor, agents and/or employees, that causes or in any way or degree contributes to (1) any damage to or destruction of any telecommunication system by the Licensee and/or its contractor, agents and/or employees, on Licensor's property, (2) any injury to or death of any person employed by or on behalf of any telecommunication company, and/or its contractor, agents and/or employees, on Licensor's property, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of, such telecommunication company(ies).

## Section 8. CLAIMS AND LIENS FOR LABOR AND MATERIAL.

(a) The Licensee shall fully pay for all materials joined or affixed to and labor performed upon property of the Licensor in connection with the construction, maintenance, repair, renewal, modification or reconstruction of the Wireline, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of the Licensee. The Licensee shall indemnify and hold harmless the Licensor against and from any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished.

(b) The Licensee shall promptly pay or discharge all taxes, charges and assessments levied upon, in respect to, or on account of the Wireline, to prevent the same from becoming a charge or lien upon property of the Licensor, and so that the taxes, charges and assessments levied upon or in respect to such property shall not be increased because of the location, construction or maintenance of the Wireline or any improvement, appliance or fixture connected

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## Section 4. LICENSEE TO BEAR ENTIRE EXPENSE

The Licensee shall bear the entire cost and expense incurred in connection with the construction, maintenance, repair and removal and all other activities, including the relocation, removal or reconstruction of the wireline, including any and all expenses incurred by the Licensee in connection therewith for supervision or inspection of construction, otherwise.

## Section 5. RELOCATION OR REMOVAL OF WIRELINE

(a) The Licensee herein granted is subject to the power and jurisdiction of the Commission in the operation of its railroad and in the relocation and removal of the wireline. The Licensee shall, at the sole expense of the Licensee, move all or any portion of the wireline to such new location, as the Licensee may designate, whenever in the future its needs and requirements, the Licensee shall find such action necessary or desirable.

(b) All the terms, conditions and stipulations herein contained with reference to the wireline on property of the Licensee in the location hereinafter specified shall apply to the wireline on the property of the Licensee as modified, amended, relocated within the contemplation of this section.

## Section 6. INTERFERENCE

In the operation and maintenance of the wireline, the Licensee shall take all possible precautions to prevent any interference with the operation of the railroad, and shall, at its expense, maintain the wireline in such a manner as to avoid any interference with the operation of the railroad. The Licensee shall, at its expense, maintain the wireline in such a manner as to avoid any interference with the operation of the railroad. The Licensee shall, at its expense, maintain the wireline in such a manner as to avoid any interference with the operation of the railroad.

## Section 7. PROTECTION OF LIGHT OPTIC CABLE SYSTEM

(a) The Licensee shall take all possible precautions to prevent any interference with the operation of the light optic cable system, and shall, at its expense, maintain the light optic cable system in such a manner as to avoid any interference with the operation of the railroad. The Licensee shall, at its expense, maintain the light optic cable system in such a manner as to avoid any interference with the operation of the railroad.

## Section 8. CLAIMS AND LITIGATION FOR DAMAGES AND REPAIRS

(a) The Licensee shall fully pay for all damages, claims and litigation incurred by the Licensee in connection with the construction, maintenance, repair and removal of the wireline, including any and all expenses incurred by the Licensee in connection therewith for supervision or inspection of construction, otherwise.

(b) The Licensee shall be responsible for all damages, claims and litigation incurred by the Licensee in connection with the construction, maintenance, repair and removal of the wireline, including any and all expenses incurred by the Licensee in connection therewith for supervision or inspection of construction, otherwise.

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therewith placed upon such property, or on account of the Licensee's interest therein. Where such tax, charge or assessment may not be separately made or assessed to the Licensee but shall be included in the assessment of the property of the Licensor, then the Licensee shall pay to the Licensor an equitable proportion of such taxes determined by the value of the Licensee's property upon property of the Licensor as compared with the entire value of such property.

#### Section 9. RESTORATION OF LICENSOR'S PROPERTY.

In the event the Licensor authorizes the Licensee to take down any fence of the Licensor or in any manner move or disturb any of the other property of the Licensor in connection with the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the Wireline, then in that event the Licensee shall, as soon as possible and at Licensee's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed, and the Licensee shall indemnify and hold harmless the Licensor, its officers, agents and employees, against and from any and all liability, loss, damages, penalties, claims, demands, costs and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from injury to or death of persons whomsoever, or damage to or loss or destruction of property whatsoever, when such injury, death, damage, loss or destruction grows out of or arises from the taking down of any fence or the moving or disturbance of any other property of the Licensor.

#### Section 10. INDEMNITY.

As used in this Section, "Licensor" includes other railroad companies using the Licensor's property at or near the location of the Licensee's installation and their officers, agents, and employees; "Loss" includes loss, damage, claims, demands, actions, causes of action, penalties, costs, and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from: (a) injury to or death of persons whomsoever (including the Licensor's officers, agents, and employees, the Licensee's officers, agents, and employees, as well as any other person); and (b) damage to or loss or destruction of property whatsoever (including Licensee's property, damage to the roadbed, tracks, equipment, or other property of the Licensor, or property in its care or custody).

As a major inducement and in consideration of the license and permission herein granted, the Licensee agrees to indemnify and hold harmless the Licensor from any Loss which is due to or arises from:

1. The prosecution of any work contemplated by this Agreement including the installation, construction, maintenance, repair, renewal, modification, reconstruction, relocation, or removal of the Wireline or any part thereof; or
2. The presence, operation, or use of the Wireline or electric current conducted thereon or escaping therefrom,

except to the extent that the Loss is caused by the sole and direct negligence of the Licensor.

#### Section 11. REMOVAL OF WIRELINE UPON TERMINATION OF AGREEMENT.

Prior to the termination of this Agreement howsoever, the Licensee shall, at Licensee's sole expense, remove the Wireline from the property of the Licensor and restore such property to as good a condition as it was in before the Wireline was originally constructed, all under the supervision and to the satisfaction of the Licensor. If the Licensee fails to do the foregoing, the Licensor may perform the work of removal and restoration at the expense of the Licensee. The Licensor shall not be liable to the Licensee for any damage sustained by the Licensee as a result of the removal of the Wireline by the Licensor as in this section provided, nor shall such action prejudice or impair any right of action for damages or otherwise that the Licensor may, at the time of such removal, have against the Licensee.

#### Section 12. WAIVER OF BREACH.

The waiver by the Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by the Licensee shall in no way impair the right of the Licensor to avail itself of any subsequent breach thereof.

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hereby placed upon such property or an account of the licensee's liability therefor. Such tax charge or assessment may not be separately assessed on the licensee but shall be included in the assessment of the property of the licensee. The licensee shall pay to the licensor an appropriate proportion of such taxes determined by the value of the licensee's property when compared with the entire value of such property.

## Section 9. RECYCLATION OF LICENSEE'S PROPERTY

In the event the licensor authorizes the licensee to use any part of the licensor or its equipment, or the other property of the licensor, in connection with the construction, maintenance, repair, or other activities, the licensee shall be liable for the cost of such use. The licensee shall be liable for the cost of such use in the event of a fire, explosion, or other disaster, and shall be liable for the cost of such use in the event of a theft, loss, or destruction of any other property of the licensor.

## Section 10. LIABILITY

As used in this section, "licensor's property" includes any property owned, leased, or otherwise controlled by the licensor, including but not limited to buildings, equipment, and other property. The licensee shall be liable for any damage to or destruction of such property, including but not limited to buildings, equipment, and other property, caused by the licensee's negligence, active or passive, or by the licensee's failure to exercise reasonable care in the use of such property.

As a condition of the license, the licensee shall be liable for any damage to or destruction of such property, including but not limited to buildings, equipment, and other property, caused by the licensee's negligence, active or passive, or by the licensee's failure to exercise reasonable care in the use of such property.

The licensee shall be liable for any damage to or destruction of such property, including but not limited to buildings, equipment, and other property, caused by the licensee's negligence, active or passive, or by the licensee's failure to exercise reasonable care in the use of such property.

The licensee shall be liable for any damage to or destruction of such property, including but not limited to buildings, equipment, and other property, caused by the licensee's negligence, active or passive, or by the licensee's failure to exercise reasonable care in the use of such property.

except to the extent that the loss is caused by the negligence of the licensor.

Section 11. REMOVAL OF MATERIAL FROM INSTALLATION BY LICENSEE

In the event the licensee removes any material from the installation, the licensee shall be liable for the cost of such removal, including but not limited to the cost of labor, materials, and other expenses.

Section 12. WAIVER OF BREACH

The waiver in the license of the licensor of any breach of any condition of the license shall be deemed to be a waiver of any breach of any condition of the license, and shall be deemed to be a waiver of any breach of any condition of the license.

right of the licensee to sue for breach of any condition of the license.

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Section 13. TERMINATION.

(a) If the Licensee does not use the right herein granted or the Wireline for one (1) year, or if the Licensee continues in default in the performance of any covenant or agreement herein contained for a period of thirty (30) days after written notice from the Licensor to the Licensee specifying such default, the Licensor may, at its option, forthwith immediately terminate this Agreement by written notice.

(b) In addition to the provisions of subparagraph (a) above, this Agreement may be terminated by written notice given by either party hereto to the other on any date in such notice stated, not less, however, than thirty (30) days subsequent to the date upon which such notice shall be given.

(c) Notice of default and notice of termination may be served personally upon the Licensee or by mailing to the last known address of the Licensee. Termination of this Agreement for any reason shall not affect any of the rights or obligations of the parties hereto which may have accrued, or liability, accrued or otherwise, which may have arisen prior thereto.

Section 14. AGREEMENT NOT TO BE ASSIGNED.

The Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of the Licensor, and it is agreed that any transfer or assignment or attempted transfer or assignment of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without such consent in writing, shall be absolutely void and, at the option of the Licensor, shall terminate this Agreement.

Section 15. SUCCESSORS AND ASSIGNS.

Subject to the provisions of Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

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Rev. 7-2002

## Section 17. TERMINATION.

(a) If the license does not use the right herein granted on the 8th day of the month of January, or if the license contains in default of the provisions of the contract a provision for a period of thirty (30) days after which the license shall terminate, the license shall terminate immediately by written notice.

(b) In addition to the provisions of subsection (a) above, this agreement shall be terminated by written notice given by either party before the other party has performed the obligations stated in the contract. However, this thirty (30) day period shall be given.

(c) Notice of default and notice of termination may be given by either party to the other party by registered mail, return receipt requested, to the last known address of the licensee. Termination of this agreement for any reason shall not affect any liability or obligation which may have accrued or liability, accrued or obligated, which may be incurred thereafter.

## Section 18. AGREEMENT NOT TO BE ASSIGNED.

The licensee shall not assign this agreement or any part thereof to any other person without the written consent of the licensor. Any attempt to assign this agreement or any part thereof without the written consent of the licensor shall be null and void. This agreement shall be absolutely binding and enforceable upon the licensee and shall terminate this agreement.

## Section 19. SUCCESSORS AND ASSIGNEES.

Subject to the provisions of Section 18, this agreement shall be binding and enforceable upon the licensee and its heirs, assigns, successors, and assigns.

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