

POLE ATTACHMENT AGREEMENT

Between

Town of _____

AND

THIS AGREEMENT made and entered into as of _____, 20__ (“Contract Date”), between Town of _____, North Carolina, hereinafter “Owner”, a municipal corporation under the laws of the State of North Carolina, and _____, hereinafter “Licensee” and with Owner and Licensee collectively referred to as the “Parties.”

W I T N E S S E T H

WHEREAS, Owner in the furnishing of its services constructs, maintains, and operates equipment on Poles (as defined hereinafter) in the State of North Carolina.

WHEREAS, Licensee proposes to design, install, operate and maintain a system and associated appliances (“System” or “Attachments” or “Facilities”) to furnish _____ services utilizing the Owner’s electric distribution Poles to place its facilities, including wireline communications cables and System equipment; and,

WHEREAS, Owner is willing to permit, to the extent it may lawfully do so and on the terms hereinafter set forth, the attachment or Owner installation of said System, when in its judgment, such use will not interfere with its own service requirements, including considerations of safety and economy.

AGREEMENT

In consideration of the facts stated above, the mutual covenants and agreements of the parties, and other valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, IT IS AGREED:

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I. DEFINITIONS:

For the purposes of this Agreement, the following terms and phrases shall have the following meanings:

- A. "Actual Costs" means all costs of Owner including engineering, labor, overtime, overhead, material, transportation, equipment, loading, interest and administrative costs, not limited in any way by any Estimated Cost. Actual Costs are payable subsequent to work being done by Owner. Owner will provide documentation of such costs at Licensee's request.
- B. "Attachment" means a wireline or other associated System equipment/facility either affixed to an Owner. For purposes of permitting and prior authorization, such term applies whether the System facilities are placed directly on Owner's Poles or are overlashed onto existing communications wires on the Poles. Equipment that is adjacent to Owners Poles that utilized Owner's Right-of-Way or Easements shall be considered an attachment.
- C. "Communications Space" means the portion of an Owner Pole available for the attachment of Licensee's System, per Owner's specifications, the upper portion of which is designated for wireline Attachments and the lower portion for other System devices. Certain of Licensee's facilities, per Owner's specifications, may extend above the Communications Space for the purpose of obtaining power.
- D. "Encroachment" means the use by of space by one party that was reserved for the use of another party, but shall not include risers.
- E. "Engineer" means a Professional Engineer currently licensed by the State of North Carolina.
- F. "Estimated Cost" means Owner's projected costs, including engineering, labor, overtime, overhead, material, transportation, equipment, loading, interest and administrative costs and which is payable prior to any work by Owner.
- G. "Shared User" means a party, other than Owner or Licensee, which may attach to Owner's Poles, including parties to a Shared Use or Joint Use Agreement.
- H. "Licensee's Expense" means Licensee's obligation to pay Owner's Actual Costs as defined in the Agreement.
- I. "Make-Ready" means all work, as reasonably determined by Owner, required to accommodate the Licensee's Attachment and/or to comply with all applicable engineering specifications and standards for the use of Owner's Poles. Such work may be overhead work and includes, but is not limited to, design, engineering, supervision, administration, installation, inspection, repair and/or maintenance associated with the

design, installation, rearrangement of Owner or Shared User equipment, operation and maintenance of such facilities.

- J. "Permit" means written authorization of Owner for Licensee to make, or maintain, Attachments to specific Poles pursuant to the requirements of the Agreement.
- K. "Pole" means a pole owned by Owner that is capable of supporting Attachments for Licensee's System and that may be further described and/or restricted within this Agreement.
- L. "Rearranging" means the reconstruction or relocation of Attachments on the same Pole.
- M. "Supply Space" means the portion of an Owner Pole reserved for its own use, primarily facilities used in the distribution of power by Owner as noted in Exhibit A.
- N. "System" means that portion of the Licensee's system consisting of all communications cables, wires, fibers, lines, splices, relays, video/optical devices, appliances, sensors, amplifiers, illumination sources, wireless devices, and associated equipment or facilities designed and constructed for the purpose of capturing, distributing, receiving, transmitting, amplifying, or producing electronic and/or video/optical signals and for providing power to such facilities.
- O. "Transferring" means the relocation of Attachments from one Pole to another.

II. SCOPE OF AGREEMENT:

- A. Upon receipt of a Permit and subject to the provisions of this Agreement, Licensee shall have a revocable and nonexclusive license authorizing Licensee to install and maintain Attachments to Owner's Poles. Nothing in this Agreement shall be construed as compelling Owner to grant Licensee the right to attach to any specific Pole or as granting Licensee any right to attach Licensee's System to any specific Pole until an appropriate Permit is issued.
- B. Licensee and Owner agree to be bound by all provisions of this Agreement and of the Permit(s) issued pursuant to this Agreement.
- C. The parties agree that Owner will issue a Permit(s) to Licensee only when Owner determines, in its sole judgment, that (i) it has sufficient capacity to accommodate the requested Attachments, (ii) Licensee meets all requirements set forth in this Agreement, and (iii) such Permit(s) comply with all applicable standards and specifications. The parties further agree that any access to Owner's Poles made available to Licensee pursuant to this Agreement is subject to Owner's reserve capacity, which may be reclaimed by Owner for future electric service use, including the attachment of communications lines for internal Owner operational requirements.

- D. No use, however lengthy, of any of Owner's facilities, and no payment of any fees, charges or other compensation required under this Agreement, shall create or vest in Licensee any easements or other ownership or property rights of any nature in any portion of such facilities. After issuance of any Permit, Licensee shall be and remain a Licensee. Neither this Agreement, nor any Permit granted under this Agreement, shall constitute an assignment of any of Owner's rights to the Owner facilities.
- E. Licensee is obligated to obtain all necessary certification, permitting, and franchising from Federal, state and local authorities prior to making any Attachments.
- F. The parties agree that this Agreement does not in any way limit Owner's right to locate, operate and maintain its Poles in the manner that it believes will best enable it to fulfill its own service requirements.
- G. Nothing in this Agreement shall be construed to require Owner to install, retain, extend, or maintain any Pole for use by the Licensee when such Pole is not needed for Owner's own service requirements.
- H. Nothing in this Agreement shall limit, restrict, or prohibit Owner from fulfilling any agreement or arrangement regarding Poles into which Owner has previously entered, or may enter in the future, with Shared Users and others Licensees not parties to this Agreement.
- I. This Agreement shall only apply to Poles associated with the distribution of electric power and not to any other Owner facilities, absent express written concurrence from Owner. System facilities are not permitted on Owner's metal, decorative, or underground-fed street light poles.
- J. Nothing in this Agreement shall be construed to require Owner to allow Licensee to use Owner's Poles after the termination of this Agreement.
- K. Licensee agrees that this Agreement is limited to the uses specifically stated above in the Recitals and any other use shall be considered a breach of this Agreement.
- L. Licensee acknowledges that, as applicable, it must separately obtain electric service from Owner in order to provide electric supply to Licensee's Attachments.
- M. Electric service shall be governed by the current Owner's Electric Service Policy and any additional Service Agreements executed between the parties.
- N. Permanent electric service to Licensee's System facilities may require an electric service provided through Owner's electric meter socket and appropriate current-limiting disconnect device.
- O. Energy usage shall be billed per Owner's applicable rate schedule for general power services.

III. PROTECTION, INDEMNITY AND LIMITATION OF LIABILITY:

- A. Qualifications: Licensee shall ensure that all employees, agents and contractors of Licensee used to install or maintain the Attachments are appropriately qualified and trained to work on and in the vicinity of electric distribution facilities.
- B. Assumption of Risk: To the fullest extent permitted by law, Licensee expressly assumes responsibility for determining the condition of all facilities of Owner to be worked on by its employees, agents, contractors or subcontractors, including without limitation, poles to be climbed on or worked on. To the fullest extent permitted by law, Licensee assumes all risks (including, without limitation, risks arising from Owner's sole negligence, but excepting the intentional misconduct of Owner or its officers, employees or agents) related to the construction, operation and maintenance of its Attachments on Owner's facilities.
- C. Damage to Facilities: Owner reserves to itself, its successors and assigns, the right to maintain its Poles and to operate its facilities thereon and therein in such manner as will best enable it to fulfill its own service requirements. Owner shall exercise reasonable precaution to prevent damage to, or interference with the operation of the equipment of Licensee, but Owner shall not be liable for any damage to Licensee or any interference which may arise out of the use of Owner's Poles. Licensee shall exercise special precautions to avoid damage to facilities of Owner or of other authorized users of said Poles and to avoid interference with Owner's safe and efficient operation of its electric distribution system. Licensee hereby assumes all responsibility for any and all damage to or interference with facilities of said Owner or other authorized users arising out of or caused by the erection, maintenance, installation, presence use or removal of Licensee's facilities (excepting the intentional misconduct of Owner or its officers, employees or agents). Licensee shall make an immediate report to the particular owner of the facilities affected by the occurrence of any damage and hereby agrees to reimburse such owner for the expenses incurred in making the necessary repairs and replacement. Licensee shall notify Owner promptly in case of such damage to any of its facilities.
- D. Safety Precautions: Licensee shall take all steps necessary to protect persons and property against injury or damage that may result from the presence, installation, use, maintenance or operation of Licensee's Attachments. Should any such injury or damage occur despite such steps, Licensee shall make an immediate report to Owner of such injury or damage, and Licensee hereby assumes all responsibility for any and all such injuries or damage to the fullest extent permitted by law (including, without limitation, risks arising from Owner's sole negligence, but excepting the intentional misconduct of Owner or its officers, employees or agents).
- E. Indemnification and All Other Liability: Licensee shall indemnify, defend, protect, and save harmless Owner and its officers, agents, and employees from and against any and all costs, damages, claims, losses and court costs, liabilities, causes of actions, demands,

judgments, decrees, proceedings, and expenses of any nature (including, without limitation, reasonable attorney fees, disbursements and actual costs) directly or indirectly suffered by or claimed against Owner, directly or indirectly, based on, arising out of or resulting from, in whole or in part, the acts or omissions of Licensee, its officers, agents, employees, contractors (and their subcontractors), successors, or assigns. Licensee shall, at its own expense, defend Owner and its officers, agents and employees against any and all such claims, actions and demands and shall indemnify Owner and its officers, agents and employees for all costs and expenses it may incur in connection therewith, including, without limitation, reasonable attorney fees. If Licensee refuses to undertake the defense of a claim described in this section, then Owner, its officers, agents and employees shall have the right to take all actions they deem necessary and appropriate to defend the claim, and shall be reimbursed by Licensee for all costs incurred in defending such claim as provided above in this section, including, without limitation, reasonable attorney fees.

- F. **Liability Insurance:** Licensee shall carry and keep in full force and effect from and after the date hereof and at all times during the Term broad-form commercial general liability insurance with limits as are reasonably required by the Owner from time to time. Such insurance coverage shall include contractual liability coverage insuring Licensee's indemnities under this Agreement. Said commercial general liability and property damage insurance policies and any other insurance policies carried by Licensee shall (i) be issued by insurance companies reasonably satisfactory to Owner; (ii) designate, as additional named insured, the Owner; (iii) be written as primary policy coverage and not contributing with or in excess of any coverage which Owner may carry; (iv) provide for thirty (30) days' prior written notice to Owner of any cancellation or other expiration of such policy; and (v) contain contractual liability coverage insuring performance by Licensee of the indemnity provisions of this Agreement. In addition, all property damage insurance policies shall contain an express waiver of any right of recovery (by subrogation or otherwise) by the insurance company against Owner. Licensee shall deliver to Owner either a copy of each such policy of insurance or a certificate evidencing the coverage required hereunder. Renewal certificates shall be provided by Licensee on an annual basis. Neither the issuance of any insurance policy required hereunder nor the minimum limits specified herein with respect to Licensee's insurance coverage shall be deemed to limit or restrict in any way Licensee's liability under this Agreement. Policy specific requirements can be found in EXHIBIT G – Insurance.
- G. **Waiver of Recovery:** Each party hereby waives any and every right or cause of action for any and all loss of, or damage to, any of its property (whether or not such loss or damage is caused by the fault or negligence of the other party or anyone for whom said other party may be responsible), which loss or damage is covered by valid and collectible fire, extended coverage, "All Risk" or similar policies, to the extent that such loss or damage is recovered under said insurance policies. Written notice of the terms of said mutual waivers shall be given to each insurance carrier and said insurance policies shall be properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waivers.

- H. **Costs and Expenses:** Further, Licensee agrees to pay all of Owner's costs and expenses, including, but not limited to, reasonable attorney fees, court costs, and interest incurred in any litigation commenced by Owner to collect or enforce indemnification obligations contained in this Article.
- I. **Protection Against Claims For Improper System:** In the event that any claim, demand or liability is made or asserted against Owner by any third party based upon allegations that material transmitted over Licensee's System results in infringement of copyright, libel or slander, illegal use, or unauthorized use thereof or other similar claims, Licensee shall indemnify, defend and hold harmless Owner and its agents and representatives from any and all such claims, demands, lawsuits and liability, including payment of Owner's legal fees.
- J. **Indemnification For Patent Infringement:** In the event that any claim, demand or liability is made or asserted against Owner by any third party based upon allegations that the System violates any patent laws, then, and in such event, Licensee shall indemnify, defend and hold harmless Owner and its agents and representatives of and from any, and all such claims, demands, lawsuits and liability, including the payment of Owner's legal fees.
- K. **Non-Waiver of Indemnification:** No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by Owner of any applicable common law, statutory or constitutional limits on municipal liability available to Owner. No indemnification provision contained in this Agreement under which Licensee indemnifies Owner shall be construed in any way to limit any other indemnification provision contained in this Agreement.
- L. **Limitation of Liability:** Owner reserves to itself, its successors and assigns, the right to maintain its poles and to operate its facilities thereon in such manner as will best enable it to fulfill its own service requirements. Owner shall not be liable to Licensee for any interruption to service of Licensee or for interference, however caused, with the operation of the cables, wires and appliances of Licensee, arising in any manner out of the use of Owner's Poles hereunder, including any effects undesirable to Licensee which the presence, breakdown, operation, maintenance, alterations of, or additions to, the lines and other facilities of Owner or those jointly using Owner's Poles may have upon the Attachments or the transmissions of Licensee, even if the cause of such effects may be attributable to negligence (including, to the fullest extent permitted by law and without limitation, Owner's sole negligence) on the part of Owner or its agents.
- M. **Disclaimer of All Warranties:** Owner makes no warranties under this Agreement and specifically disclaims and excludes all implied warranties, including the implied warranties of merchantability and fitness for a particular purpose. Owner further specifically disclaims any warranty or representation regarding the condition and safety of Owner's distribution Poles or other facilities.

- N. Cumulative Remedies: The rights, protections and remedies afforded Owner under the provisions under this Article and under other provisions of this Agreement are cumulative and not exclusive.

IV. PERMITS, LICENSES AND RIGHTS-OF-WAY:

- A. In order to construct, place and maintain its System, Licensee is solely responsible for obtaining from various Federal, State, County and local authorities and private entities all necessary permits, licenses, rights-of-way, franchise agreements and property easements. The cost of such permits, licenses, rights-of-way, franchise agreements and property easements shall be borne by Licensee.
- B. Owner does not represent or warrant that any of its rights-of-way, easements or other similar rights entitle Licensee to access the property underlying Owner's distribution Poles or other facilities. Licensee shall use its best efforts to obtain such permits, licenses, rights-of-way, franchise agreements and property easements. Upon request, Licensee shall provide to Owner copies of all such permits, licenses, rights-of-way, franchises, agreements and property easements. Licensee shall continue to maintain all such required authorizations and consents during the term of this Agreement.
- C. Nothing in this Agreement shall operate to impose any obligation or responsibility on Owner for Licensee's failure to obtain all necessary permits, licenses, rights-of-way, franchise agreements and property easements, and Licensee shall indemnify and hold harmless Owner, its directors, officers and employees, from and against any and all claims and demands including any attorney and/or legal fees or costs incurred by Owner which result from claims of governmental bodies, owners of property, or others that in any way result from Licensee not having a sufficient right or authority for placing and maintaining Attachments on Owner's Poles.

V. NON-EXCLUSIVE:

- A. Owner grants Licensee non-exclusive rights for its Attachments on Poles. Owner does not suggest, imply or guarantee that Licensee will have sole occupancy of a Pole.
- B. The space available on a Pole for Licensee's proposed Attachments may be limited by previously-authorized attachment permits and Shared-Use or Joint-Use Agreements with third parties. Absence of the physical presence of a third-party attachment is not an indication of space availability.
- C. Nothing in this Agreement shall limit, restrict, or prohibit Owner from utilizing the Communications Space on Poles for its own System facilities.

VI. ATTACHMENT AND INSTALLATION PROCEDURES:

No attachment, placement or installation shall be made by Licensee on any Poles before written permission is received from Owner. The procedure and forms to be used in making application and receiving permission for attachment, placements or installations shall be as provided for as described in this Agreement. Such permission shall not be unreasonably withheld, conditioned or delayed. In addition to any application fees, Licensee shall pay Owner for any Estimated Costs incurred, as herein defined.

VII. CODES, RULES, AND STANDARDS:

Licensee's facilities, in each and every location, shall be erected and maintained in accordance with the requirements and specifications of the latest revision of the *National Electrical Safety Code* ("NESC"), as the same may be amended from time to time, the *National Electrical Code* ("NEC"), the regulations of the Occupational Safety and Health Act ("OSHA"), *North Carolina Department of Transportation* ("NCDOT") and in compliance with any rules or orders now in effect or that may hereafter be issued by Owner or other authority having jurisdiction. Licensee's Attachments shall be made in accordance with local and national standards as approved by Owner. Licensee further agrees that its facilities will meet the specifications, standards, and requirements of Owner's electric construction standards and electric service policy, as may be applicable.

VIII. OVERHEAD APPLICATION REQUIREMENTS:

- A. Before making Attachments to any Poles, including the overlash of existing Attachments, Licensee shall make application and receive a Permit therefore, with respect to each Pole in the form of Exhibit B.
- B. The method and location of installation of Attachments on Poles must first be approved by Owner. Such approvals shall not be unreasonably withheld, conditioned or delayed. Licensee shall furnish Owner with a construction drawing indicating the location of and specifying the type of Attachment to be installed with a target date for completion. Authorized Pole Attachments under this Agreement are restricted to the designated locations indicated in Exhibit A, and shall not be placed within the power supply space, except as shown for electric service to System facilities.
- C. The Licensee shall remit a non-refundable application fee contained in Exhibit E to accompany each Permit application. This fee may be adjusted no more frequently than annually to reflect changes in the engineering, administrative and processing costs of Owner in reviewing permit applications.
- D. There may be an additional Pole Attachment Fee for Licensee to overlash its own Attachments. Licensee shall indicate on its application for overlash the projected sag of the conductors resulting from the additional weight of the proposed cables or wires and shall make request for Make Ready work when such sag will necessitate additional clearance on Owner's poles or from the facilities of other Shared Users to meet mandated separation between facilities or clearance over the ground. Overlashed Attachments shall

be deemed Attachments for all purposes under this Agreement except for the purpose of calculating the Pole Attachment Fees. Overlapping of Licensee's facilities by any third-parties (whether affiliated or otherwise) is prohibited absent a separate License Agreement with Owner.

- E. After Licensee has completed Make-Ready work and attaching to Owner's poles, Licensee's Engineer shall provide a letter stating that the installation has been completed and complies with NESC, NEC, OSHA, and NCDOT codes.
- F. Owner will at intervals not exceeding five (5) years perform an actual inventory of the Pole Attachments in all or in part of the territory covered by this Agreement, for the purpose of checking and verifying the number of Poles on which Licensee has Attachments. Such field check shall be made jointly by both parties and shall be at Licensee's Expense. Any unauthorized attachments that are discovered will be invoiced accordingly, including unauthorized attachment fees, and past due annual fees per pole.
- G. Notwithstanding any other remedies available to Owner, if through an inventory or other means, Owner discovers that Licensee has made Pole Attachments, including overlapping, without first obtaining a Permit from Owner, in the absence of evidence to the contrary that is satisfactory to Owner, the Attachment shall be treated as having existed for a period beginning on the effective date of this Agreement or the date of the last pole inventory, whichever is shorter, and Licensee shall immediately pay the fee for each such Attachment, at the appropriate rate for each year. No act or failure to act by Owner with regard to said fee or said unlicensed use shall be deemed as a ratification of the unlicensed use, and if any Permit for an Attachment should be subsequently issued, said Permit shall not operate retroactively or constitute a waiver by Owner of any of its rights under this Agreement.

IX. ELECTRIC SERVICE TO POWER SUPPLIES:

- A. Licensee, in order to receive electric service, at each point of delivery, from Owner to operate its respective power supplies, shall install at Licensee's expense, and maintain thereafter, its service entrance conductors in accordance with Licensor's instructions. The first point of delivery and additional points at random shall be metered with each metered point having maximum connected load. Owner, at its expense, reserves the right to remove and to reinstall these meters at any time.
- B. Licensee shall establish service per current electric service provider rates and policies
 - a. Licensee shall (a) apply to Owner at Owner's electric department business office, Electricities of NC (b) present Exhibit C "Application for Electric Service" or other approved application form, (c) establish service contract and (d) submit an approved certificate of electrical inspection for each point of delivery desired; after which Owner's designated representative will make the electrical connection between the two respective systems.

- b. Owner will invoice Licensee monthly for services rendered at each point of delivery established herein and payment made to Licensor by Licensee all in accordance with rules and regulations of the Owner's governing utility service to the public. Monthly kilowatt-hours for billing purposes, at each point of delivery, shall be estimated to equal the average KWH of the above metered locations until said meters are removed after which time the billing KWH at each point of delivery shall be estimated to equal the average of monthly averages as determined above.

X. REARRANGEMENT AND RELOCATION OF POLE ATTACHMENTS AND POLE REPLACEMENT ("MAKE READY WORK"):

- A. Should any Pole or Poles to which Licensee desires to make Attachments be deemed inadequate by either Licensee or Owner to support the additional facilities in accordance with the specifications herein, Licensee shall indicate on Exhibit B the Make Ready work requested to rearrange, transfer, or replace Owner's facilities as necessary to provide adequate space or Poles for its Attachments.
- B. In the event that Licensee requests Make Ready work and Owner agrees to perform such work, Owner shall prepare a cost estimate for Make Ready work. When a request has been approved and Owner has received payment for the Estimated Cost, Owner will proceed with the Make Ready work.
- C. Licensee shall reimburse the owner or owners of other facilities attached to Owner Poles for any expense incurred by them for rearranging or transferring such facilities in order to accommodate Licensee's facilities.
- D. In the event that Owner chooses to have Licensee perform Make Ready work, Licensee, upon completion of the work, shall provide a letter sealed by an Engineer stating that the installation has been completed and complies with NESC, NEC, OSHA and other applicable codes and standards.
- E. Licensee shall maintain appropriate clearances, as determined by Owner in accordance with applicable legal, operational and contractual requirements, on all poles with all Shared Users on all poles.

XI. ANCHOR ATTACHMENTS:

- A. Licensee shall, at its own expense and to the satisfaction of Owner, place guys and anchors to sustain any unbalanced loads caused by Licensee's Attachments. When, in unusual circumstances, Licensee determines that it is necessary or desirable for it to attach its guys to anchors owned by Owner, it may make application to do so in a manner similar to that outlined above for application to make Pole Attachments. In such circumstances, all the provisions of this Agreement that are applicable to Poles shall also be separately applicable to anchors. In the event that any anchor to which Licensee

desires to make Attachments is inadequate to support the additional facilities in accordance with the aforesaid specifications, Owner will notify Licensee of the changes necessary to provide an adequate anchor, together with the Estimated Cost thereof to Licensee. Licensee will compensate Owner in advance for the Estimated Cost for changing the anchor.

- B. For anchors in place to which Licensee wishes to attach, Licensee shall pay to Owner a one-time installation fee as set forth in Exhibit E upon initial installation only, for the use of each of Owner's anchors to which attachments are made.

XII. INSTALLATION OF GROUNDS:

When Owner is requested by Licensee to install grounds or make connections to Owner's electric system neutral, Licensee shall reimburse Owner for the Actual Costs for initial installation, any maintenance, removal or relocation within 30 days of work being completed.

XIII. POLES NOT ALLOWED TO BE SHARED:

Upon notice from Owner to Licensee that the use of any Pole is forbidden by municipal authorities or property owner, the Permit covering the use of such Pole shall immediately terminate and the cables, wires and appliances of Licensee shall be removed from the affected Pole within fourteen (14) days.

XIV. REMOVAL OF ATTACHMENTS FOR OVERHEAD TO UNDERGROUND CONVERSION:

Upon notice from Owner to Licensee that Owner's electric system is to be converted from overhead to underground in a specified area, or that the Poles will be removed for any reason, the Permit covering the use of said Poles shall immediately terminate and the cables, wires and appliances of Licensee shall be removed from the affected Poles within sixty (60) days. If after sixty days Licensee has not removed property, Owner reserves the right at the sole expense of the Licensee to remove the pole and any still existing attachments.

XV. REMOVAL OF ATTACHMENTS:

- A. Licensee may at any time remove its Attachments from any Pole of Owner, but shall give Owner written notice within fourteen (14) days of such removals in the form of Exhibit C. No refund of any Pole attachment fee will be due on account of such removal.
- B. When Licensee desires to transfer its Attachments from an existing alignment of Owner's Poles to a new alignment, notice of removal in the form of Exhibit C and an application for Attachment to the new poles shall be submitted along with the appropriate Permit

Application Fee for processing by Owner. For removals only, a Removal Verification Fee in the amount specified in Exhibit E shall be submitted.

- C. In the event that Owner replaces or relocates a Pole in an existing alignment, Licensee will be notified by Owner of the need to relocate, remove, or reattach its facilities. Submittal of notice of removal from the existing Pole and a permit to attach to the new Pole shall be made by the Licensee, but no fees are required.
- D. In any event that Owner gives notice of the removal, replacement, or relocation of a Pole to which Licensee is attached, the Permit covering the use of said Poles shall immediately terminate and the cables, wires and appliances of Licensee shall be removed from the affected Poles within thirty (30) days. If Licensee has not removed their equipment from the affected poles after thirty (30) days, the attachments will be deemed Unauthorized Attachments and all penalties and fees specified shall apply.
- E. After Licensee has completed the installation to Owner's poles, Licensee's Engineer shall provide a letter stating that the installation has been completed and complies with NESC, NEC, OSHA, and NCDOT codes.

XVI. ELECTRICAL DESIGN SPECIFICATIONS:

- A. Separation of communication and electrical conductors shall be as stipulated in the *National Electrical Safety Code* and as per Owner's construction standards. Refer to EXHIBIT F Standards & Code Requirements for additional details.
- B. Licensee shall not circumvent nor impair Owner's corrosion mitigation measures.
- C. Licensee cable shall be compatible with Owner's facilities so as not to damage any facilities of Owner by corrosion or otherwise. Licensee shall be liable to Owner for any damages occasioned by such corrosion or otherwise.

XVII. PHYSICAL DESIGN SPECIFICATIONS:

- A. All System facilities shall be located and installed per Exhibit "A" in addition to complying with the applicable codes and other requirements specified in this Agreement. Except as noted, wireline System facilities shall be located in the Communication Space on Owner's poles, hereby defined to be 18 ft. to 21 ft. above the ground, with a minimum separation of 40" to the nearest current-carrying conductor or electric component located in the power space, with the exception that a 12" separation below the drip loop of a street light may be allowed.
- B. In addition to code requirements, all System facilities not mounted to the pole itself shall maintain a minimum clearance above ground that meets all applicable codes from the authority having jurisdiction. Pole-mounted facilities must be securely attached to the pole itself, not to any Owner equipment or street light arm. There shall be no more than a

combined total of a) two (2) System risers or b) one (1) System riser and one (1) System device attached to any pole by Licensee and other Shared Users. If Owner has a device in the communications space, then no System device may be placed on that pole by Licensee.

- C. Licensee may not locate points of delivery for electric service on Owner's poles or within the public right-of-way unless it owns that right-of-way or has a franchise agreement to utilize it.
- D. Cables, fibers, wires and similar signal-carrying System facilities passing by a Pole must be attached to that Pole in accordance with this Agreement.
- E. Risers for transition between overhead and underground distribution must be securely attached to the Pole per Owner's construction standards. Owner may limit the number and specify the orientation of Licensee's risers on a Pole.
- F. Excess cable or wire and splices, junction boxes, and similar appurtenances associated with the System shall be securely and neatly attached to Poles or the Licensee's supporting strand; they shall not be left unsupported or swinging free. Conduit attached to poles shall have sufficient straps or brackets to hold it securely to the pole throughout its length. Clearances specified by the *NESC* and Owner's construction standards must be maintained for all portions of Licensee's System facilities. Such facilities may require rental of additional space at adjacent poles to provide adequate clearances throughout the span.
- G. All wireline Attachments to the non-neutral side of a Pole must utilize stand-off brackets per Owner Construction Standards. No wireline Attachment may be made to the non-neutral side of a Pole without the specific written permission of Owner. Applications for Attachment must clearly indicate if non-neutral-side Attachment is being requested.
- H. Licensee shall clearly identify its ownership of its System facilities at each and every location with distinctive, durable, color-stable, tamper-, and weather-resistant labels or tags visible from the ground or manhole opening.

XVIII. WORK RULES:

- A. Any leak detection liquid or device used by Licensee's agents, employees or contractors shall be of a type approved in writing by Owner.
- B. When Licensee, its agents, employees or contractors are working around any part of Owner's Poles located in the streets, alleys, highways, or other public rights-of-way or easements granted to Owner, the protection of persons and property shall be provided by Licensee in an adequate and satisfactory manner; Licensee shall be solely responsible for providing adequate barricades, warning lights, traffic cones, danger signs and other

similar devices to protect all traffic, persons and property around the work area from danger.

- C. Owner's authorized representative shall have the authority to terminate Licensee's work operations around Owner's Poles if, in the sole discretion of Owner's authorized representative, any hazardous condition arises or any unsafe practice is being followed by Licensee's agents, employees or contractors. Said discretion shall not be unreasonably executed.

XIX. EMERGENCY CONDITIONS:

In cases of emergency:

- A. Owner's work shall take precedence over any and all operations of Licensee.
- B. Owner may rearrange Licensee's Attachments and related facilities at Licensee's Expense when necessary to make maximum use of its electric system or to effect repairs.
- C. Licensee shall provide Owner a point(s) of contact for emergency and non-emergency twenty-four (24) hour service.

XX. DECOMMISSIONING:

Owner may, in its sole judgment, remove any Poles not needed for its service requirements; and Licensee shall, upon written notification from Owner, remove its Attachments from such Poles within a reasonable period of time not to exceed thirty (30) days.

XXI. INSTALLATION, MAINTENANCE AND RELOCATION OF FACILITIES:

- A. Licensee shall, at its own expense, make and maintain its Attachments in safe condition and in thorough repair, and in a manner satisfactory to Owner and so as not to interfere with Owner's use of its facilities, or by other companies using said facilities, or interfere with the use and maintenance of facilities which may from time to time be placed thereon. Licensee shall, at its own expense, within fourteen (14) days of notification from Owner (unless in Owner's sole discretion safety, emergency, power supply, restoration efforts or construction schedules require Licensee to take corrective action within a shorter period), remove, relocate, replace, or renew its Attachments and facilities placed on said facilities, or transfer them to substitute facilities, or perform any other work in connection with the said Attachments and facilities that may be required by Owner.
- B. Should the Licensee fail to remove, relocate, replace or renew its facilities, fail to transfer its Attachments to the new pole or fail to perform any other work required of Licensee under Section A or B, immediately above (collectively, "Maintenance and Relocation"), after the date reasonably specified by Owner for such Maintenance and Relocation

("Maintenance and Relocation Date"), Owner will have the following rights, in addition to any other rights and remedies available under this Agreement:

1. The Licensee shall pay the Owner the penalties specified in Exhibit E.
2. The cost incurred by Owner to return to the job site to inspect the status of Licensee's work and, as applicable, the cost incurred by Owner to remove the old pole will be paid by the Licensee.
3. Owner may, at Licensee's sole risk and without warranty of any kind, perform such Maintenance and Relocation work, including the removal of Licensee's System, and Licensee shall, on demand, reimburse Owner for the full expenses thereby incurred. Owner may also abandon a Pole, or portion thereof, transferring responsibility for removing the abandoned facility to the Licensee.

The intent of this subsection is to ensure timely Maintenance and Relocation.

- C. Nothing in this Section shall operate to impose any liability upon Owner for any loss or injury arising directly or indirectly from Licensee's failure to conform to applicable technical requirements and specifications, and nothing in this Section shall operate to relieve or in any way limit Licensee's obligations to indemnify Owner under this Agreement.

XXII. CHARGES FOR INCOMPLETE WORK:

In the event that a request for attachments made by Licensee is canceled, Licensee shall reimburse Owner for the Actual Costs incurred by Owner prior to receiving written notification of the cancellation plus any additional costs Owner incurs to remove Licensee's system from Poles.

XXIII. INSPECTION:

Owner reserves the right to inspect and/or verify each new installation or removal of Licensee and to make periodic inspections and verifications, as conditions may warrant, of that portion of Licensee's System that is attached to Owner's Poles. Such inspections and/or verifications, or the failure to make such, shall not operate to relieve Licensee of any responsibility or obligation or liability assumed under this Agreement; nor shall such inspections and/or verifications operate to impose any liability or responsibility on Owner for Licensee's Attachments. Owner's inspector shall have the right to stop the installation work of the Licensee until any violations of this Agreement have been rectified.

XXIV. USE OF CONTRACTORS:

Licensee shall require its contractors (and, in turn, their subcontractors) to comply with the work rules and other operating requirements of Owner under this Agreement and with the insurance and indemnification obligations of Licensee under this Agreement as if each such contractor were the Licensee for purposes of this Agreement. Licensee shall

ensure that Owner is an intended third party beneficiary of such requirements with enforceable rights against each such contractor, and that such rights are enforceable against each such contractor (and their subcontractors) in the same manner and to the same extent as Owner has such rights against Licensee under this Agreement. Without limitation of the other requirements of this Agreement, Licensee shall indemnify Owner for all liabilities, claims, demands and costs (including, without limitation, any attorneys' and/or legal fees or costs) arising from its failure to comply with the requirements of this Article.

XXV. ASSIGNMENT OR TRANSFER RIGHTS OF INSTALLATION:

Licensee shall not assign, transfer, sublease or resell the rights of attachment hereby granted to it, or the rights to use facilities so attached to Owner's Poles without prior consent in writing of Owner, which consent shall not be unreasonably delayed, conditioned or withheld. Failure of Licensee to give such notice and obtain Owner's consent shall be cause for termination of this Agreement. Owner agrees to provide written notification of its approval or disapproval of any request requiring consent within thirty (30) days of Licensee's notice.

XXVI. ADDITIONAL PROVISIONS:

- A. The failure of either party to give notice of default or to enforce or insist upon compliance with any of the terms or conditions of this Agreement, the waiver of any term or conditions of this Agreement or the granting of an extension of time for performance shall not constitute the permanent waiver of any term or condition of this Agreement. This Agreement and each of its provisions shall remain at all times in full force and effect until modified by authorized parties in writing.
- B. Nothing herein will create a partnership or joint venture between the parties nor result in a joint communications service offering to the customers of either Licensee or Owner.
- C. Licensee shall not, without the prior written consent of Owner use any of its facilities attached to Owner's Poles for any purpose other than that provided in this Agreement. Whenever, in the reasonable judgment of Owner, Licensee has used its facilities for any purpose not authorized herein, Owner shall forthwith notify Licensee. Upon receipt of such notice, Licensee shall as promptly as practicable (and in no later than twelve (12) hours after receipt of such notice) cease such use complained of in the notice. Failure to do so or repeated unauthorized use shall constitute a default of Licensee's obligations and, notwithstanding any other provision of this Agreement; Owner may at its option forthwith terminate this agreement.
- D. No subsequent agreement between Owner and Licensee concerning pole attachment arrangements shall be effective or binding unless it is made in writing by authorized representatives of the parties hereto and no representation, promise, inducement or statement of intention has been made by either party which is not embodied herein.

- F. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.
- G. The Parties acknowledge and agree that this Agreement constitutes the entire Agreement between Owner and Licensee, and supersedes all prior agreements and understandings, both oral and written, with respect to the subject matter hereof. This Agreement may not be modified or terminated excepted as provided herein.
- H. Licensee and Owner acknowledge and agree that all material terms and conditions of this Agreement are essential and non-severable components of this Agreement, and that if any such material requirements are held to be unenforceable under applicable law, this Agreement shall thereupon terminate.
- I. Descriptive headings in this Agreement are for convenience only and shall not affect the construction of this Agreement.

XXVII. NOTICE:

Notices under this Agreement shall be in writing and delivered to the persons whose names and business addresses appear below or as otherwise provided for by proper notice hereunder and the effective date of any notice under this Agreement shall be the date of delivery of such notice, not the date of mailing.

If to Licensee: _____

With a copy to: _____

If to Owner: _____

Attention: _____

With a copy to: _____

Attention: _____

XXVIII. RIGHTS:

Nothing herein contained shall be construed as affecting the rights or privileges previously conferred by Owner, by contract or otherwise, to others not parties to this Agreement, to use any Poles covered by this Agreement; and Owner shall have the right to continue and extend such rights or privileges to subsequent licenses. The attachment privileges herein granted shall at all times be subject to such existing contracts and arrangements.

XXIX. COMPENSATION:

- A. Licensee shall pay to Owner the Fees as specified in Exhibit E and as adjusted from time to time in accordance with Exhibit E. Said rentals shall be payable quarterly, in advance, on the first day of January, April, July, October of each year during which this agreement remains in effect. Such fees are calculated beginning from the quarter in which the Permit was issued. There is no prorating of these fees for rentals of less than one quarter year.
- B. After an inventory audit is performed (not to exceed 5 year period), any difference in the number of attachments will be invoiced upon completion of the audit along the terms of the audit accounting methodology. Payment is due within thirty (30) days of receiving the audit reconciliation invoice.
- C. If Owner does not receive any fee or other amount owed within thirty (30) days after it becomes due, Licensee, upon receipt of ten (10) days written notice, shall pay a late charge to Owner, compounded daily from the date due until the date paid, at the rate of one percent (3%) per month on the balance of the unpaid amount.

XXX. EXPENSES:

Licensee shall be responsible for reimbursing Owner for all expenses as stated throughout this Agreement. Such expenses shall include all engineering, labor, overtime and double time labor, material, transportation and equipment used for Licensee work to be inclusive of all loading, interest and administrative costs. Non-payment of an invoice shall constitute a default of this Agreement.

XXXI. TERM:

- A. This Agreement shall become effective on the Contract Date above written; and if not terminated in accordance with the provisions herein, shall continue in effect for a term of one (1) year from the Contract Date and shall thereafter automatically renew for subsequent one (1) year terms until terminated as provided herein. In addition to other termination rights provided elsewhere in this Agreement, either party may terminate the Agreement at any time by giving at least six (6) months prior written notice. Such termination in no way exempts payment for Pole attachments prior to the actual removal of all facilities. Upon termination of the Agreement in accordance with any of its terms, Licensee after receiving notice of intent to terminate shall immediately remove its cables, wires and appurtenances from all Poles of Owner. If not so removed, Owner shall have the right to remove them at Licensee's expense and without any liability therefore, and Licensee agrees to pay the Actual Costs thereof within thirty (30) days after it has received an invoice from Owner.
- B. Any of Licensee's System not removed by Owner upon termination of this contract shall become the property of Owner, which shall assume no liability for the interruption of

service to parties served by the Licensee's System nor obligation for continued operation of said System.

XXXII. UNAUTHORIZED ATTACHMENTS; SURVIVAL:

- A. Unauthorized Attachments to Poles shall immediately be submitted for permitting within fourteen (14) days of written notice by Owner. Such permitting shall be at the sole discretion of Owner but shall not unreasonably be withheld. All provisions of this Agreement shall be complied with and installation of unauthorized Attachments immediately suspended until permits have been duly obtained.
- B. Unauthorized Attachments which are not subsequently permitted by Owner shall be removed within thirty (30) days of written notice by Owner. If not so removed, Owner shall have the right to remove them at Licensee's expense and without any liability therefore, and Licensee agrees to pay the Actual Costs thereof within thirty (30) days after it has received an invoice from Owner. Any of Licensee's unauthorized Attachments not removed by Owner shall become the property of Owner, which shall assume no liability for the interruption of service to parties served by the Licensee's System nor obligation for continued operation of said System.
- C. In addition to the provisions of this Article, a penalty as specified in Exhibit E shall be assessed Licensee for each unauthorized Attachment.
- D. Notwithstanding any termination or non-renewal of this Agreement or other provision in this Agreement to the contrary, the obligations (but not the rights) of Licensee under this Agreement shall apply to any unauthorized Attachment or other unauthorized use of Owner's system, facilities, or other property and shall continue to apply to any authorized Attachment or other authorized use for so long as Licensee continues to use Owner's system, facilities, or other property. All obligations, including but without limitation requirements for indemnification and obligations to pay fees and charges, which by their nature should survive termination of this Agreement, shall survive termination.

XXXIII. DEFAULT:

If Owner or Licensee shall fail to comply with any of the terms or provision of this Agreement, or default in any of its obligations under this Agreement and shall fail within thirty (30) days after written notice from the other party to correct such default or non-compliance, the party may, at its option, terminate this Agreement. In the event of such default, Owner shall be entitled to recover the full amount due under this Article plus any reasonable expenses or collection including attorneys' fees and court costs.

XXXIV. JURISDICTION:

Any and all disputes arising out of this Agreement shall be governed, construed and enforced according to the laws of the State of North Carolina. All actions relating to the validity, construction, interpretation and enforcement of this Contract shall be instituted and litigated in the Courts of North Carolina, in accordance herewith the parties to this Contract submit to the jurisdiction of the courts of North Carolina, located in Mecklenburg County, North Carolina.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

Town of _____, North Carolina

By _____
(Title)

Licensee:

APPROVED:

WITNESS:

ATTEST:

EXHIBIT LISTING

Exhibit A – Construction Drawings & Specifications

Exhibit B - Pole Attachment Application

Exhibit C - Notice of Removal of Pole Attachment

Exhibit D - Application for Electric Service

Exhibit E - Fee Schedule

Exhibit F - Standards & Code Requirements

Exhibit G - Insurance

EXHIBIT A

Construction Drawings & Specifications

Attach Drawings, Pole Specifications, Standard Details, Data Sheets, Construction/Installation Guidelines and other pertinent information showing Supply Space, Communication Space and Clearances, Connection Details, and other attachment and hardware information.

EXHIBIT B

Application

REQUEST FOR OWNER'S APPROVAL TO PLACE OR MODIFY ATTACHMENTS ON A POLE: *(To be completed by the Attacher)*

Make-ready work required: Yes ____ No ____

Number of poles affected: _____

To: _____

POLE OWNER

DATE OF REQUEST

ADDRESS

This is to request permission for this Company to use jointly certain of your poles under the terms and conditions of our agreement for Pole Attachment License Agreement ("Agreement"). Our present plan is to start this work about _____, 20____ and complete the work about, _____, 20____.

Attached are copies, which contain the above job number, of detailed construction plans and drawings, together with necessary maps, to indicate specifically your poles that we wish to use jointly, the point of attachment on each pole, the number and character of the attachments to be placed on such poles (including messenger type, cable type, guy type, anchor type, and anchor distance from poles), any rearrangements of fixtures and equipment necessary, as well as any relocations or replacements of existing poles, and any additional poles that may be required, in accordance with the procedure provided in terms of this Agreement.

The included technical information represents our proposed facilities, and any changes in cables, messengers, guys, anchors, or points of attachment above ground will be submitted to the Pole Owner for approval prior to construction. Should additional information be required by the Pole Owner for verification of compliance with the NESC or other applicable standards, the Attacher will provide such information.

The Attacher will obtain all authorizations, permits, and approvals from all Municipal, State, and Federal authorities to the extent required by law for the Attacher's proposed service and all easements, licenses, rights-of-way and permits necessary for the proposed use of these poles.

If the joint use proposed is agreeable, please signify your approval of this request in the spaces provided and return a copy to the Applicant.

ATTACHER (COMPANY NAME)

CONTACT NUMBER

NAME OF APPLICANT

SIGNATURE OF APPLICANT

ADDRESS

TITLE

APPROVAL TO PROCEED WITH ATTACHMENTS: *(To be completed by the Pole Owner and sent to the Applicant)*

DATE

This is to advise you that the above request to use jointly certain poles of this system is approved. You may proceed with such joint use of poles on the terms and conditions of the Agreement referred to above, under the conditions outlined in your request, and subject to the changes and rearrangements at a cost to you of \$_____.

TITLE OF POLE OWNER'S REPRESENTATIVE

SIGNATURE OF POLE OWNER'S REPRESENTATIVE

CONTACT NUMBER

EXHIBIT C
Notice of Termination

Date of Notice: ____/____/____

Cable Company Assigned Permit or Reference Number: _____

Licensee

Company Name

Company Address

City, State Zip

Town of _____:

In accordance with the terms of Agreement dated _____, application is hereby made for
license to remove its attachments from the following poles located in:

(City or Town - County and State)

Number of **Attachments** to be removed: _____

Number of **Overlashes** to be removed: _____

Number of **Power Supplies** to be removed: _____

Number of **“lift pole attachments”** or **“service drops”** being removed with this exhibit: _____

Location of Attachments _____

By _____

Title _____

Phone number _____
(Licensee)

Removal of above referenced attachments is acknowledged _____ / _____ 20 _____

By _____

Title _____

Phone number: _____
(Owner)

EXHIBIT D
Application for Electric Service

_____, 20____
(Date of Application)

TO: TOWN OF _____, North Carolina

Application for 120 volt, two wire, 60hz electricity is presented for power supply service on _____
(Pole Owner)

Pole Number _____ Located on _____
(Name of thoroughfare)

Near _____ (Attach sketch)
(Nearest Intersection, Necessary for clarity)

The ultimate appliances to be served from this point of delivery are:

Pole #	Watts	Pole #	Watts	Pole #	Watts	Pole #	Watts
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____

Total ultimate connected watts _____ estimated monthly kilowatt-hours:

Watts x _____ kilowatt-hours - Estimated monthly revenue \$ _____

Location metered? () YES () NO

Check the locations to be installed immediately or near future. It is requested that electric connection be made on or about _____, 20____.

Town of _____ service order number _____ dated _____, 20__

Service connected _____, _____
(Date) (Hour)

TOWN OF _____

BY _____

TITLE _____

EXHIBIT E

Fee Schedule

I. Permit Fees:

The Permit Fees are as follow:

Processing of Attachment Agreement Permit **\$500**

Permit Application Fee, 1-10 poles/spans along single continuous route **\$50**

Permit Application Fee, per pole span of overhead route to be overlashed **\$10**

Removal Verification Fee, per pole **\$15**

Owner reserves the right to adjust fees. Adjustments shall be made to reflect changes in Owner's projected labor costs associated with processing Attachment requests during the applicable period. Owner shall notify Licensee of the rate to become effective by providing notice thirty (30) days prior to adjusted rates.

II. Attachment Fees:

- A. Pole Attachment Fee: Annual Attachment Fee is fifteen dollars (\$15) for each foot of a single side of an Owner Pole required by an Attachment and its associated separation to meet *NESC* clearances and Owner Construction Standards. A minimum of one foot, \$15 fee, is required per any attachment. This fee covers space needed for Licensee's equipment in support of attachments, service drops, and guy wires. The attachment fee for a meter center and disconnect placed on an Owner Pole will be billed as three (3) feet. Other facilities attached to Poles will be billed based on the actual space encumbered by the equipment, in whole one foot increments. There is no charge for the space occupied by risers.
- B. Anchor/Guy Attachment Fees: One-time associated with the actual make-ready cost for each anchor/guy required to be placed by the Owner as necessary for supporting the installation, or each anchor/guy required to be adjusted to support the installation of the Licensee's equipment.
- C. Service Drop Fee: Included in Pole Attachment Fee within the allotted space. Service drops requiring guy wire or anchors will be charged for the actual cost of required equipment.

- III. Penalty for Unauthorized Use of Owner Facilities: Per Instance Fee is fifty dollars (\$50) for each unauthorized attachment, service drop, anchor/guy, or other property as determined by the Owner.
- IV. Security Deposit: Per block of 50 poles, a two thousand five hundred dollar (\$2500) security deposit is required before any Licensee equipment may be installed/attached. This pre-paid security deposit may be in the form of Certificate of Deposit, Letter of Credit, Performance Bond, or other such payment acceptable to the Owner. For each additional block of 50 poles (e.g. 51-100, 101-150), an additional security deposit shall be made. A security deposit guarantees and assures the performance of the Licensee's obligations under this agreement. The Owner shall have the right to draw against this security deposit in any event the Licensee defaults or fails to perform any obligations under this agreement, up to and including verification of removal of equipment upon termination of this agreement.

EXHIBIT F

Standards & Code Requirements

Attacher (i.e. Licensee) when making Attachments to Utility (i.e. Owner) Poles, will adhere to the following engineering and construction practices.

A. All Attachments shall be made in accordance with the Applicable Standards, as defined in Paragraph of this Agreement.

B. Clearances

1. **Attachment and Cable Clearances:** Attacher's Attachments on Utility Poles, including metal attachment clamps and bolts, metal cross-arm supports, bolts and other equipment, must be attached so as to maintain the minimum separations specified in the National Electrical Safety Code ("NESC") and in drawings and specifications Utility may from time to time furnish Attacher.
2. **Service Drop Clearance:** From the pole to the home/building the parallel minimum separation between Utility's service drops and communications service drops shall be twelve (12) inches, per NESC 235C1b (exception 3).
3. All other drop clearances at the mid-span must conform to NESC table 235-6 (or its successor).
 - a. **Sag and Mid-Span Clearances:** Attacher will be particularly careful to leave proper sag in its lines and cables and shall observe the established sag of power line conductors and other cables so that minimum clearances are: (a) achieved at poles located on both ends of the span; and (b) retained throughout the span. At mid-span, a minimum of twelve (12) inches of separation must be maintained between all telecommunication cables that meet NESC rule 230E 1 (includes common phone, CATV, and fiber optic cables lashed to an effectively grounded messenger strand, or self-supporting cables).

NESC table 235-6 requires:

- 12" from neutral (by exception #16)
 - 30" from supply lines carrying 0 to 8.7 kV (secondary)
 - 30" plus 0.4" per kV in excess of 8.7 (primary)
4. **Vertical Risers:** All Risers, including those providing 120/240 volt power for Attacher's equipment enclosure, shall be placed on the quarter faces of the Pole and must be installed in conduit with weatherhead (if possible), attached to the Pole with stand-off brackets. A two- (2)

inch clearance in any direction from cable, bolts, clamps, metal supports, and other equipment shall be maintained.

5. **Climbing Space:** A clear Climbing Space must be maintained at all times on the face of the Pole. All Attachments must be placed so as to allow and maintain a clear and proper Climbing Space on the face of the Utility Pole. Attacher's cable/wire Attachments shall be placed on the same side of the Pole as those of other Attaching Entities. In general, all other Attachments and Risers should be placed on Pole quarter faces.
6. **Pedestals and Enclosures:** Every effort should be made to install Pedestals, vaults and/or Enclosures at a minimum of four (4) feet from Poles or other Utility Facilities, or the distance specified by the utility, whichever is greater.

C. Down Guys and Anchors

1. License shall be responsible for procuring and installing all anchors and guy wires to support the additional stress placed on the Utility's Poles by Attacher's Attachments. Anchors must be guyed adequately.
2. Anchors and guy wires must be installed on each Utility Pole where an angle or a dead-end occurs. Attacher shall make guy attachments to Poles at or below its cable Attachment. No proposed anchor can be within four (4) feet of an existing anchor without written consent of Utility.
3. Attacher may not attach guy wires to the anchors of Utility or third-party user without the anchor owner's specific prior written consent.
4. No Attachment may be installed on a Utility Pole until all required guys and anchors are installed. No Attachment may be modified, added to, or relocated in such a way as will materially increase the stress or loading on Utility Poles until all required guys and anchors are installed.
5. Attacher's down guys, if needed, shall be bonded, to the vertical ground wires of Utility's Pole, in accordance to NESC rule 92C. If there is no vertical ground present at the pole, the connections to the system neutral are to be made by the utility as an item of Make-Ready Work. Utility will determine if guys should be grounded or insulated.

D. Certification of Attacher's Design

1. Attacher's Attachment Permit application must be signed and sealed by a professional engineer, registered in the State of North Carolina, certifying that Attacher's aerial cable design fully complies with the NESC and Utility's Construction Standards and any other applicable federal, state or local codes and/or requirements.

2. This certification shall include the confirmation that the design is in accordance with pole strength requirements of the NESC, taking into account the effects of Utility's Facilities and other Attaching Entities' facilities that exist on the Poles without regard to the condition of the existing facilities.

E. Miscellaneous Requirements

1. **Cable Bonding:** Attacher's messenger cable shall be bonded according to NESC rule 92C 1 as a minimum, or at every pole with a vertical ground, as determined by the utility. If no ground exists on a pole to be bonded, Attacher shall install a Pole ground in accordance with the attached detail drawing.
2. **Customer Premises:** Attacher's service drop into customer premises shall be protected as required by the most current edition of the NEC.
3. **Communication Cables:** All Communications cables/wires not owned by Utility shall be attached within the Communications space that is located 40 inches below the lowest Utility conductors.
4. **Riser Installations:** All Attacher's Riser installations shall be in utility-approved conduit materials and placed on stand-off brackets. Ground wires may be attached directly to Pole.
5. **Tagging:** All Attacher's cables shall be identified with a band-type communications cable tag or other identification acceptable to Utility at each Attachment within twelve (12) inches of the Pole. The communications tag shall be consistent with communication industry standards and shall include at least the following: Attacher name, emergency contact number, and cable type. At the discretion of Utility, Tags shall be color-coded to permit identification of Attaching Entity by observation from the ground.

F. Distributed Antenna System

1. The applicant is responsible for responding to any and all community concerns or complaints related to the antenna, including aesthetic appearance, health concerns due to radio frequency emissions, etc.
2. Applicants seeking to attach pole-top antennas must provide the utility with the following:
 - a. Spec sheets (including typical attachment drawings) and design information for the equipment proposed for attachment;
 - b. Maps detailing locations for proposed attachment.
3. The Utility must approve the design and mounting requirements for all pole-top, and other type antennas.

4. The Utility must approve all pole locations selected for antenna placement.
5. Proposed pole-top antenna locations must have adequate pole space and not exceed the pole's maximum loading. The applicant is solely responsible for all associated make-ready costs needed to bring the pole into compliance.
 - a. Only one antenna will be allowed on a pole.
6. Poles selected for pole-top antennas must meet the following criteria
 - a. Must be a tangent pole;
 - b. Poles selected must not have existing equipment (regulators, gang switches, capacitors, etc.);
 - c. Pole must be readily accessible by bucket truck;
 - d. Minimum of a class 3 pole.
7. Antennas must be a minimum of 5 feet above the highest electric attachment.
 - a. Pole extensions are not permitted.
 - b. In most cases, the pole must be changed out.
 - c. The Applicant will be responsible for the cost of the pole-loading analysis (if required by the Utility).
 - d. In the event the total height of the pole with the antenna attachment exceeds 60 feet, NESC rule 250D shall apply to the pole-loading analysis.
8. All pole-top antennas will be installed by the Utility or a contractor approved by the Utility.
9. A new ground rod is required at all pole-top antenna locations.
10. Antenna riser cables and grounds must be installed in a minimum of Schedule 40 conduit not larger than 2 inches.
11. All antenna power sources must have a lockable disconnect installed, to allow for the antenna power source and any back-up power sources to be disconnected. The attacher must provide the utility with access to the disconnect by providing keys or combination to the lock. Disconnect and meter boxes must be installed according to Utility's standards.
12. Where required, two RF warning signs must be installed. One RF warning sign must be placed at eye level, a second sign must be placed at the pole top, just beyond where the safe approach

distance ends. The sign must include the Utility's name, contact number, and the approach distance of the antenna

- a. The Applicant must provide the Utility with documentation that confirms all RF emissions comply with applicable laws governing RF exposure levels

13. Applicants seeking to attach antennas to streetlight arms must provide Utility with the following:

- a. Spec sheets and design information for the equipment proposed for attachment;
- b. Maps detailing locations for proposed attachment.

14. The Utility must review and approve the design and mounting requirements for antennas.

15. All antennas must clamp to the streetlight arm. Holes drilled in the arm or bracket will not be permitted.

EXHIBIT G

Insurance

A. **Policies Required.** At all times during the term of this Agreement, the Licensee shall keep in force and effect all insurance policies as described below:

1. **Workers Compensation and Employers' Liability Insurance.** Statutory workers' compensation benefits and employers' liability insurance with a limit of liability no less than that required by North Carolina law at the time of the application of this provision for each accident. This policy shall be endorsed to include a waiver of subrogation in favor of Owner. Licensee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.
 2. **Commercial General Liability Insurance.** Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, contractual liability coverage, broad form property damage, independent contractor's coverage with Limits of liability not less than \$2,000,000 general aggregate, \$2,000,000 products/completed operations aggregate, \$2,000,000 personal injury, \$1,000,000 each occurrence.
 3. **Automobile Liability Insurance.** Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.
 4. **Umbrella Liability Insurance.** Coverage is to be in excess of the sum employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than \$5,000,000 each occurrence, \$5,000,000 aggregate.
 5. **Property Insurance.** Each party will be responsible for maintaining property insurance on its own facilities, buildings, and other improvements, including all equipment, fixtures, and utility structures, fencing, or support systems that may be placed on, within, or around Owner Facilities to protect fully against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as extended coverage insurance or self-insure such exposures.
- B. **Qualification; Priority; Contractors' Coverage.** The insurer must be authorized to do business under the laws of the State of North Carolina and have an "A" or better rating in Bests Guide. Such insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of Licensee shall carry in full force and effect, workers' compensation and employers' liability, comprehensive general liability, and automobile liability insurance coverages of the type that Licensee is required to obtain under this Exhibit with the same limits.
- C. **Certificate of Insurance; Other Requirements.** Prior to the execution of this Agreement and prior to each insurance policy expiration date during the term of this Agreement, the Licensee will furnish the Owner with a certificate of insurance (Certificate). The Certificate shall reference this Agreement and workers' compensation and property insurance waivers of subrogation required by this Agreement. The Owner shall be given thirty (30) calendar days advance notice of cancellation or nonrenewal of insurance during the term of this agreement.

The Owner, its council members, board members, commissioners, agencies, officers, officials, employees and representatives (collectively, "Additional Insureds") shall be named as Additional Insureds under all of the policies, except workers' compensation and property policy, which shall be so stated on the Certificate of Insurance. All policies, other than workers' compensation, shall be written on an occurrence and not on a claims-made basis. All policies may be written with deductibles, not to exceed \$100,000, or such greater amount as expressly allowed in writing by the Owner. Licensee shall defend, indemnify and hold harmless the Owner and Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Exhibit. Licensee shall obtain Certificates from its agents, contractors, and their subcontractors and provide a copy of such Certificates to the Owner upon request.

- D. **Limits.** The limits of liability set out in this Exhibit may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal, or other governmental compensation plans, or laws that would materially increase or decrease Licensee's exposure to risk.
- E. **Prohibited Exclusions.** No policies of insurance required to be obtained by Licensee or its contractors or subcontractors shall contain provisions that: (1) exclude coverage of liability assumed by this Agreement with Owner except as to infringement of patents or copyrights or for libel and slander in program material, (2) exclude coverage of liability arising from excavating, collapse, or underground work, (3) exclude coverage for injuries to Owner's employees or agents, or (4) exclude coverage of liability for injuries or damages caused by Licensee's contractors or the contractors' employees, or agents. This list of prohibited provisions shall not be interpreted as exclusive.
- F. **Deductible/Self-insurance Retention Amounts.** Licensee shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.
- G. **Additional Requests.** The Owner shall have the right at any time to require public liability insurance and property damage liability insurance in greater amounts than those required in this Exhibit. In any such event, the additional premium or premiums payable solely as the result of such additional insurance coverage shall be payable by Owner within thirty (30) days of the Licensee providing proof of such additional premium to the Owner and requesting payment therefor.