

Pole Attachment License Agreement For Cables and Associated Equipment

This **LICENSE AGREEMENT** ("Agreement") is made and entered into this 27 day of February, 2018 ("Effective Date") by and between Mayfield Electric Plant Board, dba. Mayfield Electric & Water Systems ("Licensor"), a municipally owned electric utility organized under the laws of the Commonwealth of Kentucky, and the Commonwealth of Kentucky, Finance and Administration Cabinet ("Licensee"). Licensor and Licensee may be referred to hereafter individually as a "Party" and collectively as the "Parties." The attached Terms and Conditions and any associated Exhibits are incorporated herein and made a part of this reference.

WITNESSETH:

WHEREAS, the Licensee desires to install and maintain attachments such as aerial cables, wires and associated wireline appliances on Licensor's electric Distribution Poles in Licensee's Service Area for the limited purpose of providing telecommunications or other lawful communications Services;

WHEREAS, Licensor is willing to permit, to the extent that it may do so lawfully and consistent with other license Agreements in effect, Attachments to its Distribution Poles if, in Licensor's judgment, such use will not interfere with its own service requirements and if Licensor is protected and indemnified against costs arising from such use by Licensee; and

WHEREAS, this Agreement is limited to wireline attachments and does not contemplate or authorize the attachment of Wireless Facilities to Licensor's facilities.

IN WITNESS WHEREOF, the Parties, each in consideration of the mutual covenants, terms and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged, do hereby mutually covenant and agree as follows:

ARTICLE I EXPLANATION OF TERMS

For the purpose of this Agreement, the following terms shall have the following meanings:

Annual Rental Period. For purposes of this Agreement, shall be a calendar year beginning on January 1st and ending on December 31st each year.

Application. The Pole Attachment Application Form attached hereto as Exhibit A that must be completed by Licensee and approved by Licensor in writing before Licensee may attach to or make use of any of Licensor's Distribution Poles under this Agreement.

Attached Pole. A Distribution Pole owned or maintained by Licensor that contains at least one attachment by the Licensee or another entity not party to this Agreement.

Attachment. Each affixation of Licensee's cables, strands, wires and associated apparatus, including underground pedestals, attached to Licensor's Distribution Poles. For purposes of this

Agreement an Attachment is a wireline attachment and does not include the attachment of Wireless Facilities.

Attachment Space. Is the space allocated to the Licensee on the Distribution Pole for attachment of its facilities. For purposes of this Agreement, Attachment Space is defined as any portion of the Distribution Pole other than the Licensor's Reserved Distribution Pole Space.

Authorization. Licensor's grant of authority to Licensee to affix Attachments to Licensor's Distribution Poles in accordance with the terms of this Agreement.

Costs and Expenses. All costs and expenses incurred by the Licensor for performing Make Ready Work or other work including without limitation, material, labor, engineering, applicable overhead charges and administrative costs, plus ten percent (10%).

Default. When either Party: (i) fails to perform any of its covenants or obligations set forth in this Agreement, (ii) makes any representation or warranty in this Agreement that is untrue or incorrect, (iii) files a bankruptcy petition in any bankruptcy court proceeding, or (iv) admits in writing its inability to pay its debts when due or its intention not to comply with any requirement of this Agreement.

Designated Contact Person(s). The person(s) who have been identified by the Licensee and Licensor that will be available to either Party 24 hours a day 7 days a week.

Distribution Pole. A pole bearing electric distribution lines and having a voltage rating of or below 34.5 kV.

Final Invoice. The invoice for the actual Licensor Costs and Expenses for all Make Ready Work or other work performed by Licensor.

Licensor Practices. Licensor's rules, required procedures, operating practices and policies concerning Attachments.

Maintenance and Relocation Date. Thirty (30) days from the date Licensor notifies Licensee of the need for Licensee to remove, relocate, replace or renew its facilities, transfer its Attachments to a new Distribution Pole or perform any other work required of the Licensee.

Make Ready Costs. All costs necessary for Licensor to prepare its Distribution Poles for Licensee's Attachments, including the costs of materials, labor, engineering, applicable overhead charges and administrative costs, plus ten percent (10%). Engineering includes design, proper conductor spacing and bonding, calculations to determine proper ground clearances and pole down guy and anchor strength requirements for horizontal and transverse loading, and compliance with all applicable requirements in Article III hereto. Also included among Make Ready Costs are the costs of installing or changing out Distribution Poles, including the cost of installation and/or removal of guys, anchors, stub poles, materials and equipment, temporary construction and all other construction in accordance with the technical requirements and specifications of Article III.

Make Ready Estimate. The estimate prepared by Licensor for all Make Ready Work that may be required by Licensor to accommodate Licensor's Distribution Poles for Attachment by Licensee.

Make Ready Work Estimate Invoice. The invoice amount to be paid by the Licensee prior to any Make Ready Work being performed by the Licensor.

Make Ready Work. All work required by Licensor to prepare Licensor's Distribution Poles to accommodate Attachment by Licensee.

Notification System. Any software or mapping system used by Licensor to facilitate required Distribution Pole Attachment notices such as new attachment, transfer, relocation, rearrangement, abandonment and maintenance requests.

Overlapping. The practice whereby an attacher physically ties or otherwise attaches new wiring to wiring that already has been affixed to a Distribution Pole.

Pole Attachment Rental Rate. The annual amount per Attachment that Licensee must pay to Licensor pursuant to this Agreement in order to affix each Attachment to Licensor's Distribution Poles.

Pole Count Audit. The field audit conducted generally every five (5) years, or more frequently as determined by the Licensor, to determine the number of Attachments Licensee has on Licensor's Distribution Poles.

Required Authorizations. All legally required authorizations that Licensee must obtain from federal, state, county or municipal authorities, public or private landowners, or other third parties, to erect, operate and maintain its Attachments, and to provide the Services, including but not limited to all required franchises, consents, easements, and certificates of convenience and necessity.

Reserved Distribution Pole Space. Amount of Distribution Pole reserved for exclusive use by Licensor. For purposes of this Agreement, the Licensor's Reserved Space is the top eleven feet (11') of the Distribution Pole including the Safety Space.

Right-of-Way. Any clearing or re-clearing of trees or brush from existing rights-of-way or easements for the establishment and maintenance of Attachments.

Services. Communications services, including but not limited to telecommunications, Internet, data transmission or other similar services or combination of services provided by Licensee.

Term. The period during which this Agreement remains in effect.

Unauthorized Attachment. Any affixation of any Licensee facility of any nature to any property of Licensor, including Distribution Poles, which has not been authorized by Licensor as required by this Agreement. Unauthorized Attachments may include facilities affixed to Licensor's property prior to the Effective Date of this Agreement.

Unauthorized Attachment Fee. The fee to be paid by Licensee for each Unauthorized Attachment. For purposes of this Agreement, the fee shall be three times (3X) the Pole Attachment Rental Rate in effect at the time of discovery of the Unauthorized Attachment by the Licensor.

Wireless Facilities. Telecommunications or data transmission devices in which electromagnetic waves (rather than some form of wire or fiber) carry the signal over part or all of the

communication path. Wireless Facilities include but are not limited to, antennas, distributed antenna systems, wireless transmitters, wireless gateways, mini-cells, wireless loops, wireless networks or devices transmitting in millimeter wavelength spectrum.

ARTICLE II ESTABLISHING ATTACHMENT TO DISTRIBUTION POLES

2.1 Pole Attachment Application.

Before Licensee may affix any Attachments to or make use of any of Licensor's Distribution Poles under this Agreement, Licensee shall (a) submit to Licensor an Application requesting Licensor's permission to attach to or make use of each such Distribution Pole; (b) receive written approval from Licensor authorizing the Attachment to or use of each such Distribution Pole; and (c) comply with all procedures set forth in this section. Licensee's failure to request and receive Licensor's permission as described herein will subject each Unauthorized Attachment to an Unauthorized Attachment Fee.

2.2 Decision Regarding Application.

If in the sole judgment of Licensor, Attachment to Licensor's Distribution Poles as proposed in the Application is undesirable or impracticable based on the technical requirements and specifications of Article III, or because of other capacity, safety, reliability or engineering concerns, Licensor may reject all or part of the Application or limit the number and character of Attachments on any Distribution Pole. Within thirty (30) days after the receipt of such Application, Licensor shall notify Licensee in writing whether the Application is approved, approved with modifications, or rejected.

2.3 Make Ready Estimate.

- a) Licensor shall, on the basis of the Application and associated construction plans and drawings, submit to Licensee within forty-five (45) days of receipt of Licensee's Application, a Make Ready Estimate (based on Licensor's method of computing costs) for all Make Ready Work which may be required for each Distribution Pole, including an estimated completion date for such Make Ready Work.
- b) Provided that, within fifteen (15) days of Licensee's receipt of the Make Ready Estimate, Licensee provides notice of acceptance of the Make Ready Estimate and pays the Make Ready Estimate Invoice in full to Licensor, Licensor shall proceed with the Make Ready Work covered by the Make Ready Estimate. Within forty-five (45) days of receipt of payment of the Make Ready Estimate Invoice, Licensor shall complete the Make Ready Work; provided, however, that if Make Ready Work is required for more than ten (10) poles at one time or if such Make Ready Work is of a complex nature, Licensor shall complete such Make Ready Work in a reasonable period of time and not necessarily within the aforementioned forty-five (45) day period not to exceed sixty-five (65) days. Should Licensor fail to complete Make Ready Work in the time frames stated above, upon approval of Licensor, Licensee will have the option to perform such Make Ready Work after notifying Licensor of its intent and providing 30 days for the Licensor to complete said Make Ready Work. Licensee shall use a contractor approved by Licensor.
- c) Upon completion of all Make Ready Work, Licensor shall produce an itemized

accounting statement for the actual Licensor Costs and Expenses of the Make Ready Work. Licensor shall produce a Final Invoice by reconciling the Costs and Expenses with payment previously received from Licensee for the Make Ready Estimate. Licensor shall refund any overpayment or Licensee shall remit any payment due within thirty (30) days of the Final Invoice.

- d) Upon receipt of payment for the Final Invoice, Licensor shall grant to Licensee Authorization (a License) to use the Distribution Poles and to make Attachments in accordance with the terms of this Agreement.

2.4 Right-of-Way.

Right-of-Way clearing necessary for the operation of the Licensor's electric distribution system shall be performed by Licensor as it determines in the exercise of its sole judgment and discretion. Any reasonable Right-of-Way clearing necessary for the installation of the Licensees Attachment will be the financial and operational responsibility solely of the Licensee, and Licensee must obtain Licensor's permission prior to conducting any such clearing activity near Licensor's Distribution Poles or other facilities. In the event that Right-of-Way work is required due to a fallen tree or other object that is resting on the Licensee's cable and/or any other scenario whereby the condition of Licensee's cable and/or facilities are creating undue strain on Licensor's Distribution Poles or other facilities, Licensee agrees to remedy the situation as soon as possible. If Licensee is not able to remedy the situation within a timeframe suitable to Licensor, as determined in its sole discretion, Licensor may perform the necessary clearing and invoice the Licensee for the Costs and Expenses associated therewith.

2.5 Overlapping.

- (a) Any proposed Overlapping by Licensee is subject to the Application process and all other provisions of this Agreement and must be approved by the Licensor prior to installation.
- (b) Licensee shall not Overlap to any third party attachments or allow any third party Overlapping to any of its existing approved attachments.

2.6 Timeliness of Attaching.

Once Licensee has been issued Authorization to attach, Licensee shall have 365 calendar days from the date the approval was issued to begin the placement of its Attachments on the Licensor Poles covered by the License. If Licensee has not begun placing its Attachments within the 365 day period, Licensee shall provide notice of such fact to Licensor with a written explanation for the delay. If Licensee fails to advise Licensor of its delay by notice thereof or if Licensee fails to act in good faith by not making a bona fide effort to begin placing its Attachments within the 365 calendar days prescribed by this section, the License for the subject Attachments shall be automatically rescinded by Licensor and deemed null and void, and Licensee shall have no further right to place the Attachments pursuant to such voided License. In the event that the License to attach is rescinded as set forth above, the Licensee shall not be reimbursed any fees or charges associated with any Make Ready Work that was performed by the Licensor in preparation for Attachment by Licensee.

2.7 Allocated Attachment Space.

When Licensee has been granted Authorization to make Attachment to Licensor's Distribution

Poles, said Attachment shall be made in the Attachment Space on the Licensor's Distribution Poles. Licensee shall make no Attachment in the Reserved Distribution Pole Space. All Attachments must meet all applicable technical requirements and specifications as set forth in Article III of this Agreement.

2.8 Pole Attachment Coordination and Notification System.

Licensee agrees to join, utilize the notification system identified currently as NJUNs or successor system to facilitate required Distribution Pole Attachment notices, including but not limited to, any notices relating to new Attachments, relocation, abandonment or maintenance work.

ARTICLE III TECHNICAL REQUIREMENTS AND SPECIFICATIONS

At its own expense, Licensee shall erect, install, and maintain its Attachments in safe condition and good repair in accordance with all applicable technical requirements and specifications, including, but not limited to:

3.1 Applicable Codes

Licensee shall comply with all requirements and specifications of the National Electrical Safety Code ("NESC"), the National Electrical Code ("NEC"), the Occupational Safety and Health Act ("OSHA"), and to the extent such requirements or specifications may conflict, then the most stringent of the NESC, NEC, or OSHA requirements and specifications. Licensee must also comply with current and future rules or orders of any federal, state or local authority having jurisdiction.

3.2 Licensor Practices

The Licensor Practices may be amended from time to time by Licensor as necessary in its sole discretion to promote the safe and efficient operation of its electric distribution system, including the Distribution Poles, without resort to the provisions of Article XXI (MODIFICATIONS), and Licensee agrees to be bound by any such amendment. In the event that Licensor amends the Licensor Practices, Licensee shall make all required modifications within thirty (30) days after receipt of notice thereof from Licensor.

ARTICLE IV MAINTENANCE OF POLES AND ATTACHMENTS, ATTACHMENT IDENTIFICATION AND LICENSEE REQUIREMENT TO ACT

4.1 Maintenance of Poles

Licensor, at its' own expense, shall maintain the Attached Poles, and replace, reinforce or repair such Attached Poles as determined by Licensor, in the exercise of its sole judgment.

4.2 Maintenance of Attachments.

Licensee shall, at its own expense, make and maintain Attachments in safe condition and in thorough repair, and in a manner satisfactory to Licensor and so as not to interfere with the use

of said Distribution Poles by Licensor, or by other companies using said Distribution Poles, or to interfere with the use and maintenance of facilities thereon or which may from time to time be placed thereon. Any guying or anchoring required to accommodate the Attachments of the Licensee shall be provided by and at the full expense of the Licensee and to the satisfaction of the Licensor. Licensee shall pay Licensor for Costs and Expenses resulting from engineering studies regarding routing, spacing and design changes made necessary because of facilities proposed by and for the Licensee.

4.3 Attachment Identification.

Licensee shall tag all of its Attachments to allow for ready identification by Licensor. All identification markers must be located at or near the point where such Attachments are affixed to each Distribution Pole, and must:

- (a) be non-metallic;
- (b) be of distinctive and uniform design; and
- (c) be legible, clearly visible and recognizable from the ground by a person having normal vision.

Licensee shall be responsible for periodically inspecting its Attachments to ensure that they are tagged with permanent identification markers. Should Licensor encounter any Attachments without required permanent identification markers, Licensor shall notify Licensee of such Attachments and Licensee shall install permanent identification markers within thirty (30) days. In the event Attachments are not tagged, Licensor reserves the right to charge all Costs and Expenses for time required by Licensor to identify the untagged Attachments.

4.4 Licensee Requirement to Act.

Licensee shall, at its own expense, within forty-five (45) days of notification from Licensor (unless, in Licensor's sole discretion, safety, emergency or power supply considerations or restoration efforts require Licensee to take corrective action within a shorter period), remove, relocate, replace, or renew its Attachments and facilities placed on said Distribution Poles, or transfer them to substitute Distribution Poles, or perform any other work in connection with the said Attachments and facilities that may be required by Licensor.

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, after the date specified by Licensor for such maintenance and relocation ("Maintenance and Relocation Date"), the following shall apply, in addition to any other rights and remedies available under this Agreement:

- (a) The Licensee shall pay the Licensor the following amounts in addition to annual pole rent until the Licensee has completed the maintenance and relocation, notified Licensor in writing that the maintenance and relocation has been accomplished, and Licensor has verified proper completion of same: (1) an additional \$25 per affected Distribution Pole per month beginning with the sixty-first (61st) day after the Maintenance and Relocation Date and through and including the one hundred twentieth (120th) day after the Maintenance and Relocation Date; and (2) an additional \$50 per Distribution Pole per month beginning with the 121st day after the Maintenance and Relocation Date until such time as the maintenance and relocation is completed and verified by Licensor.

(b) Licensor, in its sole discretion, may require Licensee to pay all Costs and Expenses incurred by Licensor to return to the job site to inspect the status of Licensee's work and, as applicable, the Costs and Expenses incurred by Licensor to remove the old Distribution Pole.

(c) Licensor may, at Licensee's sole risk and without warranty of any kind, perform such maintenance and relocation work, and Licensee shall reimburse Licensor for the associated Costs and Expenses.

The intent of this Article is to ensure timely maintenance and relocation. Nothing in this Article shall operate to impose any liability upon Licensor 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 Article shall operate to relieve or in any way limit Licensee's obligations to indemnify Licensor under this Agreement.

ARTICLE V POLE REPLACEMENT, REARRANGEMENT, RELOCATION, REMOVAL OR ABANDONMENT

5.1 Pole Replacements.

In the event that any Distribution Pole(s) of the Licensor to which Licensee desires to make Attachments are inadequate to support the additional facilities in accordance with the aforesaid specifications, the Licensor will notify the Licensee of any changes necessary to provide adequate Distribution Pole(s) and will provide the Licensee with a Make Ready Estimate. If the Licensee still desires to make the Attachments it shall pay Licensor the Make Ready Estimate Invoice and Licensor will perform the Make Ready Work as set forth in Article II.

5.2 Pole Rearrangements.

Where the Licensee's desired Attachments can be accommodated on present Distribution Poles of the Licensor by rearranging Licensor's facilities thereon, the Licensee shall compensate the Licensor for the Make Ready Cost incurred in completing such rearrangements as set forth in Article XIX. Licensor shall take reasonable steps to complete non-complex changes, rearrangements, including notification of all attachers who are to move, or other construction necessary to make ready Distribution Poles for said Attachments within forty-five (45) days of approval of the permit issued pursuant to Article II herein; provided, however, that if Make Ready Work is required for more than ten (10) poles at one time or if such Make Ready Work is of a complex nature, Licensor shall complete such changes, rearrangements, or other construction of each Distribution Pole within a reasonable period of time and not necessarily within the aforementioned forty-five (45) day period not to exceed sixty-five (65) days. The Licensee will also reimburse the owner, or owners, of other facilities attached to said Distribution Poles for the full costs incurred by such owner or owners, in transferring or rearranging said facilities. Should Licensor fail to complete Make Ready Work in the time frames stated above, upon approval of Licensor, Licensee will have the option to perform such Make Ready Work after notifying Licensor of its intent and providing 30 days for the Licensor to complete said Make Ready Work. Licensee shall use a contractor approved by Licensor.

5.3 Required Relocation.

Should Licensor at any time need for Licensor's own purposes the space occupied by Licensee's Attachments, Licensor shall notify Licensee that it shall either (i) surrender its license for those Attachments; (ii) remove, relocate or replace such Attachments, at Licensee's own expense; or (iii) authorize Licensor to replace or rearrange the applicable Attachments and/or Distribution Poles, at Licensee's sole and complete expense. Notwithstanding the foregoing, Licensee shall not be required to remove or relocate any Attachment to allow attachments of a third-party attacher until the third-party attacher pays Licensee's reasonable costs of removal or relocation.

5.4 Required Removal.

If Licensor moves any portion of its overhead system underground, Licensee shall remove its Attachments from the affected Distribution Poles within ninety (90) calendar days of receipt of notice from Licensor, and Licensee must either relocate its affected facilities underground or must find other means to accommodate such facilities. If the Licensee does not remove its facilities within sixty (60) days after notification, Licensee shall be subject to the fees set forth in Article IV above, until such facilities are removed, and Licensor may also remove such facilities at Licensee's sole risk, with Licensee paying the Cost and Expenses of the same.

In the event that Licensee's use of Licensor's Distribution Pole is or becomes (in the determination of Licensor) forbidden by federal, state, county or municipal authorities or by owners of private property, Licensor shall provide sixty (60) days' notice (or less if required in the determination of Licensor) to Licensee that the Authorization for the Attachment will be terminated and that Licensee must remove the Attachment at its own expense. If the Licensee does not remove its facilities within the designated period, Licensee shall be subject to the fees set forth in Article IV, above, until such facilities are removed, and Licensor may remove such facilities at Licensee's sole risk, with Licensee paying the Cost and Expenses of the same.

5.5 Pole Abandonment by Licensee.

Licensee may at any time and in its sole discretion remove any of its Attachments from Licensor's Distribution Poles, but shall provide seven (7) business days' advance written notice of such removal to Licensor. Such notice shall fully identify, by pole number and location, the Distribution Pole(s) from which such Attachments are being removed. No refund of any Pole Attachment Rental Rate will be due on account of such removal.

5.6 Pole Abandonment by Licensor.

Licensor may at any time and in its sole discretion abandon or end its use of existing Distribution Pole(s). In the event Licensor chooses to abandon Distribution Pole(s), Licensor shall provide Licensee a written notice of its intent to abandon said Distribution Pole(s). If in its sole discretion, the Licensor chooses not to leave or allow the Distribution Pole(s) to remain in place, Licensor shall require that the Licensee relocate or remove its Attachment(s) from said Distribution Pole(s) within thirty (30) days of the written notification of Licensor's intent to abandon said Distribution Pole(s). In the event Licensee has not relocated or removed its Attachment(s) after thirty (30) days, Licensee will be subject to charges as set forth in Article IV. In the event the Licensor is willing to offer to transfer ownership of the abandoned Distribution Pole(s) to the Licensee and Licensee desires to take ownership of said Distribution Pole(s), then following thirty (30) days of notification of Licensor's intent to abandon said Distribution Pole, such Distribution Pole(s) shall thereupon become the property of the Licensee (or of another Licensee with Attachments on said Distribution Pole(s) as specified in the notice to Licensee). In the event of any abandonment, whether to Licensee or to another Licensee, and

without limitation of other requirements of Licensee under this Agreement, to the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, the Licensee shall indemnify Licensor from all obligation, liability, damage, cost, expenses or charges incurred thereafter (including legal fees and/or costs) because of, or arising out of, the presence or condition of such Distribution Pole(s) or the presence of any of Licensee's Attachments thereon. If Licensor abandons Distribution Pole(s) to Licensee, then Licensee shall pay the Licensor a sum equal to the value in place of such abandoned Distribution Pole(s), or such other equitable sum as may be agreed upon between the Parties.

5.7 Limitation.

Nothing in this Article V shall limit the authorization of Licensor to require maintenance, removal or relocation of Attachments in accordance with the provisions of Article IV, above.

ARTICLE VI LICENSEE AND LICENSOR MUTUAL AND INDIVIDUAL OBLIGATIONS

In addition to the other specific rights and obligations described in this Agreement, Licensor and Licensee shall have the following additional mutual and/or individual rights and obligations.

6.1 Mutual Obligations

Each Party shall take all precautions as are reasonably necessary to avoid damaging the facilities of the other.

6.2 Licensor Obligations

Licensor shall maintain the Attached Poles, and replace, reinforce or repair such Attached Poles as Licensor becomes aware that they are defective, as determined in the exercise of Licensor's sole judgment. Licensor shall make a good faith effort to pursue all commercially reasonable measures to accommodate Licensee's reasonable request(s) for attachment on its Distribution Poles. Licensor shall not intentionally disturb Licensee's Authorized Attachments, except as such disturbance may be necessary in an emergency or natural disaster situation or as otherwise permitted by the terms and conditions of this Agreement, provided that Licensee is performing in accordance with all terms and conditions of this Agreement.

6.3 Licensee Obligations

Licensee shall comply with all state, federal and local rules and ordinances. Licensee shall comply with all technical requirements and specifications applicable to Licensee's affixation of attachments to Licensor's Distribution Poles as authorized herein. Licensee shall comply with the Licensor's Practices including requirements for installing, transferring, relocating, removing or maintaining Attachments. 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, and Licensee shall take all steps necessary to avoid any interference with Licensor's safe and efficient operation of its electric distribution system including but not limited to Licensor's Distribution Poles.

Right to Share Utility Easements. Licensor agrees to share with Commonwealth, but only to the extent permitted by applicable law, such easements or similar rights as Licensor may have on, over or under the property of third parties where the facilities of Licensor that are the subject of this Agreement may be located (“Utility Easements”); provided, however, that Commonwealth’s right to use such Utility Easements shall be at all times limited to such purposes and uses as such Utility Easements may permit and shall be subject and subordinate to Licensor’s prior rights. Licensor makes no representation or warranty of any kind or description with respect to any such Utility Easement or to any right Commonwealth may or may not have to share the use of such Utility Easements. To the extent Commonwealth makes any use of such Utility Easements, Commonwealth assumes all risks associated with Commonwealth’s right to do so. To the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, Commonwealth waives and releases Licensor from, and shall indemnify Licensor for, any claims or liabilities of any kind or description associated with the grant made by Licensor hereunder.

ARTICLE VII ATTACHMENT RATES AND PAYMENT PROVISIONS

7.1 Pole Attachment Rental.

Licensee shall pay to the Licensor, for Attachments made to Distribution Poles under this Agreement, Pole Attachment Rental Rates as set forth in the Licensor’s Pole Attachment Rate Schedule as directed and approved by the Tennessee Valley Authority (“TVA”), which is Licensor’s regulator. Pole Attachment Rental charges shall be payable Semi-Annually. The Semi-Annual payments shall be based upon the number of Attachments being maintained as of December 31st of the previous year and as of June 30th of the current year, respectively. Licensor shall invoice Licensee for the Pole Attachment Rental on or around January 1st and July 1st each year. Licensor shall notify Licensee in writing when Licensor’s Pole Attachment Rate Schedule changes.

Invoices to Licensee shall be sent to the following address, unless Licensee subsequently gives Notice of a change in the invoicing address:

Kentucky Wired Project
Attn: Pole Attachment Coordinator
Ledcor Technical Services
2008 Mercer Rd.
Lexington, KY 40511
lbs.ky.accountspayable@ledcor.com

7.2 Payment Period.

All pole attachment rentals payable under this Agreement shall be due within thirty (30) calendar days of the date of invoice. Interest on the unpaid balance of delinquent invoices shall accrue and be charged at the rate of the lesser of (i) one and one-half percent (1.5%) per month; or (ii) the maximum amount permitted by applicable law including (with respect to the Commonwealth and without limitation) KRS 45.454.

7.3 Advance Attachment Rental Payment.

If at any time Licensee fails to pay an invoice for Pole Attachment Rental within thirty (30) days

after presentation, Licensor may, as determined in the exercise of its sole judgment and discretion, and to the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, and in addition to such other rights as Licensor may have hereunder, at law, or in equity, demand that Licensee submit a deposit in an amount estimated by Licensor to be equal to Licensee's anticipated Pole Attachment Rental for the following year. Licensee shall provide any such deposit within fourteen (14) calendar days of Licensor's demand. Such deposit shall accrue interest at the lesser of: (i) zero percent (0%); or (ii) the minimum amount required by law.

7.4 Removal for Nonpayment.

In the event Licensee fails to timely pay its pole rental invoice in full and such failure is not cured within thirty (30) calendar days (or whatever other period may be specified by KRS 45.454 because Licensee is the Commonwealth) of Licensor's notice of same to Licensee, Licensee agrees that Licensor shall have the unqualified right to (in addition to all other remedies that may be available to it hereunder or otherwise at law or in equity), at Licensee's sole cost and expense, immediately remove Licensee's Attachments and any other associated facilities from its Distribution Poles without any liability therefor.

ARTICLE VIII UNAUTHORIZED ATTACHMENTS

8.1 Unauthorized Attachment Fee.

Licensee shall pay to Licensor an Unauthorized Attachment Fee thirty (30) days of notification of each Unauthorized Attachment. Licensor may, in the exercise of its sole discretion, require that such Unauthorized Attachment be removed by Licensee (at Licensee's sole expense), or Licensor itself may remove the Unauthorized Attachment without liability, and charge Licensee for the Cost and Expense of doing so. In addition to the Unauthorized Attachment Fee and any other remedies that may be available to Licensor hereunder or otherwise at law or in equity, Licensor may impose a past rental charge on and require that the Licensee submit an application for such Unauthorized Attachment(s) in the manner prescribed by this Agreement. For purposes of determining the Pole Attachment Rental charge, and in the absence of satisfactory evidence to the contrary, the Unauthorized Attachment shall be treated as having existed since the Effective Date of this Agreement or since the last Pole Count Audit, whichever is most recent. Nothing herein shall act to limit any other remedies at law or in equity, including but not limited to remedies for trespass that may be available to Licensor as a result of any Unauthorized Attachment.

8.2 Licensor Failure to Act.

No act or failure to act by Licensor with regard to any Unauthorized Attachment shall be deemed to ratify, license, or otherwise waive any remedies hereunder or at law or in equity with respect to the Unauthorized Attachment. If an Application for such Unauthorized Attachment is subsequently approved, such approval shall not operate retroactively to constitute a waiver by Licensor of any of its rights under this Agreement regarding the Unauthorized Attachment, and Licensee shall be subject to all liabilities, obligations and responsibilities of this Agreement from its inception with regard to any such Unauthorized Attachment.

ARTICLE IX

POLE COUNT AUDITS AND INSPECTIONS

9.1 Pole Count Audit.

On or about July 31, 2018, and no more frequently than every five (5) years thereafter, unless Licensor in good faith believes that Licensee's reported number of Attachments is inaccurate, Licensor (or a third party contractor selected by Licensor) shall perform an inventory of Attachments on its Distribution Poles in all of the territory covered by this Agreement, for the purpose of verifying the number and location of Licensee Attachments. Licensee may provide a representative to participate in such Pole Count Audit, and such Pole Count Audit to determine the number of Licensee's Attachments shall be at Licensee's expense; provided, however, that Licensor shall use reasonable efforts to coordinate Pole Count Audits required under this Agreement with Pole Count Audits required under other agreements so the costs associated with such Pole Count Audits can be shared among users of Licensor's Distribution Poles. By participating in such Pole Count Audits, Licensor does not assume any obligation or responsibility for Licensee's Attachments nor do such Pole Count Audits relieve Licensee of any responsibility, obligation, or liability that accrue under this Agreement for Attachments actually made or maintained by Licensee during the term hereof. Licensor must provide thirty (30) days' advance notice of any such Pole Count Audit so that Licensee may be present and observe such Pole Count Audit, provided however, that Licensee's inability to be present and to observe shall not be a valid reason to suspend or forego such Pole Count Audit. Licensee shall reimburse Licensor for its proportional Costs and Expenses associated with conducting Pole Count Audits.

9.2 Review of Records in Lieu of Audit.

Licensee agrees that Licensor may determine, in the exercise of Licensor's sole judgment and discretion, that in lieu of Pole Count Audits or in an effort to reduce the scope of a Pole Count Audit, the number of Attachments maintained by Licensee may be determined in whole or in part from existing maps and Attachment records. If Licensor decides to use this method, Licensee shall make all relevant maps and records available within a reasonable timeframe to Licensor, who will determine the number of Attachments maintained by Licensee with respect to that portion of the Pole Count Audit being conducted in this manner. All records disclosed by Licensee will be considered proprietary and will not be shared with others, absent legal compulsion.

9.3 Inspections.

Licensor may conduct inspections of Licensee's Attachments from time to time as necessary in the exercise of Licensor's sole judgment and discretion to determine whether Licensee's Attachments satisfy the technical requirements and specifications of this Agreement. If practicable, as determined in the exercise of Licensor's sole judgment and discretion, Licensor shall provide ten (10) business days' notice of such inspections to Licensee, and Licensee shall have the right to be present at and observe any such inspections, provided however, that Licensee's inability to be present and to observe shall not be a valid reason to suspend or forego such inspection(s). Such inspections may be conducted no more frequently than once every year, unless Licensor determines that more frequent inspections are necessary for reasons involving safety of persons or protection of property. Licensee shall reimburse Licensor for all Costs and Expenses of conducting inspections to the extent such expenses are attributable to non-compliance of Licensee's Attachment.

9.4 Licensee Non-Compliance

If any of Licensee's Attachments fail to conform with the technical requirements and specifications of this Agreement, Licensee shall, upon notice by Licensor, pay a Safety Violation Fee of one hundred dollars (\$100) for each such violation, and shall correct such nonconformance within thirty (30) days of notification of such nonconformance, provided however, that Licensor may specify a shorter timeframe, with which Licensee shall comply, if in the exercise of Licensor's sole judgment and discretion, safety considerations require Licensee to take corrective action within such shorter period. Should Licensee fail to timely take all steps necessary to comply with this requirement, or if safety considerations so require, Licensor may elect to do such work itself, and Licensee shall reimburse Licensor for all Costs and Expenses incurred by Licensor in connection therewith. Licensor shall not be liable for any loss or damage to Licensee's facilities which may result, and Licensee shall be responsible for any additional damages resulting from Licensor's performance of such work itself and from its failure to act in a timely manner in accordance with these requirements. Failure by Licensor to inspect Licensee's conformance to the technical requirements and specifications listed in Article III or to take action on its own to bring such Attachments into compliance shall not cause Licensor to be liable for any loss or injury resulting from such failure of conformance and shall not relieve Licensee of its obligations of indemnification hereunder.

ARTICLE X DESIGNATED CONTACT PERSON(S)

10.1 Designated Contact Person(s).

Licensee shall establish and maintain a Designated Contact Person(s) for ordinary maintenance and relocation requests of Licensor during Licensor's normal business hours and a Designated Contact Person(s) for emergency maintenance and relocation requests. The Designated Contact Person(s) for emergency maintenance and relocation requests shall be reasonably available to Licensor 24 hours per day, 7 days a week, throughout the year. As of the date of this Agreement, the Designated Contact Person(s) are:

LICENSEE (Normal Business)
Name: Ledcor Technical Services
Title: Director of Operations
Print Name: John Colder
Contact Number: 859-286-8142
Email: john.colder@ledcor.com

LICENSEE (Emergency)
Name: Ledcor Technical Services
Title: Director of Operations
Print Name: John Colder
Contact Number: 859-286-8142
Email: john.colder@ledcor.com

Licensor contacts shall be as follows:

LICENSOR (Normal Business)
Name: Marty Ivy
Title: General Superintendent
Print Name: Marty Ivy
Contact Number: 270-247-4661
Email: gensupt@mewsbb.com

LICENSOR (Emergency)
Name: Jason Weatherly
Title: Electrical Operations Manager
Print Name: Jason Weatherly
Contact Number: 270-970-5178
Email: jweatherly@mewsbb.com

LIMITATION OF LIABILITY AND ASSUMPTION OF RISK

11.1 Limitation of Liability.

Licensor reserves to itself, its successors and assigns, the right to maintain its Distribution Poles and to operate its facilities thereon in such manner as will best enable it to fulfill its own service requirements. Licensor shall not be liable to Licensee for any property damage, injury or death to persons (including payments made under any Worker's Compensation Law or under any plan for employee disability and death benefits), interruption to service of Licensee, or for interference (however caused) with the operation of the cables, wires, appliances and facilities of Licensee, arising in any manner out of the use of Licensor's Distribution 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 Licensor or those jointly using Licensor's Distribution Poles may have upon the Attachments or the transmissions of Licensee, unless the cause of such effects are attributable to the negligence (including, to the fullest extent permitted by law and without limitation, Licensor's sole negligence) on the part of Licensor or its agents. Without limitation of the foregoing and to the fullest extent permitted by applicable law, Licensor shall not, in any circumstance, be liable to Licensee for any indirect, incidental, consequential, special, punitive or exemplary damages (including but not limited to loss of profits, damages to business reputation, lost opportunity, or other remote items of damage) arising in any manner out of or in relation to the use of Licensor's Distribution Poles hereunder.

11.2 Assumption of Risk.

Licensee expressly assumes responsibility for determining the condition of all Distribution Poles to be climbed or worked on by its employees, agents, contractors or subcontractors, and to the fullest extent permitted by law, assumes all risks (including, without limitation, risks arising from Licensor's sole negligence) related to the construction, operation and maintenance of Licensee's Attachments on or about Licensor's Distribution Poles.

ARTICLE XII QUALIFICATIONS OF EMPLOYEES, AGENTS AND CONTRACTORS

12.1 Qualifications.

Licensee shall require all of its agents, contractors or subcontractors that install, transfer, remove, relocate, maintain or otherwise work on or near the Attachments to be appropriately qualified and trained to work on and in the vicinity of an electric distribution system, including but not limited to Distribution Poles.

Licensee shall require its agents, contractors and subcontractors to comply with the Licensor Practices required under this Agreement and with the insurance and indemnification obligations under this Agreement as if each such agent, contractor and subcontractor were the Licensee for purposes of this Agreement. Licensee shall ensure that Licensor is an intended third party beneficiary of such requirements with enforceable rights against each such agent, contractor and subcontractor and that such rights are enforceable against each such agent, contractor and subcontractor in the same manner and to the same extent as Licensor has such rights against Licensee under this Agreement. Without limitation of the other requirements of this Agreement, to the extent permitted by law, including without limitation Section 177 of the Kentucky

Constitution, Licensee shall indemnify Licensor for all liabilities, claims, demands and costs (including, without limitation, any legal fees and/or costs) arising from its failure to comply with the requirements of this Article.

ARTICLE XIII REPRESENTATIONS AND WARRANTIES

13.1 Common Representations.

Each Party represents and warrants that: (a) it has full authority to enter into and perform this Agreement; (b) this Agreement does not conflict with any other document or agreement to which it is a party or is bound, and this Agreement is fully enforceable in accordance with its terms; (c) it is a legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction in which it was formed; (d) the execution and delivery of this Agreement and performance hereunder will not conflict with or violate or constitute a breach or default under its formation documents and will not violate any law, rule or regulation applicable to it; and (e) no consents need be obtained from any governmental agency or regulatory authority to allow it to execute, deliver and perform its obligations under this Agreement

13.2 DISCLAIMER OF WARRANTIES.

THERE ARE NO WARRANTIES UNDER THIS AGREEMENT EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH HEREIN. THE PARTIES SPECIFICALLY DISCLAIM AND EXCLUDE ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LICENSOR SPECIFICALLY DISCLAIMS ANY WARRANTY OR REPRESENTATION REGARDING THE CONDITION AND SAFETY OF LICENSOR'S DISTRIBUTION POLES AND RELATED PROPERTY AND FACILITIES.

ARTICLE XIV PRECAUTIONS OF LICENSEE

14.1 Precautions.

Licensee shall exercise precautions to avoid damage to facilities of Licensor and of others supported on Licensor's Distribution Poles, and to the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, Licensee hereby assumes responsibility for any and all loss for such damage attributable to Licensee's actions or failures to act, including those of its employees, agents and contractors. Licensee shall make an immediate report to Licensor upon Licensee's discovery of any such damage and, in addition to such other obligations as Licensee may have, hereby agrees to reimburse Licensor for the Costs and Expenses incurred by Licensor in making repairs.

ARTICLE XV INDEMNIFICATIONS

15.1 Licensee Indemnification Obligations.

To the extent permitted by law, including without limitation Section 177 of the Kentucky

Constitution, Licensee shall indemnify, defend, protect, save and hold Licensor harmless from and against any and all liabilities, claims, demands and costs (including, without limitation, any attorneys' fees or costs) incurred by reason of (a) breach of this Agreement; (b) damage to property; (c) injury to or death of persons, including payments made under any workers' compensation law or under any plan for employees' disability and death benefits; and (d) any slander, defamation, or infringement claim, provided that the foregoing liabilities, claims, demands and costs arise out of or are related to the erection, maintenance, presence, use, removal, or abandonment of Licensee's Attachments, or by the proximity of the respective cables, wires, apparatuses and appliances of the Licensee to any of the facilities belonging to the Licensor or to third-parties jointly using the Licensor's Distribution Poles, or by any act of Licensee or its employees, agents, contractors or subcontractors on or in the vicinity of Licensor's Distribution Poles. To the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, Licensee shall further indemnify, protect, and save Licensor harmless from and against any and all other liabilities, claims, demands and costs (including, without limitation, any attorneys' fees or costs) which may arise out of or be caused by the erection, maintenance, presence, use, removal, or abandonment of said Attachments, or by the proximity of the respective cables, wires, apparatus and appliances of the Licensee to any of the facilities belonging to the Licensor or to third-parties jointly using the Licensor's Distribution Poles, or by any act of Licensee on or in the vicinity of Licensor's Distribution Poles. The obligations of this Article XV shall survive termination or non-renewal of this Agreement, shall be enforced to the fullest extent permitted by applicable law (including without limitation and to the fullest extent permitted by law, to cover liabilities, claims, demands and costs arising from Licensor's sole negligence), and the obligations of this Article XV shall be construed liberally in favor of indemnification of Licensor.

The indemnification obligations of Licensee under this Article and under other provisions of this Agreement are cumulative and not exclusive. Licensor's request for indemnification under one or more Articles shall not preclude or in any way waive or limit Licensor's ability to seek indemnification under other provisions of this Agreement.

15.2 Licensor Indemnification Obligations.

Except as may be otherwise specified in this Agreement, Licensor shall indemnify, defend, protect, save and hold harmless Licensee from and against any and all claims and demands for, or litigation with respect to, damages to property, and for injury or death to persons, including payments made under any Worker's Compensation Law or under any plan for employee disability and death benefits and including all expenses incurred in defending against any such claims or demands, which may be directly caused by the gross negligence of Licensor or its agents, employees, contractors or subcontractors on or in the vicinity of Licensee's authorized Attachments.

ARTICLE XVI INSURANCE

Licensee's Agents, Contractors or Subcontractors shall carry insurance in such form and issued by such companies as required by Licensor to protect the Parties from and against any and all claims, demands, actions, judgments, costs, expenses and liabilities of every name and nature which may arise or result, directly or indirectly, from or by reason of any such loss, injury, death or damage involving any Attachment by the Licensee. For the Term of this Agreement, Licensee or its Agents or Contractors shall take out and maintain, and shall ensure that its Agents, Contractors and Subcontractors take out and maintain, insurance that names the

Licensors as an additional insured on all applicable policies and that meet the following requirements of the Licensor:

16.1 Workers Compensation.

Workers' compensation and employer's liability insurance, as required by law, covering all employees who perform any of Licensee's obligations under this Agreement.

16.2 Public Liability.

Public Liability insurance, including automobile liability insurance, covering all of Licensee's obligations under this Agreement against liability due to bodily injury, death or damage to property as to any one occurrence of not less than \$2,000,000.00 per bodily injury, death or damage claim, with a total of \$5,000,000.00 aggregate against all claims during the policy period.

16.3 Additional Insurance.

Licensors reserves the right to require additional insurance requirements at any time during the term of this Agreement upon written notification to Licensee and Licensee agrees to provide insurance at the level requested.

16.4 Insurance Maintenance.

Licensee shall submit to Licensor certificates from each company insuring Licensee demonstrating that it has insured Licensee for all liabilities of Licensee under this Agreement and that it will not cancel, change, nor fail to renew any policy of insurance issued to Licensee except after thirty (30) days' prior written notice to Licensor. Notwithstanding any other provision in this Agreement to the contrary, Licensor may immediately terminate this Agreement upon cancellation or non-renewal of any of the policies required under this Article.

16.5 Insurance Rating.

The insurer Licensee uses to satisfy its obligations under this Agreement shall have a rating of no less than A.M. Best A-.

16.6 Responsibility for Agents, Contractors and Subcontractors.

Licensee shall bear full responsibility for ensuring that its Agents, Contractors and Subcontractors are in full compliance with the requirements of this Article before they perform any work for Licensee in connection with this Agreement.

**ARTICLE XVII
TERMINATION UPON DEFAULT; LEGAL FEES**

17.1 Termination Upon Default.

If Licensee or Licensor fail to comply with any of the provisions of this Agreement, including but not limited to the technical requirements and specifications set forth in Article III hereof, 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, Licensee or Licensor may, at its option, and without further notice and without waiving its rights to simultaneously pursue any other remedies that may be available to it at law or in equity:

- Terminate this Agreement in its entirety and remove Licensee's Attachments and other facilities consistent with the terms of Article VII of this Agreement;
- Terminate any permit(s) covering the Distribution Pole(s) as to which such default or non-compliance shall have occurred;
- Decline to authorize additional Attachments under this Agreement until such defaults are cured;
- Suspend Licensee's access to or work on any or all of Licensor's Distribution Poles;
- Correct such Default and charge Licensee for Licensor's Costs and Expenses associated therewith; and or
- Obtain specific performance of the terms of this Agreement through a court of competent jurisdiction.

17.2 Legal Fees and Costs.

Each Party acknowledges and agrees that in the event of its breach of the Agreement, and in the case of the Licensee, because it is the Commonwealth, to the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, it shall pay the other Party's legal fees and/or any related costs incurred in connection with Licensor's enforcement of this Agreement. This obligation shall exist independently of all other obligations hereunder, notwithstanding the scope of the remedies available to each Party hereunder.

ARTICLE XVIII TERM AND TERMINATION OF AGREEMENT

18.1 Term.

The term of this Agreement shall commence on the Effective Date and if not otherwise terminated, shall continue in effect for a term of thirty (30) years. Thereafter, this Agreement shall automatically renew for renewal terms of one (1) year.

18.2 Termination.

In addition to the other rights of termination set forth in this Agreement, either Party may terminate this Agreement by giving to the other Party at least six (6) months' prior written notice of intention to terminate this Agreement upon the expiration of the then-existing term or renewal term, or in the case of the Commonwealth, terminate this Agreement for convenience as provided for in 200 Ky. Admin. Reg. 5:312. Licensee shall remove all Attachments including its associated cables, wires and appliances from all Distribution Poles prior to the termination date of the Agreement. If not so removed, Licensor may assess and Licensee shall pay pole rental rates for the next calendar year at the rates applicable to Unauthorized Attachments, and Licensor may thereafter remove the facilities at the sole Cost and Expense of Licensee and without any liability therefor. These remedies shall be cumulative to, and not exclusive of, any other remedies available to Licensor at law or in equity.

**ARTICLE XIX
INVOICING AND PAYMENT TERMS FOR WORK**

19.1 General Payment Terms.

Unless otherwise specified in this Agreement, charges under this Agreement shall be payable within thirty (30) days after presentation, and interest on the unpaid balance of delinquent invoices shall accrue and be charged at the rate of the lessor of: (i) one and one-half percent (1.5%) per month; or (ii) the maximum amount permitted by applicable law, including (with respect to the Commonwealth and without limitation) KRS 45.454. Non-payment of an invoice shall constitute a material default under this Agreement.

**ARTICLE XX
WAIVER**

20.1 Waiver.

Failure of Licensee or Licensor 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. To be effective, any waiver must be in writing and signed by the party granting the waiver.

**ARTICLE XXI
MODIFICATIONS**

21.1 Modifications.

Except as otherwise specified in this Agreement, this Agreement may be amended or supplemented at any time only upon written agreement by the Parties hereto. Notwithstanding the foregoing, any changes in Licensor Practices shall become effective upon thirty (30) days' notice to Licensee unless a shorter time is mandated by law. The names, addresses, facsimile numbers and electronic mail addresses to which notices must be sent per Article XXIV of this Agreement, may be modified by either Party upon notice to the other.

**ARTICLE XXII
NO EFFECT ON OTHER AGREEMENTS OR CONTRACTS**

22.1 Past or Current Agreements or Contracts.

Except as expressly set forth in this Agreement, nothing herein contained shall be construed as affecting the rights or privileges previously conferred by Licensor, by contract or otherwise, to others not party to this Agreement, to use any Distribution Poles covered by this Agreement. Licensor shall have the right to continue and extend such rights and privileges to such third-parties and to others. The Attachment privileges herein granted shall at all times be subject to such contracts and arrangements existing prior to each Attachment permit granted by Licensor. The Attachment privileges herein granted shall be non-exclusive and the Licensor shall have the right in its sole discretion to grant Attachment privileges of any sort to any person, firm or corporation.

**ARTICLE XXIII
PAYMENT OF TAXES**

23.1 Taxes.

Each Party shall pay all taxes and assessments, if applicable, lawfully levied on its own property and services subject to this Agreement.

ARTICLE XXIV ASSIGNMENT

24.1 Assignment.

Licensee shall not assign, transfer or sublet the privileges hereby granted without the prior consent in writing of Licensor. Licensor may condition such consent upon, without limitation, the payment of any outstanding amounts owed by Licensee to Licensor prior to assignment, assignee or transferee providing adequate assurance of payment, and assignee's or transferee's agreement to the terms and conditions of this Agreement and any modifications or amendments that Licensor may deem appropriate.

**ARTICLE XXV
NO OWNERSHIP OR PROPERTY RIGHTS**

25.1 Ownership or Property Rights.

No use, however extended, of Licensor's Distribution Poles under this Agreement shall create or vest in Licensee any ownership or property rights in said Distribution Poles, but Licensee's rights therein shall be and remain a mere license for as long as authorized under the terms and conditions of this Agreement. Nothing herein contained shall be construed to compel Licensor to maintain any of said Distribution Poles for a period longer than demanded by its own service requirements.

**ARTICLE XXVI
FORCE MAJEURE**

26.1 Force Majeure.

Except as may be expressly provided otherwise, neither Party shall be liable to the other for any failure of performance hereunder due to causes beyond its reasonable control, including but not limited to: (a) acts of God, fire, explosion, vandalism, storm, or other similar occurrences; (b) national emergencies, insurrections, riots, acts of terrorism, or wars; or (c) strikes, lockouts, work stoppage, or other labor difficulties. To the extent practicable, the Parties shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as the force majeure event causing the failure or delay has ceased. Each Party shall promptly notify the other Party of any delay in performance under this section and its effect on performance required under this Agreement.

**ARTICLE XXVII
SURVIVAL OF OBLIGATIONS**

27.1 Survival.

Notwithstanding any termination or non-renewal of this Agreement and without limitation on the indemnification provision of this Agreement, the obligations (but not the rights) of Licensee under this Agreement shall continue to apply to any Attachment, Unauthorized Attachment or other authorized or unauthorized use of Licensor's Distribution Poles, facilities, or other property for so long as Licensee continues to use or occupy Licensor's Distribution Poles, facilities, or other property.

**ARTICLE XXVIII
PRIOR AGREEMENTS SUPERSEDED**

28.1 Prior Agreements.

This Agreement embodies the entire Agreement between Licensor and Licensee with respect to the subject matter of this Agreement, and it supersedes and replaces any and all previous Agreements entered into by and between Licensor and Licensee, written or unwritten, with respect to that subject matter.

**ARTICLE XXIX
NOTICES**

29.1 Notices.

Unless otherwise specifically provided herein, all notices, requests, consents, demands, designations, approvals or statements required to be made to either Party by the other shall be in writing and shall be delivered via personal delivery, Federal Express (or other equivalent, generally recognized overnight delivery service), facsimile or electronic mail transmission, or certified U.S. mail return receipt requested. Notice given by facsimile shall be deemed to have been received when transmitted, provided that the sender shall have received a transmission report indicating that all pages of the notice have been transmitted to the correct facsimile number. Notice given by electronic mail shall be deemed given when directed to an electronic mail address at which the recipient has consented to receive such notice. Notice given by personal delivery, overnight delivery, or certified U.S. mail shall be effective upon receipt. Notices shall be sent to the following:

Licensor:

Mayfield Electric & Water Systems
General Superintendent
P.O. Box 347
Mayfield, KY 42066
Email: gensupt@mewsbb.com
Fax: 270-247-0550

Licensee:

COMMONWEALTH OF KENTUCKY
Finance & Administration Cabinet
Office of the Secretary
702 Capital Ave.
Room 383, Capital Annex
Frankfort, KY 40601

KENTUCKY WIRED PROJECT
Attn: Pole Attachment Coordinator
Ledcor Technical Services
Building C, Suite 100
14400 The Lake Blvd.
Pflugerville, TX 78660

With a copy to

COMMONWEALTH OF KENTUCKY
Finance & Administration Cabinet
Office of General Counsel
702 Capitol Ave.
Room 392, Capitol Annex
Frankfort, KY 40601

LEDCOR TECHNICAL SERVICES
Attn: Ledcor Legal Department
1200-1067 West Cordova
Vancouver, BC
V6C-1C
Canada

COMMONWEALTH OF KENTUCKY
Kentucky Communications Network Authority
209 St. Clair Street
4th Floor
Frankfort, KY 40601 Email: mike.hayden@ky.gov
Fax: (502) 564-0883

ARTICLE XXX
APPLICABLE LAW

30.1 Applicable Law.

This Agreement shall be deemed to have been executed in the Commonwealth of Kentucky and shall be construed under the laws of the Commonwealth of Kentucky, without regard to its conflict of laws principles. Any legal action regarding enforcement of this Agreement shall be commenced and heard in the courts of Franklin County, Kentucky, and the Parties consent and submit to the jurisdiction and venue thereof.

**ARTICLE XXXI
HEADINGS, ENTIRE AGREEMENT, NO PRESUMPTIONS**

31.1 Acknowledgements.

The Parties acknowledge and agree that the headings in this Agreement are for purposes of reference only and shall not be construed to limit or enlarge the substantive terms hereof. The Parties further acknowledge and agree that this Agreement sets out the entire understanding between the Licensee and Licensor with respect to Licensee Attachments on Licensor's Distribution Poles. Neither Party intends to be bound or obligated except to the extent that it has so agreed herein. The Parties to this Agreement acknowledge that they are sophisticated entities and agree that this Agreement shall be strictly construed according to its express terms and that this Agreement shall be considered jointly drafted such that any presumptions otherwise arising in connection with draftsmanship shall not apply.

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

Commonwealth of Kentucky,
Finance and Administration Cabinet
Licensee

By: William M. Landrum III

Print Name: WILLIAM M. LANDRUM III

Title: Sec, FAC

Mayfield Electric & Water Systems
Licensor

By: Marty Ivy

Print Name: Marty Ivy

Title: General Superintendent

**APPROVED AS TO
FORM & LEGALITY**

Patricia M. [Signature]
**APPROVED
FINANCE & ADMINISTRATION CABINET**

EXHIBIT "A"

DATE _____

Subject: Application No. _____

Dear Sir:

In accordance with the terms and conditions of our agreement, dated _____, application is hereby made for a permit to make _____ attachments to poles and _____ attachments to anchors as shown on the attached design and layout proposal.

Location

Poles

Anchors

By: _____

Title: _____

EXHIBIT "B"

POLE ATTACHMENT PERMIT

Permit No. _____

Estimate No. _____

Permission is hereby granted to make _____ attachments to poles and _____ attachments to anchors as described below, subject to the terms and conditions of our Agreement dated _____.

Location

Poles

Anchors

\$ _____ Estimated cost paid on _____.

Make-Ready work completed _____.

Permit Approved:

By _____

Title _____

Date _____

EXHIBIT "C"

Subject: Notification of Removal of Licenses

Dear Sir:

In accordance with the terms and conditions of our agreement, dated _____, please cancel from your records the following poles and/or anchors covered by Permit No. _____ from which Licensee's attachments were removed on _____.

Quantity: Poles _____ Anchors _____

Location: _____

Yours truly,

Notice No. _____

(Name of Licensee)

By _____

Title _____

Notice Acknowledged

DATE _____

By _____

Title _____