

**LICENSE AGREEMENT  
FOR POLE ATTACHMENTS**

THIS AGREEMENT made as of this date June 5, 2017

by and between the Murray Electric System by and through the Electric Plant Board of the City of Murray, hereinafter called the "Licensor", party of the first part, and the Commonwealth of Kentucky, Finance and Administration Cabinet, hereinafter called the "Licensee", party of the second part.

WITNESSETH:

WHEREAS, Licensee will be constructing an open access fiber optic network ("KentuckyWired Network" or "Network") throughout the Commonwealth of Kentucky, including in Licensor's service area; and

WHEREAS, Licensee desires to erect and maintain aerial cables, wires and associated appliances throughout the area to be served and also desires to attach or install such cables, wires and appliances to utility poles of the Licensor; and

WHEREAS, subject in all instances to considerations of Licensor's service requirements including considerations of economy and safety (which requirements, together with its obligations under joint-use agreements with companies or municipalities providing communication service to the public or fire alarm systems shall be paramount to any permits granted hereunder) Licensor is willing to permit the attachment or installation of Licensee's cables, wires, and appliances to Licensor's utility poles, provided the Licensor shall have the absolute right to refuse to issue any permit hereunder whenever the Licensor determines that the issuance of such a permit is unsafe or is otherwise objectionable to the Licensor.

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

**ARTICLE I  
DEFINITIONS**

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

- A. ATTACHMENT is any wire, cable, strand, material or apparatus affixed to a joint use

pole or anchor now or hereafter used by either party in the construction, operation or maintenance of its plant.

- B. CODE means the National Electrical Safety Code, as it may be amended from time to time.
- C. INJURIES include death, personal injury and property damage or destruction.
- D. JOINT USE is maintaining or specifically reserving space for the attachments of parties on the same pole at the same time.
- E. JOINT USE POLE is a pole upon which space is provided under this Agreement for the attachments of both parties.
- F. LICENSEE is the party hereto having the right under this Agreement to make attachments to a joint use pole owned by the other party hereto .
- G. LICENSOR is the party owning the joint use pole and giving the other party the right under this Agreement to make attachments thereto.
- H. POLE or POLES include the singular and plural.
- I. REARRANGING OF ATTACHMENTS is the moving of attachments from one position to another on a joint use pole.
- J. TRANSFERRING OF ATTACHMENTS is the removing of attachments from one pole and placing them upon another pole.
- K. STANDARD JOINT USE OF ATTACHMENT POLE means a 40-foot class 4 treated wood or steel pole which meets the requirements of the Code.
- L. STANDARD SPACE ALLOCATION means an allocation of sufficient space on a joint use pole for the use of each party, taking into consideration the requirements of the Code.

## **ARTICLE II**

### **SCOPE OF AGREEMENT**

(a) Subject to the provisions of this Agreement, the Licensor will issue to Licensee revocable,

nonexclusive permits authorizing the attachment of Licensee's cables, equipment and facilities to Licensor's utility poles. The Licensee shall not attach, install or use such cables, equipment and facilities for any purpose other than for constructing a fiber optic broadband network in said area, and the transmission of other lawful signals in connection therewith.

(b) No use, however-extended, of Licensor's poles and anchors or payment of any fees or charges required under this Agreement shall create or vest in Licensee any ownership or property rights in said poles and anchors. Licensee's rights therein shall be and remain a mere license. Nothing herein contained shall be construed to compel Licensor to construct, retain, extend, place or maintain any facilities not needed for its own service requirements.

(c) It is recognized by the Licensee that the Licensor may in the future enter into agreements and arrangements with others, not parties to this Agreement regarding the poles and anchors covered by this Agreement. Nothing herein contained shall be construed as a limitation, restriction or prohibition against Licensor with respect to such other agreements and arrangements.

(d) The rights of the Licensee shall at all times be subject to any present or future joint-use arrangement between Licensor and any other party regarding use of the facilities covered herein.

### **ARTICLE III SPECIFICATIONS**

(a) Licensee's cables, wires and appliances, in each and every location, shall be erected and maintained in accordance with the requirements and specifications of the latest revision of the National Electrical Safety Code, the latest requirements of the Occupational Safety and Health Act of 1970 and in compliance with any rules or orders now in effect or that may hereafter be issued by the Licensor or other authority having jurisdiction. The location of Licensee's attachments to be made on each pole will be designated by Licensor, in accordance with attached drawing set out as Exhibit "D" attached hereto and made a part hereof. The location of any attachment may be re-designated by the Licensor from time to time; and Licensee shall promptly change Licensee's attachment to the re-designated location. (Licensee shall reimburse Licensor for all costs, including administrative charges and transportation costs incurred while working with Licensee and while working out approvals for initial attachments or rearrangements of attachments.) Licensee agrees that all of its facilities will meet the standards and requirements as set out in Exhibit "D," hereto attached and made a part hereof.

(b) Failure of Licensee to comply with this Article or Exhibit "D" of this Agreement shall constitute a default of this Agreement on the part of Licensee.

## **ARTICLE IV LEGAL AUTHORITY**

(a) Licensee secure any necessary permits and consents from Federal, State, County and Municipal authorities and from the owners of property to construct, maintain and operate facilities at the locations of poles and anchors of Licensor which it uses. To the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, Licensee shall indemnify and reimburse Licensor for all loss and expense which results from claims of governmental bodies, owners of property or others that Licensee has not a sufficient right or authority for placing and maintaining Licensee's facilities on Licensor's poles.

(b) The parties hereto shall at all times observe and comply with all laws, ordinances and regulations which in any manner affect the rights and obligations of the parties hereto under this Agreement, so long as such laws, ordinances or regulations remain in effect; and the provisions of this Agreement shall be subject to all such laws, ordinances and regulations.

## **ARTICLE V APPLICATION REQUIREMENTS**

(a) Before Licensee shall have a right to attach to any pole or anchor of the Licensor, the Licensee shall make application and receive a permit therefor. The "Application for Pole Attachment Permit" shall be in the form of Exhibit "A," hereto attached and made a part hereof. Upon issuing such permit, Licensor agrees that Licensee is permitted to make the attachments thereby covered, subject to the terms and conditions of this Agreement. Licensor reserves the sole right to determine whether or not to issue a permit; and Licensor may consider the adverse effect on any of Licensor's electric facilities including, but not limited to, all questions of economy, safety and future needs of Licensor and any contractual obligation of Licensor to any other public utilities, governmental bodies or other entities, which may be entitled to use of, or control of such pole. If Licensee has failed to make application for existing attachments, Licensor shall at its option have the right to request an application.

(b) Upon Licensor's receipt of Licensee's "Application for Pole Attachment Permit," Exhibit A a representative of the Licensor will check Licensee's design and layout proposal.

(c) If Licensor decides to issue a permit, a "Pole Attachment Permit" in the form of Exhibit "B," hereto' attached and made a part hereof, will be signed and returned to Licensee indicating the Licensee's proposal is acceptable to Licensor within thirty (30) days.

(d) Licensor shall have the right to locate its facilities in whatever manner Licensor determines. No provisions of this Agreement shall be construed to require Licensor to relocate its facilities for the sole benefit of the Licensee.

## **ARTICLE VI**

### **PLACING OR REARRANGING ATTACHMENTS**

(a) Licensor reserves the right to refuse to grant a permit for the attachment to its poles or anchors when Licensor determines, in its judgment, that the space on such pole is required for its exclusive use or that the pole or anchor may not reasonably be rearranged or replaced.

(b) Where Licensor rearranges its facilities to accommodate Licensee, the Licensee shall pay Licensor estimated cost of rearrangement in advance. Upon completion of the rearrangement, the Licensee shall pay the Licensor the excess of actual cost over estimated cost or shall be credited with the excess of estimated over actual cost, if any.

(c) Licensee is prohibited from tampering with, interfering with, removing or relocating any electrical facilities or any pole covered by this Agreement.

(d) The Licensee shall at its own expense and to the satisfaction of the Licensor place guys and anchors to sustain any unbalanced loads caused by the Licensee's attachments. When, in unusual circumstances, the Licensee determines that it is necessary or desirable for it to attach its guy to anchors owned by the Licensor, it may make application to do so in a manner similar to that outlined in ARTICLE V for application to make pole attachments. In such circumstances all the provisions applicable to poles shall also be separately applicable to anchors. In the event that any anchor or guy to which Licensee desires to make attachments is inadequate to support the additional facilities in accordance with the aforesaid specifications, Licensor will notify Licensee of the changes necessary to provide an adequate anchor or guy, together with the estimated cost thereof. Licensee shall pay Licensor estimated cost of making these changes in advance. Upon completion of the changes, the Licensee shall pay the Licensor the excess of actual cost over estimated cost or shall be credited with the excess of estimated over actual cost, if any.

(e) When Licensor is requested by Licensee to install grounds or make connections to Licensor's system neutral, Licensee shall pay Licensor for the actual cost of installing such grounds.

(f) In the event that a request for attachments is made by Licensee and steps are taken by Licensor to carry out the request by performing necessary engineering and administrative work and the job is cancelled causing the job not to be done or completed, the Licensee shall reimburse the Licensor for the actual cost incurred by the Licensor including engineering, clerical and administrative and construction cost.

(g) Licensor reserves the right to inspect each new installation of Licensee on its poles or in the vicinity of its lines or appliances and to make periodic inspections, as plant conditions may warrant; and Licensee shall reimburse Licensor for the expense of such inspections. Inspections will not be made more often than once a year and upon notice to Licensee unless, in Licensor's judgment, such inspections are required for reasons involving safety or are required because of a violation of the terms of this Agreement by Licensee. The making of such inspections or the failure to do so shall not operate to relieve Licensee of any responsibility, obligation or liability assumed under this Agreement.

(h) Licensee shall pay to Licensor all costs incurred by Licensor, including but not limited to administrative and transportation costs, while Licensor is involved with Licensee in working out approvals for initial attachments or rearranging facilities or attachments.

(i) Once Licensee has been issued approval 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 so advise Licensor with a written explanation and notice 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 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.

## **ARTICLE VII**

### **POLE OR ANCHOR REPLACEMENTS**

(a) In the event that any pole of Licensor to which Licensee desires to make attachments is inadequate to support the additional facilities in accordance with the aforesaid specifications, Licensor will notify Licensee of the changes necessary to provide an adequate pole, together with the estimated cost thereof. Licensee shall pay Licensor estimated cost of making the changes in advance. Upon completion of the changes, the Licensee shall pay the Licensor the excess of actual cost over estimated cost or shall be credited with the excess of

estimated over actual cost, if any. Licensee shall also pay in advance the owner or owners of other facilities attached to said poles for any expense incurred by them for rearranging or transferring such facilities.

(b) Should Licensor, another utility, governmental body or other entity, with whom it then has a joint-use agreement, need for its own service requirements the space occupied by Licensee's attachments on any of Licensor's poles or anchors, Licensor will notify Licensee in writing and will include the estimated costs of the changes necessary to provide adequate facilities. Within thirty (30) days after such notice, Licensee shall indicate in writing to Licensor whether it will promptly remove its facilities in order to accommodate Licensor's requirements or whether it desires Licensor to make the necessary changes to provide adequate facilities at Licensee's expense. If Licensee requests Licensor to make changes, Licensee shall pay Licensor estimated cost of making the changes in advance. Upon completion of the changes, the Licensee shall pay the Licensor the excess of actual cost over estimated cost or shall be credited with the excess of estimated over actual cost, if any. Licensee shall also pay in advance the owner or owners of other facilities attached to said pole to be rearranged or replaced for any expense incurred by it or them in rearranging or transferring such facilities to the new pole.

(c) Licensee shall not be entitled to reimbursement of any amounts paid to Licensor for pole or anchor replacements or for the rearrangement of facilities on Licensor's poles or anchors by reason of the use of any of the pole or anchor space so acquired by Licensor or other authorized user.

(d) Whenever it is necessary for Licensor to make pole or anchor replacements or rearrangements in order to accommodate Licensee's cable, equipment and facilities, Licensor will endeavor to perform or have performed such work after issuance of the permit as soon as is practicable considering the service requirements of the Licensor.

## **ARTICLE V, I MAINTENANCE OF FACILITIES**

(a) Licensee shall, at its own expense, make and maintain its pole and anchor attachments in a safe condition, in good repair, and in a manner acceptable to Licensor. Attachments made by Licensee shall not conflict with the use of said poles and anchors by Licensor or by other authorized users of said poles and anchors, or interfere with other facilities thereon or which may from time to time be

placed thereon.

(b) Licensee shall within five (5) business days, at its own expense, upon notice from Licensor, relocate or replace its facilities placed on said poles or anchors, or transfer them to substituted poles or anchors, or perform any other work in connection with said facilities that may be required by Licensor.

(c) In case of emergency, Licensor may relocate or replace Licensee's attachments. Licensee shall pay Licensor the total cost of making emergency rearrangements when billed. Licensor shall give notice to Licensee of its intent to relocate or replace Licensee's attachments in accordance with this provision at soon as it becomes aware of the need to do so.

(d) Any rearrangements of Licensor's facilities or replacement of poles required to accommodate Licensee's attachments shall be done by Licensor at Licensee's expense.

(e) Licensee shall secure necessary permits and trim trees as required for Licensee's facilities.

## **ARTICLE IX**

### **ABANDONMENT AND REMOVAL OF POLES**

(a) If the Licensor desires at any time to abandon any pole to which the Licensee is attached, it shall give the Licensee notice in writing to that effect at least thirty (30) days prior to the date on which it intends to abandon such pole. If, at the expiration of said period, the Licensor shall have no attachments on such pole but the Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of the Licensee, and to the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, the Licensee shall save harmless the Licensor from all obligation, liability, damages, cost, expenses or charges incurred thereafter, because of or arising out of, the presence or condition of such pole or any attachments thereon; and shall pay the Licensor a sum equal to the then value in place of such abandoned pole or poles.

(b) Upon notice from Licensor to Licensee that the system is to be converted from overhead to underground in a specified area and the poles will be removed, the permit covering the use of said poles shall immediately terminate and the cables, wires and appliances of Licensee shall be removed promptly from the affected poles.



(c) Upon notice from Licensor to Licensee that any pole or poles must be removed by reason of any state, municipal or other governmental requirement, or the requirements of a property owner, the permit covering the use of said poles shall immediately terminate and the cables, wires and appliances of Licensee shall be removed promptly from the affected pole or poles.

## **ARTICLE X SPECIAL PROJECTS**

Installations other than those covered specifically by this Agreement shall be considered special projects and shall be negotiable. The design, construction and cost of these jobs shall be decided and agreed upon, based on mutual benefits of both parties; but no such job shall be undertaken without the prior written consent of both parties to this Agreement.

## **ARTICLE XI TERMINATION OF LICENSES**

(a) Licensee may terminate this agreement pursuant to 200 Ky. Admin. Reg. Sec. 5:312.

(b) Upon notice from Licensor to Licensee that the use of any pole or anchor is not authorized by Federal, State, County or Municipal authorities or private property owners, the permit covering the use of such pole or anchor shall immediately terminate and Licensee shall remove its cables, equipment and facilities at once from the affected pole or anchor at Licensee's expense.

(c) Licensee may at any time remove its facilities from any pole or anchor of Licensor, and shall immediately give Licensor written notice of such removal in the form of Exhibit "C," hereto attached and made a part hereof. No refund of any rental will be made for removals. If Licensee surrenders its permit pursuant to the provisions of this Article, but fails to remove its facilities from Licensor's poles or anchors within thirty (30) days thereafter, Licensor shall have the right to remove Licensee's facilities at Licensee's expense and without any liability on the part of Licensor for damage or injury to Licensee's facilities. In the event that Licensee's cables, equipment and facilities shall be removed from any pole or anchor as provided by this article, no attachment shall again be made to such pole or anchor unless Licensee shall have first complied with all of the provisions of this Agreement as though no such attachment had previously been made.

## **ARTICLE XII PAYMENT OF BILLS**

Bills for expense and other charges under this Agreement, except those advance payments specifically covered herein, shall be payable within thirty (30) days after presentation. Nonpayment of any such bill by Licensee shall constitute a default of this Agreement on the part of the Licensee.

### **ARTICLE XIII**

#### **RENTAL PAYMENTS**

(a) The Licensee shall upon receipt of an invoice from Licensor pay the Licensor the current rental rate per year for each pole and each anchor to which any attachment is made. Said rental shall be payable semiannually in advance on the first day of January and the first day of July of each year. The total fee shall be based on the number of poles and anchors to which attachments are being maintained on the first day of December and the first day of June respectively next preceding said payment dates. For the purpose of computing these rental payments, each outstanding permit shall be construed as if the attachment authorized thereby had been made as of the date of the approval thereof by the Licensor even though the attachment has not been made on said date.

(b) No refund of any attachment fee will be paid on account of any termination or surrender of a permit granted hereunder.

(c) At intervals not exceeding five (5) years an actual inventory of attachments shall be made by representatives of both parties. If it is found by such field check that the Licensee has made an attachment to a pole or anchor of the Licensor without the "POLE ATTACHMENT PERMIT" as provided in ARTICLE V, the Licensee shall pay the regular contract rental rate for such attachment for the period since the last field inventory of Licensee's attachments or for the period beginning with the date of this Agreement whichever period shall be the shorter. No refund shall be made for attachments paid for but found by the field check to have been removed without notification.

(d) Billing Address:

Kentucky Wired Project

Attn: Pole Attachment Coordinator

Ledcor Technical Services

2008 Mercer Rd.

Lexington, KY 40511

**ARTICLE XIV**  
**REVISION OF THE RENTAL RATE**

The rental rate shall be established annually by the Licensor after review. Such review may, in the sole discretion of Licensor, involve the use of an appropriate cost-allocation formula chosen by the Licensor, such as the CATV pole rental rate formula recommended by the Tennessee Valley Public Power Association, which is attached hereto as Exhibit "E," it being understood by both parties that Licensor may in its sole discretion, use the formula rate, but is not obligated to do so. Licensor may adjust the rental rate to equal the rate derived from application of the appropriate formula as hereinabove provided, or such other basis as Licensor shall determine whether by formula or otherwise. Any increase or decrease resulting from the adjustment shall be effective on the next rental payment date following notification to the Licensee of the new rental rate. The Licensor is not subject to regulation by the Kentucky Public Service Commission (PSC), and as such is not subject to pole attachments rates or Service Practice Policies as prescribed by that body. The Licensor is subject to regulation by the Tennessee Valley Authority (TVA) and as such shall abide by any rates or Service Practice Policies as prescribed by that body.

**ARTICLE XV**  
**LIABILITY AND DAMAGES**

(a) Licensor reserves to itself, its successors and assigns, the right to maintain its poles and anchors 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 interruption of service of Licensee or for interference with the operation of or for damage to the cables, equipment and facilities of Licensee arising in any manner out of the use of Licensor's poles and anchors.

(b) Licensee shall avoid damaging the facilities of the Licensor and of others occupying Licensor's poles and anchors and to the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, Licensee hereby assumes all responsibility for any and all loss for such damage. Licensee shall make an immediate report to Licensor of the occurrence of any such damage and hereby agrees to reimburse the respective owners for the expense incurred in making repairs.

(c) To the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, Licensee shall indemnify, protect and save harmless Licensor, from and against any and all claims and demands for damages to property and injury to or death of persons, including payments made under any Worker's Compensation Law or under any plan for employees' disability and death benefits, which may arise out

of or be caused by the erection, maintenance, presence, use or removal of Licensee's cable, equipment and facilities or by the proximity of the cables, equipment and facilities of the Licensee to those of Licensor or its other Licensees, or by any act of Licensee on or in the vicinity of Licensor's poles and anchors, or Licensee's breach of any part of this Agreement, regardless of whether or not any such damage to property or injury to or death of persons results from Licensee's negligence. To the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, Licensee shall also indemnify, protect and save harmless Licensor from any and all claims and demands of whatever kind which arise directly or indirectly from the operation of Licensee's facilities including taxes, special charges by others, claims and demands for damages or loss for infringement of copyright, for libel and slander, for unauthorized use of television broadcast programs, and for unauthorized use of other program material, and from and against all claims and demands for infringement of patents with respect to the manufacture, use and operation of Licensee's equipment whether arising from the use of Licensee's equipment in combination with Licensor's poles, anchors or otherwise. Licensee's indemnity obligations hereunder shall extend to and include all costs (including the services of Licensor's regular employees and retained attorneys) incident to the investigation and defense of all claims and demands to which Licensee's indemnity obligations apply.

(d) Licensee's contractors shall carry insurance to protect the parties hereto from and against any and all claims, demands, actions, judgments, costs, expenses and liabilities of every kind and nature which may arise or result, directly or indirectly, from or by reason of any loss, injury or damage described in (c) above. The amounts of such insurance against liability due to damage to property or injury to or death of persons shall be no less than:

1. \$3,000,000.00 for personal or bodily injury to any one person.
2. \$3,000,000.00 for personal or bodily injury in any one automobile accident or occurrence basis if available.
3. \$3,000,000.00 property damage for any one accident, or occurrence basis if available.

Licensee's contractors shall also carry insurance as will protect it from all claims under any Worker's Compensation laws in effect that may be applicable to it. All insurance required shall remain in force for the entire life of this agreement and the company or companies issuing such insurance shall be approved by Licensor. The taking out of such insurance shall not relieve or limit Licensee from its liability to Licensor under this Agreement

but shall only be added security. Licensee's contractors shall submit to Licensor certificates by each company insuring Licensee to the effect that it has insured Licensee for all liability of Licensee under this Agreement and that it will not cancel or change any policy of insurance issued to Licensee except after sixty (60) days' notice to Licensor. All such insurance policies shall provide the Licensor primary protection; and any other similar insurance protection available to the Licensor shall be excess coverage which shall not be used until the full protection from such primary policies has been exhausted.

(e) The Licensee shall have no recourse whatsoever against the Licensor for any loss, cost, expense or damage arising out of any provision or requirement of this Agreement, unless such matter involves a breach by the Licensor of an express provision of this Agreement and the Licensor has failed to remedy such breach within thirty (30) days after the receipt from the Licensee of written notice of the breach and of the Licensee's intention to sue for such breach if it is not corrected.

## **ARTICLE XVI**

### **DUTIES, RESPONSIBILITIES AND EXCULPATION**

Licensor makes no representation as to the condition of the premises or equipment at or near which Licensee will work, the existing poles, equipment or installations, and has and assumes no responsibility to Licensee, its employees, agents, servants, and subcontractors, except to inform Licensee of any hidden defects or dangerous conditions known to Licensor and not known to or ascertainable by Licensee by reasonable inspection.

By executing the contract, Licensee warrants that it has or will fully acquaint itself with the conditions relating to the work it will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.

It is further understood by and between the parties that in the performance of the work performed under this Agreement, the Licensee, its agents, servants, employees, and subcontractors will necessarily be required to work near, about, adjacent to and in the vicinity of energized (hot) lines, transformers, or other equipment of Licensor, and it is the intention that energy therein will not be interrupted during the continuance of this Agreement, except in an emergency endangering life, grave personal injury or property. Licensee is fully and solely responsible for verifying that its employees, servants, agents or

subcontractors shall have the necessary skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of Licensor, and the general public, from harm or injury while performing under this Agreement, and furnishing them with competent supervision and sufficient and adequate tools and equipment, for their work to be performed in a safe manner while the existing equipment of Licensor is energized. Except in an emergency the Licensee shall not de-energize, any of Licensor's system without first obtaining permission so to do from Licensor.

In the event any transformer or line is de-energized at Licensee's request and for its purposes, benefit and convenience in performing a particular segment of any work, Licensee shall be responsible for seeing that all clearances and arrangements for such cutoff of electric service shall conform with all applicable safety rules and regulations and Licensee shall complete the work with all reasonable speed so that service may be restored without unnecessary delay. In the event that Licensee shall unintentionally or accidentally cause an interruption of service, by damaging or interfering with any equipment or facilities or Licensor, Licensee shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting therefrom and shall notify Licensor immediately. To the extent permitted by law, including without limitation Section 177 of the Kentucky Constitution, Licensee shall be solely answerable for any injuries or damages or claims for losses growing out of such interruption or de-energization of Licensor's electric system, to all persons whomsoever, and does hereby indemnify and hold harmless Licensor therefrom.

The Licensee further warrants that it is apprised of, conscious of, and understands the imminent dangers inherent in the work necessary to make installations on Licensor's poles by its personnel, employees, servants, agents and subcontractors, and accepts it as its duty and sole responsibility to notify and inform its personnel, employees, and subcontractors of such dangers, and to keep them informed.

## **ARTICLE XVII**

### **RIGHTS OF OTHER**

### **PARTIES**

Nothing herein contained shall be construed as a grant of any exclusive license, right or privilege to Licensee. Licensor shall have the right to grant, renew and extend rights and privileges to others not parties to this Agreement, by contract or otherwise, to use any poles or anchors covered by this Agreement.

**ARTICLE XVIII**  
**SERVICE OF NOTICES**

Wherever in this Agreement notice is provided to be given by either party hereto to the other, such notice shall be in writing and shall be effective when personally delivered to, or when mailed with postage prepaid and properly addressed to, the Licensor at its office at 401 Olive Street, Murray, Kentucky 42071, or to the Licensee at its office at \_\_\_\_\_, as the case may be, or to such other address as either party may, from time to time, give the other party written directions to use for such notices.

**ARTICLE XIX**  
**TERMINATION OF AGREEMENT**

(a) The Licensee may terminate this agreement pursuant to 200 Ky. Admin. Reg. 5:312.

(b) If either party fails to comply with any of the terms or conditions of this Agreement or defaults on any of its obligations under this Agreement and shall fail within thirty (30) days after written notice from the other to correct such default or noncompliance, the party may, at its option, forthwith terminate this Agreement and all licenses granted hereunder, or the licenses covering the poles or anchors as to which such default or noncompliance shall have occurred.

(b) In addition, the Licensor shall have the right to terminate this entire Agreement, or individual licenses granted hereunder, with thirty (30) days' notice:

(1) If the Licensee's facilities are maintained or used in violation of any law or in aid of any unlawful act or undertaking; or

(2) If any permit or other authorization which may be required by any governmental authority, or from any property owner, for the operation or maintenance of Licensee's cables, equipment and facilities on Licensor's poles or anchors is revoked, denied, or not granted before the date when possession of such permit or authorization becomes a condition of continued operations; or

(3) If Licensee defaults under ARTICLE III.

(c) If the insurance carrier shall at any time notify Licensor that the policy or policies of insurance, as provided under ARTICLE XV hereof, will be cancelled or changed so that the

requirements of ARTICLE XV will no longer be satisfied, then this Agreement shall cease and terminate upon the effective date of such cancellation or change.

## **ARTICLE XX**

### **ASSIGNMENT OF RIGHTS**

(a) Licensee shall not assign or transfer the privileges contained in this Agreement without the prior consent in writing of Licensor. The assignment or transfer by Licensee of such privileges without written consent of Licensor, shall constitute a default of Licensee's obligations and, notwithstanding any other provisions of the Agreement, Licensor may at its option forthwith terminate this Agreement or any license issued hereunder. Where control of Licensee is transferred, whether by sale of stock or otherwise, Licensee shall promptly notify Licensor in writing. Failure of Licensee to give such notice shall be cause for termination of this Agreement, at the option of Licensor, as provided hereinabove in this paragraph.

(b) Subject to the provisions of paragraph (a) hereof, this Agreement shall extend to and bind the successors and assigns of the parties hereto.

## **ARTICLE XXI**

### **WAIVER OF TERMS AND CONDITIONS**

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

## **ARTICLE XXII**

### **SUPPLEMENTAL ROUTINES AND PRACTICES**

Nothing in the foregoing shall preclude the parties to this Agreement from preparing such supplemental operating routines or working practices as they mutually agree to be necessary or desirable to effectively administer the provisions of this Agreement, but all such supplemental agreements shall be in writing signed by both parties hereto.



## **ARTICLE XXIII**

### **TERM OF AGREEMENT**

This Agreement shall become effective upon its execution and shall terminate on December 31, 2017. The Parties will enter into and execute a new pole attachment agreement ("Second Agreement") by December 15, 2017. The Second Agreement shall become effective on January 1, 2018 and if not terminated in accordance with other provisions of this Agreement, shall continue in effect for a term of 10 years. Either party may terminate this Agreement at the end of the 10 year term by giving to the other party written notice of an intention to terminate the Agreement at least six (6) months prior to the end of the said term; but, upon failure to give such notice, this Agreement shall continue in force upon the same terms and conditions for a further term of one (1) year, and for one (1) year periods thereafter, until terminated by either party at the end of any current term by giving to the other party written notice of an intention so to terminate the Agreement at least six (6) months prior to the end of such term. If the Second Agreement is not effective by January 1, 2018, the Parties agree to extend the term of the Agreement for a one year period, with one year extensions thereafter until the Second Agreement is signed by the Licensor and Licensee. Upon termination of the Agreement in accordance with any of its terms, all outstanding licenses shall terminate and shall be surrendered and Licensee shall immediately begin to remove its cables, equipment and facilities from all poles and anchors of Licensor, and Licensee shall complete such removal within six (6) months next following the termination date. Despite any such termination the Licensee shall pay the rental payments provided herein until all attachments are removed. If not so removed, Licensor shall have the right to remove Licensee's cable, equipment and facilities at the cost and expense of Licensee and without any liability therefor; and Licensee shall be conclusively presumed to have abandoned all such cable, equipment and facilities not so removed by the Licensee, so that Licensor may dispose of the same in any manner Licensor wishes to use. Even after the termination of this Agreement, the Licensee's responsibility and indemnity obligations shall continue until all of Licensee's cable, equipment and facilities have been removed from Licensor's facilities.

## **ARTICLE XXIV**

### **DETERMINATION OF CHARGES TO LICENSEE**

Wherever this Agreement provides for the Licensee to pay for work done by Licensor, the charge for such work shall include all material, labor, engineering and administrative costs and applicable overheads which overheads shall include but not be limited to stores expense, wage allowance, insurance, transportation and

and printing expense. Licensor will credit Licensee for any salvage.

**ARTICLE XXV**

**INTENTIONALLY LEFT BLANK.**

**ARTICLE XXVI**

**ELECTRICAL SERVICE TO LICENSEE**

Electrical service to Licensee shall be provided according to standard practices by the Licensor and shall be covered under a separate agreement.

**ARTICLE XXVII**

**VENUE**

Venue for all legal actions relating to this agreement shall be in the Franklin Circuit Court, Frankfort, Franklin County.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate on the day and year first above written, each party hereto retaining an executed copy hereof.

c. *[Signature]*  
ATTEST: *[Signature]*

Murray Electric System

Date June 5, 2017

*[Signature]*  
ATTEST:

LICENSEE:

6-15-2017

Date

**APPROVED AS TO  
FORM & LEGALITY**

*[Signature]*  
**APPROVED  
FINANCE & ADMINISTRATION CABINET**

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Taxes "  $\frac{\text{Total Taxes (TVA ReEort P.4-}}{\text{Gross Plant (TVA Report P.I)}} \times 100$   
Depreciation - Depr. Rate (Acct. 364 - TVA Report P.II)  
eEort P.4) . . . . .  
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EXHIBIT "A"

\_\_\_\_\_, 19\_\_\_\_

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 Licensee

Dear Sir:

In accordance with the terms and conditions of our agreement,  
dated \_\_\_\_\_, 19\_\_\_\_, please cancel from your records the  
following poles and/or anchors covered by Permit No. \_\_\_\_\_  
from which Licensee's attachments were removed on \_\_\_\_\_, 19\_\_\_\_.

Quantity: Poles \_\_\_\_\_ Anchors \_\_\_\_\_

Location: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Yours truly,

Notice No. \_\_\_\_\_

\_\_\_\_\_  
(Name of Licensee)

By \_\_\_\_\_

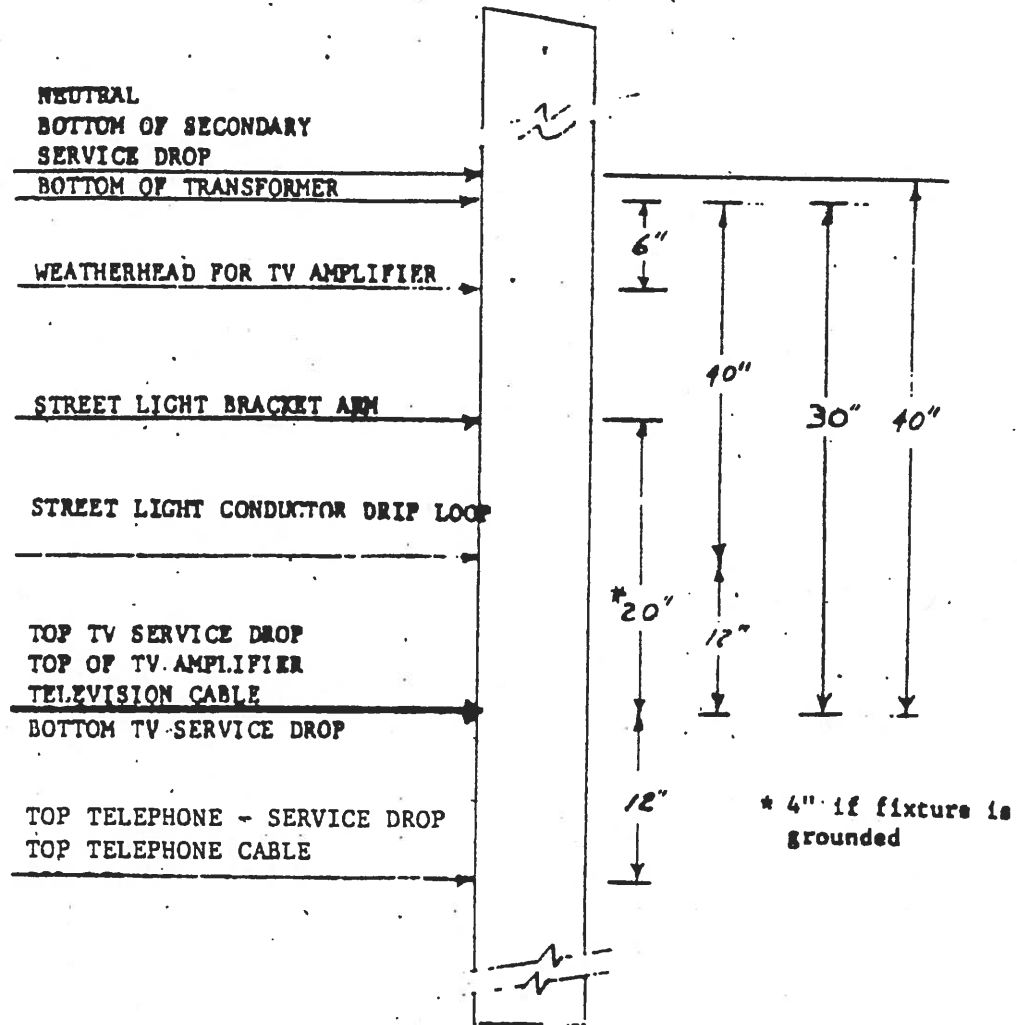
Title \_\_\_\_\_

Notice Acknowledged

\_\_\_\_\_, 19\_\_\_\_

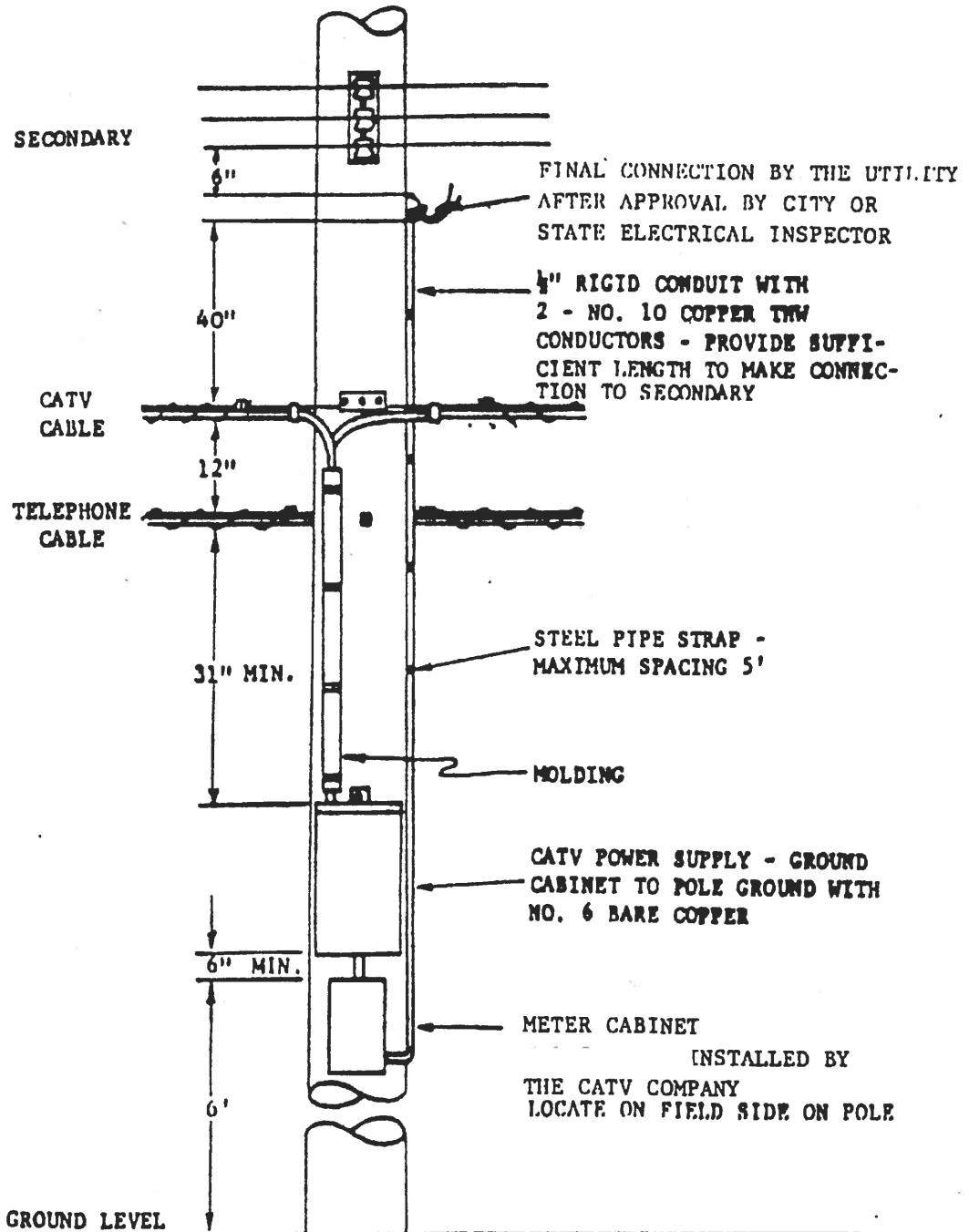
By \_\_\_\_\_

Title \_\_\_\_\_



NOTES:

1. ALL DIMENSIONS ARE MINIMUM.
2. TV SERVICE DROPS SHALL BE SO ARRANGED AND COORDINATED WITH SCBT SERVICE DROPS TO MAINTAIN A 3' X 3' CLIMBING AREA THRU THE COMMUNICATION LINES.
3. TV AMPLIFIER SHALL NOT BE LOCATED ON ANY POLE WITH DISCONNECT SWITCH, CAPACITOR BANK, RECLOSER, RISER OR OTHER SPECIAL EQUIPMENT.
4. TV CABLE SHALL BE GROUNDED TO POLE GROUND AT FIRST, LAST AND EVERY TENTH POLE.



THIS INSTALLATION SHALL BE LOCATED ON A POLE APPROVED IN WRITING BY THE UTILITY.



Exhibit "E"

FORMULAS FOR CATV POLE RENTAL RATE RECOMMENDED BY THE TVPPA URBAN JOINT USE COMMITTEE:

1. Formula, Statement Form:

$$\text{CATV Cost} = \frac{\text{CATV Allocated Space} + \frac{\text{Safety Space}}{\text{Number of Communication Companies}} + \frac{\text{Unallocated Space}}{\text{Total Number of Joint Users}}}{\text{Length of a Normal Joint Use Pole}} \times \text{Annual Costs of a Normal Joint Use Pole}$$

(See Page 2)

2. Formula for Two Party Pole:

$$\text{CATV Cost} = \frac{1 + \frac{3.33}{2} + \frac{29.67}{40}}{40} \times \text{Annual Costs} = 0.48 \times \text{Annual Costs}$$

3. Formula for Three Party Pole:

$$\text{CATV Cost} = \frac{1 + \frac{3.33}{3} + \frac{25.67}{40}}{40} \times \text{Annual Costs} = 0.28 \times \text{Annual Costs}$$

DEFINITIONS OF FORMULA ITEMS:

1. Normal Joint Use Pole = 40'
2. CATV Allocated Space = 1'
3. Safety Space = 40" = 3.33'
4. Unallocated Space:
  - 2 party pole (CATV & Electric) = 29.67' (23.67' above ground & 6' below ground)
  - 3 party pole = 25.67' (19.67' above ground & 6' below ground)
5. Telephone Allocated Space = 4'

Annual Costs of a Normal Joint Use Pole =  $\frac{\text{Annual Costs in Percent of Operations and Maintenance, Taxes, Depreciation, Interest \& Administrative Expense}}{\text{Average Installed Costs of all 40 Foot Poles}} \times 100$

Annual Costs in Percent Include:

(Numbers are in Distributor's Annual Report to TVA)

$$O \& M = \frac{O\&M (Acct. 583 \& 593 - TVA Report P. 5 \& 6)}{Dstb. Plant (Acct. 364 \& 365 - TVA Report P-9)} \times 100$$

$$Taxes = \frac{\text{Total Taxes (TVA Report P.4)}}{\text{Gross Plant (TVA Report P.1)}} \times 100$$

$$\text{Depreciation} = \text{Depr. Rate (Acct. 364 - TVA Report P.11)}$$

$$\text{Interest} = \frac{\text{Int. Paid (TVA Report P.4)}}{\text{Total Debt. (TVA Report P.2)}} \times 100$$

Administrative Expense = To be determined by each Distributor