

STANDARD POLE ATTACHMENT AGREEMENT

THIS AGREEMENT, made this 15th day of September, 2015 by and between the Commonwealth of Kentucky, Finance and Administration Cabinet, hereinafter called "Customer" and Frankfort Electric & Water Plant Board of the City of Frankfort, a Kentucky Municipal Instrumentality, hereinafter called "Plant Board."

WITNESSETH:

WHEREAS, the Customer proposes to furnish telecommunication service in the following described area: areas in Franklin, Woodford and/or Shelby Counties, Kentucky, and will need to erect and maintain aerial cables, wires and associated appliances throughout the area to be served and desires to attach such cables, wires, and appliances to poles of the Plant Board; and,

WHEREAS, the Plant Board is willing to permit, to the extent it may lawfully do so, the attachment of said cables, wires, and appliances to its poles where, in its judgment, such use will not interfere with its electric service requirements and of all other prior licensees using the Plant Board's poles, including consideration of economy and safety, in accordance with the Plant Board's Rental rate applicable to such service to be provided by Customer and the Rules and Regulations or Terms and Conditions applicable to such service, and this Agreement,

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

1. ATTACHMENT APPLICATIONS AND PERMITS - Before making attachment to any poles or poles of the Plant Board, Customer shall make application and receive a permit therefore on a Form to be supplied by the Plant Board. The information submitted by Customer with the application for a permit shall consist of drawings and associated descriptive matter which shall be adequate in all detail to enable the Plant Board to thoroughly check the proposed installation of Customer. Before the attachments are made, the permit must be approved by the Plant Board; Customer shall not build separate pole lines along existing facilities of the Plant Board and shall not place intermediate poles in spans of the Plant Board, unless authorized by the Plant Board in writing. The Plant Board shall have the right to remove unauthorized Customer attachments at Customer's expense after notice to Customer.

In the event a pole attachment count does not correspond to the recorded attachment count, Customer will pay a back rental fee for any excess attachments. The back rental fee will be double the rate otherwise in effect over the time since the last pole attachment count and shall be payable on demand. No fees or charges shall be made against the Customer prior to the effective date of this Agreement.

2. PERMITTED ATTACHMENTS - Customer shall be permitted to make only one bolt attachment for one messenger on tangent poles and two bolt attachments for two messengers on corner poles. A maximum of five individual coaxial cables may be supported by any single messenger if these cables are all attached to the messenger by suitable lashings or bindings, and so that the maximum overall dimension of the resulting cable bundle does not exceed two inches. Any messenger attachment other than the tangent poles must be properly braced with guys and anchors provided by customer to the satisfaction of the Plant Board. The use of existing company anchors for this purpose must be specifically authorized in writing, subject to additional charge, and will not ordinarily be permitted. The use of crossarms or brackets shall not be permitted. Any or all of the above are considered one attachment for billing purposes. Any additional attachments desired by Customer will be considered on an individual basis by the Plant Board, and as a separate attachment application.

3. CONSTRUCTION AND MAINTENANCE REQUIREMENTS AND SPECIFICATIONS - Customer's cables, wires, and appliances, in each and every location, shall be erected and maintained in accordance with the requirements and specifications of the National Electrical Safety Code, current edition, and the Plant Board's construction practices or any amendments or revisions of said code. In the event any of Customer's construction does not meet any of the foregoing requirements, Customer will correct same in fifteen work days after written notification. The Plant Board may make corrections and bill Customer for total costs incurred, if not corrected by Customer.

4. MAINTENANCE OF ATTACHMENTS - Customer shall, at its own expense, make and maintain said attachments in safe condition and in thorough repair, and in a manner suitable to the Plant Board and so as not to conflict with the use of said poles by the Plant Board, or by other parties, firms, corporations, governmental units, etc., using said poles, pursuant to any license or permit by Plant Board, or interfere with the working use of facilities thereon or which may, from time to time, be placed thereon. Customer shall promptly at any time, at its own expense, upon written notice from the Plant Board, relocate, replace, or renew its facilities placed on said poles, and transfer them to substituted poles, or perform any other work in connection with said facilities that may be required by Plant Board but in no case longer than two months after the date of written request. In cases of emergency, however, the Plant Board may arrange to relocate, replace, or renew the facilities placed on said poles by Customer, transfer them to substituted poles or perform any other work in connection with said facilities that may be required in the maintenance, replacement, removal, or relocation of said poles, the facilities thereon or which may be placed thereon, or for the service needs of the Plant Board, or its other licensees, and Customer shall, on demand, reimburse the Plant Board for the expense thereby incurred.

5. COSTS ASSOCIATED WITH ATTACHMENTS - In the event that any pole or poles of the Plant Board to which Customer desires to make attachments are inadequate to support the additional facilities in accordance with the aforesaid specifications, the Plant Board will indicate on the Application and Permit Form the changes necessary to provide adequate poles and the estimated cost thereof to Customer and return the Form to Customer. If Customer still desires to make the attachments, and returns the Form to the Plant Board marked to so indicate, the Plant Board will replace such inadequate

poles with suitable poles and Customer will, on demand, reimburse the Plant Board for the total cost of pole replacement necessary to accommodate Customer attachments, less the salvage value of any pole that is removed, and the expense of transferring Plant Board's facilities from the old to the new poles. Where Customer desired attachments can be accommodated on present poles of the Plant Board by rearranging Plant Board's facilities thereon, Customer will advance to the Plant Board the expense estimated in completing such re-arrangements. Customer will also, on demand, reimburse the owner or owners of other facilities attached to said poles for any expense incurred by it or them in transferring or rearranging said facilities. In the event Customer makes an unauthorized attachment which necessitates rearrangements when discovered, then Customer shall pay on demand the expense incurred in completing such rearrangements.

6. MAINTENANCE AND OPERATION OF PLANT BOARD'S FACILITIES - The Plant Board reserves to itself, its successors and assigns, the right to maintain its poles and to operate its facilities thereon in such manner as will, in its own judgment, best enable it to fulfill its electric service requirements, but in accordance with the specifications hereinbefore referred to. The Plant Board shall not be liable to Customer for any interruption to service to Customer's subscribers or for interference with the operation of the cables, wires, and appliances of Customer arising in any manner out of the use of the Plant Board's poles hereunder except for gross negligence of the Plant Board causing such interruption of service to the Customer subscribers.

7. EASEMENTS - The Customer agrees to secure whatever easement rights are required on private property. The Customer must, regardless of the easements received or of its powers as a municipal instrumentality, conform to all requirements of this Agreement with regard to the Plant Board's property. The Plant Board's approval of attachments shall not constitute any representation or warranty by the Plant Board to the Customer regarding the Customer's right to occupy or use any public or private right-of-way.

8. INSPECTION OF FACILITIES - The Plant Board reserves the right to inspect each new installation of Customer on its poles and in the vicinity of its lines or appliances and to make periodic inspections, every two (2) years or more often as plant conditions warrant of the entire plant of Customer. Such inspections made, shall not operate to relieve Customer of any responsibility, obligation or liability assumed under this Agreement.

9. RENTALS - Customer shall pay to the Plant Board, for attachments made to poles under this Agreement an annual rental charge per attachment in accordance with the Rental rate adopted by the Plant Board for each year from the 1st of January of each respective year to the following December 31st provided however that should this Agreement be terminated in accordance with the terms of the said Agreement at any time after January 1st of any year and prior to December 31st of that year, the annual rentals will be prorated from January 1st to the date of such termination. The rental payments herein provided for shall be made on a semi-annual basis upon the number of poles on which attachments are being maintained on the first day of December and the

first day of June, respectively. This rental charge is subject to change in accordance with the Board's Tariff from time to time.

10. PRECAUTIONS TO AVOID FACILITY DAMAGE - Customer shall exercise precautions to avoid damage to facilities of the Plant Board and of others supported on said poles; and hereby assumes all responsibility for any and all loss for such damage caused by its negligence. Customer shall make an immediate report to the Plant Board of the occurrence of any damage and hereby agrees to reimburse the Plant Board for expense incurred in making repairs due to the Customer's negligence.

11. INDEMNITIES AND INSURANCE - To the extent permitted by law, including but not limited to Section 177 of the Kentucky Constitution, Customer agrees to defend, indemnify, and save harmless Plant Board from any and all damage, loss, claim, demand, suit, liability, penalty or forfeiture of every kind and nature - including but not limited to costs and expenses of defending against the same and payment of any settlement or judgment therefore, by reason of (a) injuries or deaths to persons, (b) damages to or destruction of properties, (c) pollutions, or contaminations of or other adverse effects on the environment or, (d) violations of governmental laws, regulations, or orders whether suffered directly by the Plant Board itself or indirectly by reason of claims, demands, or suits against it by third parties, resulting or alleged to have resulted from acts or omissions of Customer, its employees, agents, or other representatives or from their presence on the premises of the Plant Board, either solely or in concurrence with any alleged joint negligence of the Plant Board to the extent that same are the result of the Customer.

Customer or its Contractors shall provide and maintain in an Insurance Company(s) authorized to do business in the Commonwealth of Kentucky, the following:

(a) Insurance protection for Customer employees to the extent required by the Workmen's Compensation Law of Kentucky, and where same is not applicable or if necessary to provide a defense for Plant Board, employer's liability protection (covering both Plant Board and Customer) for Customer employees for no less than \$100,000 per employee.

(b) Public Liability and Business Liability insurance with a minimum limit of \$1,000,000.00 for each person injured and with a minimum total limit of \$1,000,000.00 for each accident and a minimum limit of \$1,000,000.00 for property damage for each accident.

(c) Public Liability and Property Damage insurance on all automotive equipment used by Customer on job to the extent of the amounts for Public Liability and Property Damage insurance set out in the preceding Paragraph (b).

(d) In the event that work covered by this Agreement includes work to be done in places or areas where the Maritime Laws are in effect, then and in that event additional insurance protection to the limits in Paragraph (b) above for liability arising out of said Maritime Laws.

(e) In the event the work covers fixed wing aircraft, rotor lift, lighter than air aircraft or any other form of aircraft, appropriate insurance will be carried affording protection to the limits prescribed in the preceding Paragraph (b).

(f) In the event the work covers blasting, explosives or operations under- ground, in trenches or other excavations, appropriate insurance will be carried affording protection to the limits prescribed in the preceding Paragraph (b), together with products hazard and completed operations insurance where applicable, affording protection to the limits above prescribed. Customer's liability insurance shall be written to eliminate XCU exclusions. Said insurance is to be kept in force for not less than one year after cancellation of this Agreement.

Before starting work Customer shall furnish to the Plant Board a certificate(s) of insurance satisfactory to the Plant Board, evidencing the existence of the insurance required by the above provisions, and this insurance may not be canceled for any cause without sixty (60) days advance written notice being first given the Plant Board; provided, that failure of the Plant Board to require Customer to furnish any certificate(s) shall not constitute a waiver by Plant Board of Customer's obligation to maintain insurance as provided herein.

Each policy required hereunder shall contain a contractual endorsement written as follows: "The insurance provided herein shall also be for the benefit of The Electric and Water Plant Board of the City of Frankfort so as to guarantee, within the policy limits, the performance by the named insured of the indemnity provisions of the Pole Attachment Agreement between the name of insured and The Electric and Water Plant Board of the City of Frankfort. Frankfort Plant Board is an additional insured on a primary and non-contributory basis. This insurance may not be canceled for any cause without sixty (60) days advance written notice being first given to Frankfort Plant Board."

12. ATTACHMENT REMOVAL AND NOTICES - Customer may at any time voluntarily remove its attachments from any pole or poles of the Plant Board, but shall immediately give the Plant Board written notice of such removal on a Form to be supplied by the Plant Board. No refund of any rental will be due on account of such voluntary removal.

13. FORBIDDEN USE OF POLES - Prior to the Customers' initial attachment, the Plant Board reserves the right due to engineering design requirements to refuse use by Customers of certain or specific poles or structures. Upon notice from the Plant Board to Customer that the use of any pole or poles is forbidden by Municipal or other public authorities or by property owners, the permit covering the use of such pole or poles shall immediately terminate and Customer shall remove its facilities from the affected pole or poles at once. No refund of any rental will be due on account of any removal resulting from such forbidden use.

14. NON-COMPLIANCE - If Customer shall fail to comply with any of the provisions of this Agreement or default in any of its obligations under this Agreement and shall fail within thirty (30) days after written notice from the Plant Board to correct such default or non-compliance, the Plant Board may, at its option, forthwith terminate this agreement or the permit covering the poles as to which such default or non-compliance shall have

occurred, by giving written notice to Customer of said termination. No refund of any rental will be due on account of such termination.

15. BILLING - Bills for expenses and other charges under this Agreement shall be payable within thirty (30) days after presentation. Non-payment of bills shall constitute a default of this Agreement.

16. WAIVERS - 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.

17. USE OF PLANT BOARD'S FACILITIES BY OTHERS - Nothing herein contained shall be construed as affecting the rights or privileges previously conferred by the Plant Board, by contract or otherwise, to others, not parties to this Agreement, to use any poles covered by this Agreement; and the Plant Board shall have the right to continue and to extend such rights or privileges. The attachment privileges herein granted shall at all times be subject to such existing contracts and arrangements.

18. ASSIGNMENT - Customer shall not assign, transfer or sublet the privileges hereby granted without the prior consent in writing of the Plant Board.

19. PROPERTY RIGHTS - No use, however extended, of the Plant Board poles under this Agreement shall create or vest in Customer any ownership or property rights in said poles, but Customer shall be and remain a Customer only. Nothing herein contained shall be construed to compel the Plant Board to maintain any of said poles for a period longer than demanded by its electric service requirements.

20. FAILURE TO PROCEED - Customer agrees to proceed as expeditiously as practical with the work of providing the service to entire described area as hereinabove set forth. Within ninety (90) days from the date of this Agreement, Customer shall make progress reasonably satisfactory to the Plant Board in the installation of its facilities or shall demonstrate, to the reasonable satisfaction of the Plant Board, its ability to proceed expeditiously.

21. TERMINATION - Upon termination of the Agreement in accordance with any of its terms, Customer shall immediately remove its cables, wires, and appliances from all poles of the Plant Board. If not removed, the Plant Board shall have the right to remove them at the cost and expense of Customer.

22. SECURITY - Should the Customer fail to pay as and when due any rental charge for attachments due under this contract, and should such failure continue until the due date of the next charge, then the Plant Board shall have the option to require the Customer to furnish and the Customer agrees to furnish a bond to secure the payment of charges due the Plant Board this contract as follows:

(a) The amount of the bond shall be \$500.00 for each 100 poles or fraction thereof to which the Customer has attached its facilities.

(b) Such bond shall contain the provision that it shall not be terminated prior to six (6) months after receipt by the Plant Board of written notice of the desire of the bonding or insurance company to terminate such bond. This six (6) months' termination clause may be waived by the Plant Board if an acceptable replacement bond is received before the six (6) months has ended. Upon receipt of such termination notice, the Plant Board shall request Customer to immediately remove its cables, wires and all other facilities from all poles of its facilities from the poles of the Plant Board within thirty (30) days after receipt of such request from the Plant Board, then the Plant Board shall have the right to remove them at the cost and expense of Customer and without being liable for any damage to Customer's wires, cables, fixtures, or appurtenances. Such bond shall guarantee the payment of any sums which may become due to the Plant Board for rentals, inspections, or work performed for the benefit of the Customer under the Agreement, including the removal of attachments upon termination of this Agreement by any of its provisions.

(c) The Plant Board in its sole discretion may agree in writing to accept other collateral (such as a cash deposit or an irrevocable bank letter of credit) in substitution for the bond required by this Section 22.

23. NOTICES - Any notice, or request required by this Agreement shall be deemed properly given if mailed, postage prepaid, to Herbbie Bannister, General Manager, Electric and Water Plant Board of the City of Frankfort, 317 W. Second Street, Frankfort, Kentucky 40601. In the case of the Customer, notice should be given to:

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

LEDCOR TECHNICAL SERVICES
Attn: Ledcor Legal Dept.
1200-1067 West Cordova
Vancouver, BC
V6C-1C7
Canada

With a copy to:

COMMONWEALTH OF KENTUCKY
Finance and Administration Cabinet
Office of General Counsel
702 Capitol Avenue
Room 383, Capitol Annex
Frankfort, KY 40601

LEDCOR TECHNICAL SERVICES
Attn: Jan Summarell
188 Columbia Lane E.
Shepherdsville, KY 40165

The designation of the person to be notified, and/or his address may be changed by the Plant Board or Customer at any time, or from time to time, by similar notice.

24. ADJUSTMENTS - Nothing contained herein shall be construed as affecting in any way the right of the Plant Board, and the Plant Board shall at all times, to unilaterally change its rental charges for attachments to poles or other charges as provided by any

rule, regulation, condition, or any other change required. Such change or changes shall constitute an amendment to this Agreement.

25. TERM OF AGREEMENT - This Pole Attachment Agreement shall become effective upon execution by both parties and shall continue in effect for one (1) year, subject to provisions contained in this Agreement and shall automatically renew for successive one (1) year terms unless either party cancels in writing. Upon termination of this Agreement, Customer shall immediately remove its cables, wire, appliances, and all other attachments from all poles of the Plant Board. Unless terminated by either party giving written notice to the other of at least one (1) year prior to the effective date of any termination, this Agreement shall continue from year to year without any notice or action required of either party so long as attachments are maintained by Customer.

26. BINDING EFFECT - Subject to the provisions of Section 18 hereof, this Agreement shall extend to and bind the successors and assigns of the parties hereto.

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

ELECTRIC & WATER PLANT BOARD OF
THE CITY OF FRANKFORT, KENTUCKY

COMMONWEALTH OF KENTUCKY
FINANCE AND ADMINISTRATION
CABINET (CUSTOMER)

BY: 
CHAIRMAN

BY: 

DATE 09/15/15

DATE 9-2-15

_____, 20____

**POLE ATTACHMENT APPLICATION & PERMIT
FRANKFORT ELECTRIC & WATER PLANT BOARD**

APPLICATION:

In accordance with the terms of the pending or existing Pole Attachment Agreement dated _____, 20____, Application is hereby made for permission to make attachments to the following poles:

Location _____
(City, County and State)

NUMBERS	ATTACHMENT TYPE	POLE LOCATIONS & REMARKS

(NAME OF COMPANY) BY _____

(APPLICANT) TITLE _____

PERMIT:

Permit granted _____, 20____, subject to Advancement of the following estimated make-ready-cost of \$ _____ and execution of the Pole Attachment Agreement.

Total Poles Requested on this Permit _____ Frankfort Electric & Water Plant Board

Permit No. _____ BY _____

TITLE _____

UPDATED STATUS OF NUMBER OF POLES ATTACHED

Previous Number of Poles Attached by Company		FRANKFORT ELECTRIC & WATER PLANT BOARD
		BY: _____
Number of Poles Added by this Request		Title: _____
New Total		DATE: _____