

POLE ATTACHMENT AND CONDUIT OCCUPANY LICENSING AGREEMENT

BETWEEN

[LICENSOR]

AND

[LICENSEE]

POLE ATTACHMENT AND CONDUIT OCCUPANCY AGREEMENT

THIS POLE ATTACHMENT AND CONDUIT OCCUPANCY LICENSING AGREEMENT (“Agreement”), entered into on this ____ day of _____ by and between _____, a corporation organized and existing under the laws of the State of [], on its behalf and on behalf of all of its operating subsidiaries, having its principal office located at _____ (hereinafter “Licensor”) and Licensee Communications, Inc., a corporation organized and existing under the laws of the State of [] having its principal office located at _____, (hereinafter “LICENSEE”), sometimes referred to collectively as the Parties or individually as “Party:”

WHEREAS, LICENSEE proposes to furnish communications services in various states within which Licensor offers communications services, and desires to place and maintain aerial and underground cables, wires, and other facilities (hereinafter cumulatively referred to as “facilities”) on Licensor’s Poles and/or in Licensor’s Conduit and in the Rights of Way of Licensor throughout the areas now or hereafter served by Licensor; and

WHEREAS, Licensor is willing to permit, to the extent required by law, including, but not limited to, the Pole Attachment Act of 1934, as amended, 47 U.S.C. § 224 *et seq.*, and subject to the terms and conditions set forth herein, attachment of LICENSEE’ facilities to its poles, where such use will not interfere with Licensor’s own primary service requirements, or the primary service requirements of others authorized to use the poles of Licensor,

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the Parties do hereby mutually covenant and agree as follows:

ARTICLE I

SCOPE OF AGREEMENT

1.1 Service Area. This Agreement shall be in effect in all Licensor service areas in [[[designate states]]] and shall apply to designated Licensor poles and conduits now existing or hereafter constructed.

1.2 Rights of Parties.

The rights and privileges of LICENSEE shall be subject to the rights and privileges of others upon whom Licensor has conferred contractual rights, or privileges to use its poles and/or conduits prior to the execution of this Agreement, or predecessors to this Agreement. The rights of any parties to which Licensor confers pole/conduit occupancy rights after LICENSEE, however, shall be subject to the rights of LICENSEE set forth in this Agreement.

1.3 Authorization.

Subject to the provisions of this Agreement, Licensor grants to LICENSEE and LICENSEE accepts from Licensor a non-exclusive license to occupy, place and maintain its facilities on Licensor's poles or in Licensor's conduits, including the use of Licensor drop/service poles, lateral conduit/duct facilities, and maintenance duct. No use of Licensor's poles or conduits, however extended, or payment of fees or charges required under this Agreement, shall create or vest in LICENSEE any ownership of property rights in such poles or conduits. LICENSEE's rights herein shall remain mere license.

1.4 Assignment.

LICENSEE may not assign its rights under this Agreement to any other entity without Licensor's prior written consent, which consent shall not be unreasonably withheld; except that LICENSEE may assign its rights under this Agreement to any subsidiary or affiliated company in which LICENSEE holds a 10% or greater interest without obtaining Licensor's consent.

1.5 Facility Removal.

Upon termination of this Agreement for any reason, LICENSEE, at the request of Licensor, shall remove at LICENSEE's expense, all cable facilities from Licensor's poles and conduits. The maximum time limit for LICENSEE to remove its facilities from Licensor facilities shall be two years.

1.6 Authorizations Required.

LICENSEE shall secure all authorizations, franchises, licenses, permits and consents required for the construction, operation and maintenance of the facilities. If any authorizations, franchises, licenses, permits or consents obtained by LICENSEE are subsequently revoked or denied for any reason, LICENSEE shall retain the right to pursue and exhaust all legal, administrative, and equitable remedies in all state and federal forums before Licensor may revoke LICENSEE's permission to attach to Licensor's poles or occupy Licensor's conduits.

1.7 Term.

This Agreement shall become effective upon its execution and shall continue in effect for ten years. The contract shall be renewed automatically for another ten years unless LICENSEE is in substantial and material noncompliance, and is afforded notice and an opportunity to cure pursuant to Section 7.3.

ARTICLE II

PLACING, TRANSFERRING OR REARRANGING ATTACHMENTS

2.1 Permit Application Confidentiality.

Before making attachment to any pole or poles of Licensor or placing any facilities in any Licensor conduit, LICENSEE shall submit a permit application and receive from Licensor a permit for such attachment/placement. All materials submitted by LICENSEE in connection with pole/conduit permit applications are to be handled and reviewed only by those Licensor personnel directly responsible for the coordination and administration of joint-use requests. Such materials are of a confidential, proprietary, and commercially sensitive nature and shall not be disclosed by Licensor or its employees for any reason to process and administer LICENSEE' pole/conduit permit application request. Licensor shall not make additional copies of LICENSEE' permit application materials without express advance authorization of LICENSEE.

2.2 Makeready Survey.

When Licensor receives an application, a make-ready-survey may be necessary to determine the adequacy of the existing poles and anchors or conduit capacity to accommodate LICENSEE' facilities. A Licensor may perform the field inspection portion of the makeready survey and LICENSEE may be present if desired.

2.3 Grant or Denial of Access.

Except as otherwise provided by law, Licensor reserves the right to deny LICENSEE access to any pole or conduit, on a non-discriminatory basis, where there is insufficient capacity on or in Licensor's poles and conduits or for reasons of safety, reliability or generally applicable engineering standards, provided that before Licensor denies access based on insufficient capacity, Licensor shall explore potential accommodations in good faith and take all reasonable steps to accommodate LICENSEE' request for access. Licensor shall either grant or deny access to its facilities within forty-five (45) calendar days of LICENSEE' permit application. If access is not granted by Licensor within forty-five (45) days of LICENSEE' permit application, Licensor must confirm the denial of access in writing by the forty-fifth (45) day. Licensor's denial shall be specific and shall include all relevant evidence and information supporting its denial, and shall explain how such evidence and information related to the denial of access for reasons of lack of capacity, safety reliability or generally applicable engineering standards.

2.4 Makeready.

(A) Whenever any pole or conduit to which LICENSEE seeks attachment can and must be modified or replaced to accommodate both LICENSEE' facilities and Licensor's existing attachments, as well as the attachment of other preexisting occupants, Licensor will provide LICENSEE with a detailed estimate of makeready work it believes to be necessary to prepare the pole for LICENSEE' facilities. Licensor will provide LICENSEE with such

estimate within 15 days of receiving LICENSEE' application for attachment. After receiving this estimate, if LICENSEE still desires to make the attachments, LICENSEE shall notify Licensor within 15 days of receiving such estimate of such continuing desire to attach, and shall pay to Licensor any required advance payment for the reasonable and actual cost of such makeready work, which may include engineering, materials (including poles and associated hardware), cost of removal (less any salvage value), and the expense of transferring Licensor's facilities, as well as the attachments of other preexisting occupants, from the old to the new poles and to expand existing conduit. Where the advance payment of estimated expenses made to Licensor by LICENSEE for both non-replacement makeready or replacements is less than the cost of work described above, LICENSEE agrees to pay Licensor all sums due in excess of the amount of the advance payment. Where the advance payment of estimated expenses made to Licensor by LICENSEE exceeds such costs, Licensor agrees to refund the difference to LICENSEE. Licensor shall commence all requested makeready and pole replacement work within 15 days of receiving any work request confirmation and any required advance payment from LICENSEE.

(B) Notwithstanding the above, at its option, LICENSEE may choose a contractor, which meets the objective engineering qualifications and criteria established by the Licensor, to perform makeready work on its behalf. In secured areas where safety or system reliability concerns are an issue, Licensor may require an escort to supervise the work of LICENSEE' agents. Licensor shall also retain the right to perform post-installation inspections, at LICENSEE' expense, to ensure LICENSEE' or its agents' work meets Licensor's standards.

(C) Licensor shall be responsible for notifying other parties with existing attachments and coordinating the makeready work necessary in order to accommodate LICENSEE' attachments.

2.5 Multiple Applications.

When applications to occupy the same pole or conduit have been received from two or more prospective occupants, including LICENSEE, before any one of them is given a permit, and, if to accommodate their respective facilities it would be necessary to rearrange existing facilities or replace the pole/expand the conduit, the applicable costs of rearrangement or replacement incurred in conjunction with such simultaneous applications shall be pro-rated equitably among such simultaneously attaching parties.

2.6 Modifications and Cost Allocation.

If a pole or conduit to which LICENSEE has previously made an attachment is to be modified or replaced due to the requirements of another joint-user, including Licensor, except when such modification is for the purpose of performing routine maintenance or to respond to an emergency situation, Licensor shall provide LICENSEE with notice of the proposed modification so that LICENSEE can determine whether it wishes to add to or modify its existing attachment in connection with the proposed modification. In the event LICENSEE decides to add to or modify its existing attachment in connection with the proposed modification, LICENSEE shall give notice

to Licensor of its intent within ten (10) days of Licensor's. In the event that a pole or conduit is modified as a result of the requirements of Licensor, LICENSEE or any other joint-user, the costs of modification (including, but not limited to, the cost of rearranging or replacing the attachments of other joint-users who do not take part in or directly benefit from the modification) shall be borne proportionately by all entities that obtain access to a pole as a result of a modification or by all attaching entities, including Licensor, that directly benefit from the modification. For the purpose of allocating modification costs under this section, the proportion of the modification costs attributable to each modifying or newly attaching entity shall be determined by the ratio of the new useable space occupied by each modifying or newly attaching entity in relation to the total new usable space occupied by all modifying or newly attaching entities. For example:

(A) Should Licensor modify any poles or conduits because of the increased requirements of more than one pole occupant, including LICENSEE, LICENSEE shall be responsible only for its transfer costs from the old pole to the new pole and only for the cost of any non-betterment portion of the new pole.

(B) Should Licensor modify any poles or conduit solely because of LICENSEE's increased requirements, in addition to being obligated to transfer its attachments to the new pole at its own expense, LICENSEE shall pay those costs and expenses associated with the transfer of other pole occupants' facilities from the old pole to the new pole

(C) Should the increased requirements of Licensor and/or the requirements or increased requirements of other non-LICENSEE occupants call for the replacement of any poles without any increase in the requirements of LICENSEE, LICENSEE shall not be required to bear any costs associated with such pole replacements, and LICENSEE shall be reimbursed or any costs associated with the transfer of its facilities from the old pole to the new pole. Whenever Licensor intends to modify a pole, Licensor shall provide 45-days advance written notification of such action to LICENSEE so that LICENSEE may have a reasonable opportunity to add to or to modify its attachment.

2.7 Pole and Conduit Maintenance.

(A) Should Licensor replace any poles because of (i) deterioration or (ii) the requirements of public authorities or property owners, and should LICENSEE desire to occupy the new pole, in addition to being obligated to transfer its attachments to the new pole at its own expense, LICENSEE shall reimburse Licensor only for the cost of any increment of pole height or strength provided specifically for LICENSEE's sole requirements over and above the pole height and strength required by the Licensor.

(B) LICENSEE, at its own expense and risk and by the terms of this Agreement, shall place, transfer, and rearrange its own attachments on Licensor's poles or in Licensor's conduits, place guys to sustain any unbalanced pole loads caused by its own attachments, and perform any tree trimming or cutting incidental thereto. LICENSEE at all times shall perform such work promptly and in such manner as not to interfere with the service of Licensor or by other pole or conduit occupant.

(C) In the event Licensor determines, in Licensor's reasonable judgment, that a particular condition or situation is an emergency, Licensor may arrange to relocate, replace, remove, renew or disconnect LICENSEE' facilities and transfer them to substituted poles or conduit or perform any other work in connection with LICENSEE' facilities that may be required during the emergency. Licensor shall also endeavor to provide LICENSEE with the best practicable notice of the situation so that Licensor and LICENSEE, if possible, may coordinate their responses to the emergency. If notice is impossible during the emergency situation, Licensor shall notify LICENSEE of any emergency and any relocation, replacement or removal affecting LICENSEE' attachments, as soon as reasonably practicable.

(D) LICENSEE shall have access to Licensor's maintenance duct to perform maintenance work and emergency repairs.

2.8 Drop Poles and Lateral Conduit Runs.

Notwithstanding any other provision, after initial construction of its communications distribution plant, LICENSEE shall have the right to attach non-current carrying drops to drop poles without prior application, provided that LICENSEE shall forward a notice of attachment quarterly for billing adjustments. LICENSEE shall provide Licensor advance notice for the installation of its facilities in Licensor's lateral conduit runs to access building entry facilities.

2.9 Continuous Licensor Operation.

LICENSEE expressly agrees that Licensor's circuits are to continue in normal operation during LICENSEE' performance of any construction or maintenance, and that LICENSEE is to provide and use all protective equipment necessary for the protection of LICENSEE' employees and equipment and to guard against interferences with normal operation of Licensor circuits.

2.10 Compliance with Safety Codes.

LICENSEE shall place and maintain its facilities attached to Licensor poles in safe condition and in thorough repair, and in compliance with the such requirements and specifications as published and amended from time to time by the industry; the Manual of Construction Procedures (Blue Book); all rules or orders now in effect or that hereafter may be issued by any regulatory agency or other authority having jurisdiction; National Safety Code ("NEC"); the National Electrical Safety Code ("NESC"); and the applicable rules and regulations of the Occupational Safety and Health Act.

2.11 Supplements to Safety Codes.

The requirements of the NEC or NESC may be supplemented as required by developments and improvements in the industry, after consultation with LICENSEE. Upon receipt of the final supplement(s), LICENSEE shall have sixty days to begin compliance with such supplemental requirements, with respect to (1) all new facilities installed after said date and to (2) the replacement of existing facilities. Licensor shall apply to LICENSEE only such specifications; standards and practices as are uniformly applied to all parties attached to the poles.

2.12 Non-Interference with Licensor Facilities.

LICENSEE at all times shall ensure that its agents, servants, employees, and contractors neither take nor attempt to take any action whatsoever to Licensor's wires, attachments, and other facilities attached to or supported by poles covered by this Agreement. Each party shall exercise reasonable precautions to avoid damage to the facilities of the other.

ARTICLE III

INSPECTIONS

3.1 Post-Installation and Safety Inspections.

Licensor reserves the right to inspect each new LICENSEE installation on Licensor poles and in the vicinity of Licensor lines. Licensor also reserves the right to make periodic inspections, as conditions may warrant to determine if LICENSEE' construction complies with the approved shop drawings, construction drawings, and/or applicable safety codes or laws.

3.2 Facilities Inventory.

(A) LICENSEE and Licensor acting in cooperation for purposes of rendering bills, shall tabulate the total number of LICENSEE attachments on Licensor poles and in Licensor conduits. This tabulation, shall be based on a perpetual inventory of permits.

(B) Licensor shall have the right to require a jointly conducted physical inventory of LICENSEE' attachments on Licensor poles upon ninety (90) days advance written notice. In such event, Licensor hereby agrees to select an independent contractor for the performance of such physical inventory through a competitive bid process. LICENSEE shall be permitted to supplement Licensor's invitation to bid list to include contractors designated by LICENSEE. A jointly conducted physical inventory shall be taken no more frequently than once every three years; provided, however, that Licensor may request and require a jointly conducted physical inventory to be taken more frequently in the event of a default by LICENSEE in the performance of its obligations hereunder. If the facilities of more than one joint-user are inventoried, each such joint-user shall contribute a proportionate share of the costs of such inventory.

(C) As an alternative to performance of the jointly conducted physical inventory, the Parties may, if mutually agreed, determine the number of attachments from existing maps and/or attachment records provided that such maps or records exist and provided that each Party agrees that results with reasonable accuracy can be achieved. If the Parties agree to this method, any maps and/or records belonging to one of the Parties and utilized to count attachments, shall be made accessible to the other Party and the number of attachments shall be determined through a mutual and cooperative effort of both Parties. The results of attachment counts performed in this manner shall be treated, for the purpose of determining

rentals and other charges due for unauthorized attachments, as if results were achieved by an actual jointly conducted physical inventory.

3.3 Inventory Disparity.

(A) In the event the number of poles (except for drop poles) and/or conduit feet to which LICENSEE has attached its facilities differs from the number shown in Licensor records, Licensor may demand from LICENSEE, for each unauthorized attachment, an unauthorized attachment penalty not in excess of an amount approximately equal to the annual pole and conduit attachment fees for the number of years since the most recent inventory or five years, whichever is less, plus interest at a rate set for that period by the Internal Revenue Service for individual underpayments pursuant to Section 6621 of the Internal Revenue Code. This penalty shall be imposed in lieu of any amounts recoverable for unpaid annual fees. Upon forty-five (45) days' notice from Licensor to LICENSEE of an unauthorized attachment, LICENSEE shall either apply for a permit or remove its attachment. If LICENSEE fails to either apply for a permit or remove its attachment in forty-five (45) days, Licensor shall have the right to remove the unauthorized attachment at the sole risk and expense of LICENSEE.

(B) If the total number of poles/conduit feet results in a decrease in the number of poles to which LICENSEE has attached (or conduits in which it has placed facilities) for any year during such period, Licensor shall refund to LICENSEE the fees previously paid for such poles/conduits for such years. If the duration of such period of non-attachment cannot be determined, it will be presumed that such facilities shall have been attached for a period not to exceed two years.

ARTICLE IV

ABANDONMENT OF JOINT POLES/CONDUITS AND REMOVAL OF ATTACHMENTS

4.1 Notice.

LICENSEE, at any time, may remove its facilities from any pole(s) or conduit(s) of Licensor, and shall give Licensor written notice within seven days of such removal.

4.2 Pole/Conduit Abandonment.

If Licensor desires at any time to abandon any pole(s) or conduit(s), it shall give LICENSEE notice in writing to that effect at least 60 days prior to the date on which it intends to abandon such pole or conduit. If, at the expiration of such period, Licensor has no attachments on such pole(s) or conduit(s) but LICENSEE has not removed all of its attachments from such poles, Licensor shall sell the pole(s) or conduit(s) to LICENSEE. In such event, LICENSEE shall hold Licensor harmless from all obligation, liability, damages, costs, expenses or charges incurred thereafter, and not arising out of any prior event or occurrence theretofore as a result of any attachments to such pole. LICENSEE shall pay Licensor a sum equal to the current in-place value less expired service life of such abandoned pole(s) or conduit(s) at time of abandonment. Expired service life shall be based on an assumed pole life of 25 years.

ARTICLE V

RENTAL AND PROCEDURE FOR PAYMENTS

5.1 Rental Rate.

The annual rental amount to be paid by LICENSEE shall be \$__ per [pole attachment] and \$ ___ per [conduit foot], as applicable. Any change in rental shall be pursuant to written notice by Licensor issued at least 60 days prior to the commencement of the new billing period and approved, in advance of Licensor's issuance of such written notice by the Federal Communications Commission or other appropriate agency.

5.2 Billing Cycle. Billing shall be rendered on February 1 of each year, for the preceding year.

5.3 Payment Due Date. Rental payments shall be due and payable in full on March 1 of each year. Rental bills shall be considered delinquent if not paid in full by the 30th day of March. Nonpayment of any amount due under this Section, by the 30th day of the month, shall constitute a default of this Agreement if such amount remains unpaid ten days after receipt of written notice of such non-payment.

ARTICLE VI

LIABILITY AND INSURANCE

6.1 Indemnity and Allocation of Liability.

When any liability is incurred by either or both of the Parties hereto for damages for injuries to the employees or for injury to the property of either Party, or for injuries to other persons or their property, arising out of the joint use of facilities under this Agreement, or due to the proximity of the facilities of the Parties covered by this Agreement, the liability for such damages, as between the Parties hereto, shall be as follows:

(A) The Parties shall exercise reasonable care to avoid damage to the facilities of each other and to the facilities of other joint-users on Licensor's poles and, except as otherwise provided in this Article VI, each party hereby assumes all responsibility for any and all loss for damage caused by such Party to the facilities of the other and to the facilities of other joint-users on Licensor's poles.

(B) Each Party shall be liable for all damages for such injuries to third persons or third person's property caused solely by its negligence or solely by its failure to comply at any time with the practices herein provided.

(C) In the event such injuries are proximately caused by the concurrent negligence of both Parties hereto, each Party shall be liable for such damages in the same proportion that the damages caused by the negligence of the respective party bears to the total damages.

(D) Where, on account of injuries of the character described in the preceding paragraphs of this Article, either Party hereto shall be required to make any payment to its injured employees or to the relatives or representatives in conformity with: (1) the provisions of any Workers' Compensation Act or any act creating a liability in the employer to pay compensation for personal injury to an employee by accident arising out of and in the course of the employment, whether based on negligence on the part of the employer or not, or (2) any plan for employees' disability benefits or death benefits now established or hereafter adopted by the parties hereto or either of them, such payments shall be construed to be damages within the terms of the preceding sections of this Article.

(E) All claims for damages arising hereunder that are asserted against or affect both Parties hereto shall be dealt with by the parties hereto jointly; provided, however, that in any case under the provisions of Section (B) of this Paragraph where the claimant desires to settle any such claim upon terms acceptable to one of the Parties hereto but not to the other, the Party to which said terms are acceptable, at its election, may pay to the other Party the share of the expense which such settlement would involve, and thereupon such other Party shall be bound to protect the Party making such payment from all further liability and expense on account of such claim.

(F) In the adjustment between the Parties hereto of any claim for damages arising hereunder, or the liability assumed hereunder, the Parties shall include, in addition to the amounts paid to the claimant, all expenses incurred by the Parties in connection therewith, which shall comprise costs, attorney fees, disbursements and other proper charges and expenditures.

(G) LICENSEE shall indemnify and save Licensor harmless from and against all liability including but not limited to all costs, attorneys' fees, disbursements, and other proper charges and expenditures that Licensor may incur, solely as a result of LICENSEE' negligence or breach of the terms of this Agreement, or the willful or grossly negligent acts of LICENSEE, its employees, agents, servants or independent contractors (other than Licensor), while in the course of their employment or in the performance of their contract which causes damages to third parties or to the property of third parties, except for such damages that are the result of interferences or interruptions in electric, gas, telecommunications, or water service, which are proximately caused by such acts, omissions or breaches. The agreement to indemnify and save harmless Licensor is conditioned on the following:

- (i)** that Licensor shall give reasonable notice in writing to LICENSEE of such a claim; and
- (ii)** that LICENSEE shall have the sole control of the defense of any action on such a claim, and all negotiations for the settlement or compromise of the same; and

- (iii) should any situation become, or in LICENSEE' opinion be likely to become, the subject of any such claim or action, Licensor shall permit LICENSEE, at the option and expense of LICENSEE, to take such reasonable action as may be appropriate under the circumstances to avoid such claim, or to effectuate the settlement thereof; and
- (iv) LICENSEE shall have no liability to Licensor hereunder for any damages caused solely by Licensor, its agents, servants, employees, or independent contractors (other than LICENSEE).

6.2 Consequential Damages.

Notwithstanding the above, neither Party shall be liable to the other for any indirect, special or consequential damages, including, but not limited to, loss of profits or revenues, interruption of customer service or interference with business operations.

6.3 Settlement.

In the event LICENSEE compromises or settles such a claim with a third party, LICENSEE shall obtain a release of all claims arising out of that particular incident against Licensor, in addition to any release in favor of LICENSEE.

6.4 Insurance and Bonding Requirements.

LICENSEE shall carry and keep in force, while this Agreement is in effect, insurance contracts, policies and protection in a reliance company or companies satisfactory to Licensor in amounts and for coverage deemed necessary for its protection by LICENSEE, but in no event for amounts or coverage less than the following minimum requirements:

(A) Comprehensive general liability insurance and independent contractors insurance, with minimum limits of \$500,000 each occurrence for bodily injury, and \$250,000 each occurrence and \$500,000 aggregate for property damage, including coverage for damage caused by blasting, collapse of structural injury, and/or damage to underground facilities, protecting LICENSEE against and in respect to all matters, liabilities, contingencies, and responsibilities created, referred to or touched upon in this Agreement, including, without limiting the foregoing, contractual liability insurance covering LICENSEE' obligations under this Agreement with minimum limits of \$500,000 each occurrence for bodily injury, and \$250,000 each occurrence and \$500,000 aggregate for property damage to indemnify and to so hold Licensor harmless.

(B) LICENSEE shall also carry and keep in force, while this Agreement is in effect, Workers' Compensation insurance in compliance with the laws of this State and employer's liability insurance with minimum limits of \$500,000.

(C) LICENSEE shall furnish Licensor with certificates of insurance showing that such insurance is in force and will not be cancelled or modified without thirty (30) days' prior written notice to the General Manager of Licensor. Neither acceptance nor knowledge (by and of Licensor) of the procurement of LICENSEE of insurance protection of lesser scope than that required to be procured by them under this Agreement shall in any manner or for any purpose constitute or be deemed a waiver by Licensor of the requirements imposed respecting insurance protection, nor shall any such acceptance or knowledge of insurance protection of lesser scope in any manner or for any purpose lessen or modify or constitute a limiting interpretation of the scope of the matters covered by and obligations of LICENSEE under this Agreement.

6.5 Bond.

At the time of this Agreement becomes effective, LICENSEE shall furnish to Licensor either (1) a bond in the amount of Fifty-Thousand Dollars (\$50,000.00), in a form and with a surety acceptable to Licensor, or (2) an irrevocable letter of credit in the amount of Fifty-Thousand Dollars (\$50,000.00), in a form acceptable to Licensor and from a financial institution insured by the Federal Deposit Insurance Corporation, to guarantee the payment of all sums which may at any time become due from LICENSEE to Licensor under the terms of this Agreement (except such sums as are covered by the insurance provided under Section 6.4), including, but not limited to, sums due for annual license fees or work performed for the benefit of LICENSEE under this Agreement and for the removal of attachments upon termination of this Agreement. Such bond or irrevocable letter of credit shall be kept in force in the full sum of Fifty-Thousand Dollars (\$50,000.00) during the life of this Agreement, without any reduction for payment or payments made thereunder, except that the sum shall be reduced by any payment or payments made on the final termination of this Agreement. The amount of the bond or irrevocable letter of credit may be renegotiated, adjusted, waived or some other arrangement substituted therefore, only by mutual written agreement of Licensor and LICENSEE.

ARTICLE VII

TERMINATION AND DEFAULTS

7.1 Default.

If LICENSEE shall default in any material obligation under this Agreement, Licensor, in addition to all other legal and equitable remedies that it may pursue or obtain or have, may:

- (A) require the obligation be fulfilled, in which event, in each such instance, LICENSEE shall be obligated to reimburse Licensor for the cost thereof,
- (B) if the obligation cannot be remedied pursuant to (A), Licensor may terminate LICENSEE' use of particular poles/conduits covered by this Agreement; or
- (C) Licensor may, at its option, terminate this Agreement in its entirety.

7.2 Termination Effective Date.

Any such termination shall be effective by written notice from Licensor to LICENSEE, and termination shall be effective at such time as shall be stated in the notice.

7.3 Opportunity to Cure.

Prior to exercising any remedy or terminating this Agreement, Licensor shall provide notice to LICENSEE and an opportunity to cure within sixty days, or within such time frame as is reasonable to effect cure which cannot be completed within sixty days. If LICENSEE cures the default during this time, LICENSEE' only liability shall be to reimburse Licensor for the costs of a default and Licensor may not terminate this Agreement.

7.4 Refunds.

In the event this Agreement is terminated because of LICENSEE' default or noncompliance, Licensor shall refund to LICENSEE any unused prepaid charges based on the average date of removal of the attachments.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

8.1 Conduct of the Parties.

The parties agree to conduct themselves reasonably and in good faith in implementing the terms of this Agreement.

8.2 Survival.

The obligations of the parties under this Agreement, to the extent that they arose while the Agreement was in effect and remained unfulfilled at the time of termination, shall survive both the termination of this Agreement and/or the termination of any permit or license granted hereunder. Any such termination shall not release either party from any liabilities, claims, or obligations arising hereunder including, but not limited to, indemnities which may have accrued or are accruing prior to or at the time of termination.

8.3 Waiver.

Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

8.4 Entire Agreement.

This Agreement, [and the Exhibits attached hereto], embodies the entire Agreement and understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements between the Parties hereto for attachment of LICENSEE' facilities to Licensor's poles and conduits and provided, however, that this Agreement shall not relieve either Party from any liability, obligation, charge or bill which arose or may arise under any previous agreement. understanding of the Parties with respect

8.5 Notice.

Any notice hereunder may be given only in writing, by Certified or Registered, Return Receipt Requested, United States mail, postage prepaid.

If given to Licensor, addressed to:

If given to LICENSEE, addressed to:

Any notice so given shall conclusively be deemed to have been served on the next business day following its deposit in the United States mail.

8.6 Compliance with Laws and Regulations.

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

8.7 Applicable Law.

This Agreement shall in all respects be subject to and construed in accordance with and governed by the laws of the United States and the State of [].

8.8 Severability.

Except as otherwise provided herein, the invalidity or unenforceability of any particular provision, or part thereof, of this Agreement shall not affect the other provisions, and this Agreement shall continue in all respects as if such invalid or unenforceable provision had not been contained herein.

8.9 Force Majeur

Neither Licensor nor LICENSEE shall be liable for any delay or failure in performance of any part of this Agreement if due to a cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, governmental

regulations, embargoes, work stoppages, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities, or acts or omissions of transportation carriers.

IN WITNESS WHEREOF, the parties hereto have their respective officers who are duly authorized to execute this Agreement below.

LICENSOR

Date: _____

By: _____

LICENSEE COMMUNICATIONS, INC.

Date: _____

By: _____