

POLE ATTACHMENT LICENSE AGREEMENT

This POLE ATTACHMENT LICENSE AGREEMENT (this “**Agreement**”) is entered into as of MONTH, __, YEAR (the “**Effective Date**”) and made by and between SOUTH UTAH VALLEY ELECTRIC SERVICE DISTRICT (“SESD”), an electrical service district established under the laws of the State of Utah and _____, with its principal place of business at _____ (“**LICENSEE**”). SESD and Licensee are collectively referred to herein as the “**Parties**”, and each as, a “**Party**”.

RECITALS

A. SESD owns, operates and maintains certain distribution and transmission utility poles (“**Poles**”) and facilities located in the City of _____, County of _____, State of Utah.

B. LICENSEE is a [telecommunications provider providing internet and telephone services] [or municipality] within City of _____, County of _____, State of Utah.

C. LICENSEE desires to place its cables, appliances, equipment and facilities, (hereinafter collectively called “**Attachments**”) on SESD’s Poles.

D. SESD is willing to permit the Attachments to its Poles for the purpose of permitting LICENSEE to provide telephone and internet services, and such other lawful services as LICENSEE is authorized to provide under applicable law, where such Attachments will not interfere with SESD’s use or other user’s service requirements, subject to the terms and provisions hereinafter set forth

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants provided in this Agreement, the Parties agree as follows:

ARTICLE I SCOPE OF AGREEMENT

Section 1.1. Property Subject to Agreement. Subject to the provisions of this Agreement, SESD, hereby grants permission to LICENSEE to attach LICENSEE’s Attachment’s on SESD’s Poles. The licensee includes the right for the LICENSEE’s continued placement and maintenance of LICENSEE’s Attachments previously attached to SESD’s Poles.

Section 1.2. Non-exclusive license. This Agreement is non-exclusive and is subject to existing licenses already existing on City Property

Section 1.3. Use.

(a) Other than the rights granted under this Agreement, (1) no use of the SESD Property by LICENSEE or payments of any License Fee amount or other charges required under this Agreement shall create or vest LICENSEE in any easements or other ownership of property rights of any nature in the SESD Property, and (2) this Agreement shall not constitute an assignment of any of SESD’s rights to use the public or private property upon which the SESD Property is located. Additionally, LICENSEE acknowledges that this Agreement does not constitute or create a leasehold interest in or right to the benefit from any SESD Property or portion thereof.

(b) No use of SESD’s Poles or payment of any fees or charges required under the Agreement shall vest in LICENSEE any property rights in said Poles or SESD property. LICENSEE

shall have a mere license to place its Attachments on the Poles. SESD is not required to construct, retain, extend, place or maintain any Poles or other facilities not needed for its own service requirements.

Section 1.4. Wireless telecommunications facilities. LICENSEE shall at no time install any wireless telecommunications facilities or wireless antennas unless it first obtains the necessary SESD approvals and permits in accordance with local laws, or any other applicable state and federal ordinances and regulations.

Section 1.5. Pole Count. LICENSEE shall provide a strand map of its Facilities on SESD Property that identify each Pole location where LICENSEE has, or intends to have, Facilities and the number of Poles LICENSEE occupies. LICENSEE shall provide an updated map from time to time as reasonably requested by SESD.

ARTICLE II TERM OF AGREEMENT

Section 2.1. This Agreement shall be for a term of _____ (__) years, and thereafter from year to year unless terminated by either party by giving written notice of its intention so to do not less than sixty (60) days prior to the end of any period, provided, however, if the LICENSEE shall fail to commence construction on the poles of SESD within the period of one hundred eighty (180) days after the date of execution of this Agreement, then this Agreement shall be null and void, and of no further force and effect. Upon termination of this Agreement, LICENSEE shall remove its Attachments from the poles of SESD within one hundred eighty (180) days after the effective date of such termination. Should the LICENSEE fail to comply, SESD may elect to do such work and the LICENSEE shall pay SESD the reasonable actual cost. The commencement date shall be the first day of the month following the Effective Date of this Agreement.

ARTICLE III ANNUAL LICENSE FEES

Section 3.1. Annual License Fee Amount. LICENSEE shall pay to the SESD an annual license fee in the amount of _____ (\$_____) per Pole (the aggregate amount, the “**Annual License Fee**”). The Annual License Fee shall be due and payable annually in advance upon each anniversary of the Effective Date. SESD shall invoice LICENSEE for the payment of the Annual License Fee at least 30 days prior to the due date. LICENSEE’s failure to make timely payments of any undisputed Annual License Fee in accordance with this Agreement shall constitute a material breach of the Agreement. The Annual License Fee shall not result in a subsidy to LICENSEE. The Annual License Fee paid hereunder shall be non-refundable except in the event LICENSEE is forced to pay any disputed Annual License Fee that is determined to be an over-charge.

Section 3.2. Annual Increases. The Annual License Fee or any other fee or charge set forth in this Agreement may be, at SESD’s discretion, increased in an amount not exceed more than a __3%__ percent (__3__%) increase annually, at intervals of no more than once annually. Upon the increase of such fee or fees, SESD shall notify LICENSEE accordingly. The revised rate will apply to all Attachments existing on December 31st of the year in which notice is given and will continue to apply to all existing and future Attachments, unless further revised

ARTICLE IV APPLICATION FOR PERMIT AND NOTIFICATION OF ATTACHMENTS

Section 4.1. Before making attachment to any of SESD’s Poles, LICENSEE shall make application to SESD, specifying the location of each pole on the form attached hereto as Exhibit A. The notice shall specify the date of placement, the type of placement, and the pole upon which the drop was placed. Within thirty (30) days after receipt of the application, SESD shall return to LICENSEE said

application indicating thereon whether or not it is willing to permit the joint use of poles, and if so, under what condition(s). The failure of SESD to respond within thirty (30) days does not constitute an approval of an application. Notwithstanding the foregoing, LICENSEE shall not be required to make application for poles upon which LICENSEE is currently attached.

Section 4.2. SESD shall have the sole right to determine the availability of such poles for joint use and shall be under no obligation to grant permission for LICENSEE's use of the poles. LICENSEE shall have the right to occupy the space allotted by SESD under the conditions and in accordance with the terms of this Agreement. LICENSEE shall remit initial payment upon receipt of SESD's approval for the Attachment. The initial payment shall be the applicable annual per pole sum calculated under Article 3 above.

Section 4.3. Subject to the other terms and conditions of this Agreement, after making attachment to Poles of SESD, LICENSEE shall notify SESD of the location and date of each Attachment, as set forth on the Notification of Attachment by LICENSEE Form attached hereto as Exhibit B.

Section 4.4. All poles jointly used under this Agreement shall remain the property of SESD, and any payments made by the LICENSEE for changes in pole lines under this Agreement shall not entitle the LICENSEE to ownership of any of said poles, lines, or other equipment or materials attached thereto.

Section 4.5. SESD reserves the right to exclude any of its facilities from joint use

ARTICLE V SPECIFICATIONS

Section 5.1. LICENSEE's Attachments on SESD's poles shall be placed and maintained in accordance with SESD specifications, provisions of the latest available edition of the National Electric Code and the National Electrical Safety Code, and all subsequent amendments or revisions of said codes, shall meet SESD'S construction standards, and be in compliance with any applicable rules, orders, regulations, ordinances and laws now in effect or that hereafter may be lawfully adopted or enacted by SESD, any Federal, State, local or other governmental agency, or other authority having jurisdiction, and the reasonable rules and practices of SESD set forth in this Agreement. In the event the two national codes conflict, SESD shall have the right to designate which standards shall be met.

Section 5.2. It is understood and agreed between the parties that the rules and practices set out in this Agreement may be changed by SESD, or new rules and practices may be adopted by SESD, upon sixty (60) days notice to LICENSEE, relating to supplementing or amending this Agreement, and LICENSEE agrees to be bound by any such change or adoption subject to the notice provisions of Section 21.1 on a going- forward basis.

Section 5.3. In the event that SESD should change or adopt a rule or practice, or rules and practices, for the joint use of poles by LICENSEE, SESD shall give LICENSEE written notice of such change or adoption in the manner contemplated by Section 21.1 and LICENSEE agrees to make such changes or alterations in its installations or maintenance of its facilities as may be required in order to fully comply with the provisions of such notice. In the absence of a contrary provision in said notice, LICENSEE agrees to make all required changes or alterations within thirty (30) days after receipt.

Section 5.4. No tag, brand, or other device showing LICENSEE's name or insignia shall be placed on, or attached to, any pole of SESD, except such tag or insignia which shows LICENSEE to be the LICENSEE or lessee of such pole and not the owner thereof, and then only after obtaining the written consent of SESD.

Section 5.5. The strength of poles covered by this Agreement shall be sufficient to withstand the transverse and vertical loads imposed upon them under the storm loadings of the National Electrical Safety Code assumed for the area in which they are located by considering the combined loadings of the proposed attachment, as presented by LICENSEE, together with existing loads of SESD. SESD reserves the right to deny LICENSEE's application if the strength of the poles is insufficient to support the combined loadings of the proposed attachment and the existing loads of SESD. LICENSEE shall have the duty to establish that the strength of the poles is sufficient, as set forth in Section ___.

Section 5.6. Any unbalanced loading of SESD's poles caused by the placement of LICENSEE's Attachment shall be properly guyed and anchored by LICENSEE, at no expense or liability to SESD.

ARTICLE VI PLACING AND MAINTAINING ATTACHMENTS

Section 6.1. LICENSEE shall, at its own expense, place and maintain its Attachments in a safe condition and thorough repair, and in a manner as required by this Agreement so as not to conflict with the use of poles by SESD or other users, or interfere with the construction, operation, maintenance, or removal of facilities thereon. LICENSEE shall take all necessary precautions, by the installation of protective equipment or other means, to protect all persons and property against injury or damages occurring by reason of LICENSEE's Attachments on SESD's poles.

Section 6.2. LICENSEE shall, within sixty (60) days, at its own expense, upon written notice from SESD, relocate, remove, or renew its Attachments placed on the poles, and transfer them to substitute poles, or perform any other work in connection with the facilities that may be reasonably required by SESD in accordance with the terms of this Agreement. In the case of an emergency, SESD may arrange to relocate, replace or remove the Attachments placed on the poles by LICENSEE, transfer them to substitute poles, or perform other work in connection with the Attachments that may be required for the maintenance, removal, replacement, or relocation of its poles, the Attachments to the poles, or the service needs of SESD. LICENSEE shall, on demand, reimburse SESD for the reasonable expenses so incurred.

Section 6.3. LICENSEE shall furnish SESD detailed construction plans and drawings for each pole line, together with necessary maps, indicating specifically the poles of SESD to be used jointly, the number and character of the Attachments to be placed on such poles, any rearrangement of SESD's fixtures and equipment necessary for joint use, any over lashing to be undertaken, any relocations or replacements of existing poles, and any additional poles which may be required. In addition, LICENSEE shall submit a report from a licensed professional engineer certifying that the design and construction plans and drawings described above comply with NESC standards, including certifying that the poles can support the load contemplated by the LICENSEE and the existing load of SESD. SESD shall, review and approve the design and construction plans and the engineering report submitted by the Licensee. SESD reserves the right, in its sole discretion, to reject any reports or plans that do not meet SESD's requirements or request additional information or changes to the reports to make the same acceptable. SESD may reject a LICENSEE application for pole attachment for any reason, including failure to provide detailed plans and drawings that do not demonstrate attachments meet SESD requirements or specifications.

Section 6.4. LICENSEE shall not place any additional equipment or change the position of any of its Attachments upon any pole used by it hereunder without first making application therefore and receiving SESD'S approval so to do, all as prescribed in Article IV hereof.

ARTICLE VII ALTERATIONS FOR LICENSEE'S ATTACHMENTS

Section 7.1. In the event that any pole of SESD to which LICENSEE desires to make Attachments, in the judgment of SESD, requires rearrangement to support, or accommodate the additional Attachments of LICENSEE, SESD shall indicate, on Exhibit A, the changes it believes are necessary to provide adequate pole space and the estimated costs to LICENSEE. LICENSEE agrees to pay SESD the cost of replacing any pole that is inadequate to accommodate LICENSEE's Attachments, as well as the cost of transferring SESD'S Attachments from the old to the replacement poles. LICENSEE also agrees to pay SESD the cost of rearranging Attachments on an existing pole to accommodate LICENSEE's Attachments, including the cost of strengthening or guying. LICENSEE also agrees to pay the owner or owners of other Attachments on said poles the cost of transferring or rearranging such Attachments to accommodate LICENSEE'S Attachments. LICENSEE shall agree with other owners of facilities attached to said poles as to the reasonable payment to be made to such owners. SESD is not required to rearrange existing attachments, or to replace any pole to accommodate LICENSEE ATTACHMENTS. SESD may deny the LICENCEE's application to attach to any pole or poles in its sole discretion.

Section 7.2. In the event SESD determines that it will install a new pole in order to provide space or strength or height to accommodate LICENSEE's Attachments, LICENSEE shall bear the cost of pole removal and SESD's costs of acquiring and installing the new pole. The new pole shall be the property of SESD regardless of any payments by LICENSEE toward its costs and LICENSEE shall acquire no right, title or interest in such pole.

Section 7.3. Because SESD provides an essential service to the public, it reserves the right to make periodic inspections of LICENSEE's Attachments to make certain that there is no impairment to its ability to provide electricity to its customers and LICENSEE shall pay SESD the reasonable costs of such inspections, provided that SESD shall not make such inspections more often than once every three (3) years and shall provide written notice to LICENSEE of the periodic inspection unless, in SESD's reasonable judgment, such inspections are required for reasons involving safety, maintenance of service, or where SESD reasonably believes LICENSEE is violating the terms of this Agreement. The making of such inspections, or the failure to do so, shall not relieve LICENSEE of any responsibility, obligation, or liability assumed under this Agreement.

Section 7.4. If LICENSEE's Attachments are found on a pole for which no permit has been obtained, SESD may remove such attachments or impose a charge as condition to such Attachments remaining on the pole. If LICENSEE fails to pay the charge, SESD may remove the Attachments. The expense of removal by SESD shall be borne by LICENSEE. For the purpose of determining the charge, an unauthorized attachment shall be treated as having existed for a period of three (3) years prior to its discovery; and the charge, computed at the applicable yearly rate per pole at the time of discovery, shall be due and payable immediately. Any such charge imposed by SESD shall be in addition to its rights to any other sums due and payable and to any claims or damages under this Agreement or otherwise. Notwithstanding the above, LICENSEE shall not be responsible for payment of any unauthorized Attachments unless the total number of Attachments found during a periodic inspection exceed in the number of Attachments indicated in Article 4(b).

ARTICLE VIII SESD'S RIGHTS AND SERVICE RESPONSIBILITIES

Section 8.1. SESD reserves to itself, its successors and assigns, the right to maintain its poles and to operate its facilities thereon in such a manner as will best enable it to fulfill its own service requirements and responsibilities. SESD shall not be liable to LICENSEE for any interruption to service of LICENSEE or for interference with the operation of the Attachments of LICENSEE arising in any manner out of the use of SESD's poles. Nothing in this Agreement shall be construed to obligate SESD to grant LICENSEE permission to use any particular pole or poles.

ARTICLE IX RIGHTS-OF-WAY AND PERMITS FOR LICENSEE'S ATTACHMENTS

Section 9.1. Subject to applicable law, nothing in this Agreement shall be construed as a warranty or guarantee of permission from owners of private property, municipal or other governmental authorities, or other users, for LICENSEE to place or maintain its Attachments upon the poles of SESD. Where required to do so, LICENSEE shall secure any required consents, permits, or other appropriate authorization from such owners, users, or governmental authorities and upon written request of SESD shall furnish to SESD evidence of the procurement of such authorizations.

Section 9.2. Upon written notice from SESD to LICENSEE that the use of any pole is prohibited by municipal authorities or property owners, the permit covering the use of such pole shall immediately terminate and LICENSEE's Attachments shall be removed.

ARTICLE X LIABILITY AND DAMAGE RESPONSIBILITIES

Section 10.1. LICENSEE shall exercise all reasonable precautions to avoid damage to facilities of SESD and other authorized users of SESD'S poles and hereby assumes all responsibilities and liabilities for any and all loss for such damage caused by LICENSEE or by any of its employees or agents.

Section 10.2. Throughout the term of this Agreement, LICENSEE shall maintain in full force and effect with a carrier or carriers selected by LICENSEE, and satisfactory to SESD, the following insurance:

(a) Worker's compensation insurance in compliance with the laws of the State of Utah;

(b) Bodily injury liability insurance, with limits of not less than \$500,000 as to any one person and \$2,000,000 as to any one accident or occurrence;

(c) Property damage liability insurance with limits of not less than \$500,000 for damage to the property of any one person and \$1,000,000 for each accident or occurrence; and

(d) An umbrella policy in favor of the SESD in the amount of \$2,000,000.

The insurance described above also shall provide contractual liability coverage satisfactory to SESD with respect to liability assumed by LICENSEE under Article 11. SESD, its affiliates, subsidiaries, and parent, as well as the officers, directors, employees and agents of all such entities shall be named as an additional insured with respect to bodily injury and property damage insurance. Within sixty (60) days of the Effective Date of this Agreement, LICENSEE shall submit to SESD certificates of insurance by each insurance carrier addressed to SESD showing the effectiveness of insurance in accordance with this Agreement and containing a provision that the insurance carrier will not cancel or change any policy of insurance issued pursuant to this Agreement except by written notice to SESD served by certified mail stating the effective date of the cancellation or change, which effective date of cancellation or change shall not be less than thirty (30) days after receipt of such notice by SESD. LICENSEE's compliance with its obligations under this Article X will not relieve SESD of any liability under this Agreement or in any way modify LICENSEE's obligations under this Agreement to indemnify, defend and hold SESD harmless.

ARTICLE XI REMOVAL AND RELOCATION

Section 11.1. SESD reserves the right to remove, reconstruct, alter, reconfigure or relocate any Pole, as SESD may elect in its sole discretion. SESD shall notify LICENSEE in writing if such actions are proposed.

Section 11.2. Upon notice from SESD to LICENSEE that the use of any pole or poles by LICENSEE is unauthorized or illegal, the permit insofar as it covers the use of such pole or poles shall immediately terminate and LICENSEE shall remove its Attachments from such pole or poles.

Section 11.3. In the event that SESD elects to remove any Pole without eliminating SESD's above-ground utility distribution network within the immediate vicinity of that Pole, LICENSEE shall remove LICENSEE's Attachment and relocate it at LICENSEE's sole cost and expense to another Pole. In such event, should any third party pay all or any part of the costs of relocating the Parties' respective facilities, LICENSEE would be paid an equitable portion of such payment or, if any third party is requesting a pole change out or other rearrangement of Attachments causing LICENSEE to incur make-ready costs, such third party would be required to reimburse LICENSEE. SESD shall provide a reasonable time for LICENSEE to complete said work and LICENSEE shall meet SESD's project schedule. In the event LICENSEE fails to fulfill its obligations, SESD shall provide notice to LICENSEE or its authorized representative giving LICENSEE an additional ten (10) days to complete the work, otherwise SESD, at its reasonable discretion and without liability, may remove LICENSEE's Attachments from the affected Poles and LICENSEE shall reimburse SESD for all costs associated with such removal.

Section 11.4. If any or all of the SESD'S Poles covered by this Agreement becomes part of an underground conversion project in the future, SESD shall provide a reasonable time for LICENSEE to remove its Attachments. LICENSEE shall meet SESD's project schedule.

Section 11.5. LICENSEE may, at any time, remove its Attachments from a pole or poles of SESD and shall give SESD written notice of such removal in the form of Exhibit C.

ARTICLE XII RISK OF LOSS

Section 12.1. LICENSEE assumes all risk and responsibility for all loss and expense whatsoever incurred by SESD resulting from damages to SESD facilities or the associated equipment of SESD, or the premises surrounding any SESD facilities, caused by LICENSEE's use of SESD facilities or otherwise arising in connection with the exercise of the rights of LICENSEE under this Agreement. LICENSEE must immediately report to SESD the occurrence of any damage or loss.

ARTICLE XIII INDEMNIFICATION

Section 13.1. LICENSEE will indemnify, defend and hold harmless SESD, its agents, officers, employees and assigns, from any and all losses, damages, costs, expenses (including, without limitation, reasonable attorneys' fees), statutory fines or penalties, actions, damage to property, or other damage to the extent caused by any act or omission by LICENSEE's employees, agents, or contractors (including, without limitation, the installation, construction, operation or maintenance of each party's facilities). LICENSEE will further indemnify SESD from taxes and fees that may be levied by municipalities or other governmental entities as a result of the presence of LICENSEE's Attachments on SESD's Poles, including but not limited to taxes or fees related to use of public rights-of-way, in association with this Agreement. The indemnification, hold harmless and defense obligations set forth below in this Section 13: (a) are in addition to any other such obligations set forth elsewhere in this Agreement; and (b) will survive the expiration or termination of this Agreement, or the revocation of any applicable license.

Section 13.2. Any and all liability for injury to or death of any person (including employees of the parties hereto) and for loss or destruction of or damage to any property (including property of the parties hereto) arising out of or in any way connected with the installation, maintenance, use, relocation, dismantling, abandonment, or removal of any Pole or the Attachments hereto, or the failure of either party hereto to observe and perform any obligation hereunder shall be borne by the parties hereto as follows:

(a) Notwithstanding any provision to the contrary contained in this Agreement, if an employee of either party to this Agreement is injured or killed due, in whole or in any part, to the fault of the employer or the injured or deceased employee, or both, the party that is the employer will be solely liable for any and all damages arising out of, or in any way relating to, such injury or death.

(b) Notwithstanding any provision to the contrary contained in the Agreement, if an employee of a contractor of either party to this Agreement is injured or killed due, in whole or in any part, to the fault of the contractor or the injured or deceased employee of the contractor, or both, the party that engaged the contractor will be solely liable for any and all damages resulting from any claims arising out of, or in any way relating to, such injury or death. Further, the party that engaged the contractor will indemnify the other party for 100% of the damages resulting from any claim arising out of, or in any way relating to, such injury or death which is due, in whole or in any part, to the fault of the contractor or the injured or deceased employee, or both.

(c) Notwithstanding any provision to the contrary contained in the Agreement, if an employee of a subcontractor of either party to this Agreement is injured or killed due, in whole or in any part, to the fault of the subcontractor or the injured or deceased employee of the subcontractor, or both, the party on behalf of which the subcontractor was engaged will be solely liable for any and all damages resulting from any claims arising out of, or in any way relating to, such injury or death. Further, the party on behalf of which the subcontractor was engaged will indemnify the other party for 100% of the damages resulting from any claim arising out of, or in any way relating to, such injury or death which is due, in whole or in any part, to the fault of the subcontractor or the injured or deceased employee, or both.

(d) Subject to 13.2a- 13.2c, above, any such liability caused by the sole negligence of one of the parties hereto, or caused solely by the failure of one of the parties hereto to observe and perform any obligation hereunder, shall be borne by such party; and such party shall defend, indemnify and hold harmless the other party hereto against such liability.

(e) Subject to 13.2a- 13.2e, above, any such liability caused by the joint or concurrent negligence of both parties hereto or by the joint or concurrent failure of both parties hereto to observe or perform any obligation hereunder, shall be borne equally by such parties, except that each such party shall assume all risk of loss or destruction or damage to its property.

(f) Any other such liability shall be borne equally by the parties involved in the event or occurrence creating such liability, except that each such party shall assume all risk of loss or destruction or damage to its property.

Section 13.3. In the adjustment of any such claim of liability, the liability assumed by such parties under paragraph 13.2a- 13.2f of this Article shall include, in addition to the amounts paid to the claimant, all Costs incurred by such parties in connection therewith, which shall comprise costs, attorney's fees, disbursements and other proper charges and expenditures.

Section 13.4. If either party hereto, as the result of any such claim of liability, should be compelled to pay damages in consequence thereof to a greater extent than specified in this Article, such

party shall have, to the extent of the excess as paid by it, the right of reimbursement from the other party affected by such claim.

Section 13.5. In addition to the other indemnification, hold harmless and defense obligations set forth above in this Article and any other such obligations set forth elsewhere in this Agreement; LICENSEE shall indemnify, defend and hold harmless SESD, its affiliates, employees directors, officers, agents and contractors, from and against all third party actions, claims, demands, causes of actions, damages, liens, liabilities, losses, and expenses (including reasonable attorneys' fees) to the extent arising from or relating to a claim by an end user or the customer of the end user arising from or relating to this Agreement.

Section 13.6. When a party becomes aware of a claim, demand or suit that is subject to the provisions of Section 13.2, or any other claim, demand or suit related to indemnity, duty to defend or hold harmless provisions stated elsewhere in this Agreement (each a "**Claim**"), the party to be indemnified, defended or held harmless ("**Indemnified Party**") must promptly give notice of the Claim to the other party ("**Indemnifying Party**"), accompanied by a copy of any written documentation regarding the matter, including copies of accident reports, petitions, summons, complaints and statements. The Indemnifying Party will defend such Claim with its own counsel and at its own expense, and has the right to control the settlement or defense, except that the Indemnifying Party will not enter into any settlement that imposes any liability or obligation on the Indemnified Party without the Indemnified Party's prior consent, which consent will not be unreasonably withheld, conditioned or delayed. The parties will reasonably cooperate in the settlement or defense of any such Claim, and to the extent legally possible, give each other full access to all relevant information. The Indemnified Party's own counsel may, at the Indemnified Party's own cost and expense, participate with the Indemnifying Party and its counsel in the defense or settlement of any such Claim.

Section 13.7. Notwithstanding any provision to the contrary contained in this Agreement, neither party is liable to the other for any indirect, special, consequential, punitive or exemplary damages, such as damages for loss of anticipated profits or revenue or other economic loss, for any claim or cause of action arising out of or related to this Agreement, whether arising in contract, tort or otherwise, or whether arising from any grossly negligent, willful or fraudulent act or omission.

Section 13.8. The indemnification obligations in this Article shall survive the termination of this Agreement, subject to any applicable statutes of limitation.

ARTICLE XIV ABANDONMENT OF JOINT USE POLES

Section 14.1. If SESD desires at any time to abandon any joint use pole, it shall give LICENSEE notice in writing to that effect at least thirty (30) days prior to the date on which it intends to abandon such pole or poles. If, at the expiration of said period SESD shall have no Attachments on such pole but LICENSEE shall not have removed all of its Attachments, such pole shall become the property of LICENSEE at the sole option of SESD, and LICENSEE shall hold harmless SESD from every obligation, liability, or cost, and from all damages, expenses or charges incurred thereafter, arising out of, or because of, the presence of or the condition of such pole or any Attachments; and shall pay to SESD a sum equal to the present value in place of such abandoned pole or poles, or such other equitable sum as may then be agreed upon between the parties, and SESD shall provide LICENSEE with a properly authorized bill of sale for such pole or poles.

Section 14.2. SESD has the sole authority to remove a pole or poles and not replace them by giving LICENSEE at least thirty (30) days written prior notice. Within this thirty (30) day period, LICENSEE has the option of placing its facilities underground or transferring its facilities to the nearest

facilities owned by SESD in accordance with this Agreement. LICENSEE shall be responsible for all costs of placing such facilities underground or transferring its facilities.

Section 14.3. LICENSEE may at any time abandon the use of a joint use pole by giving SESD due notice in writing of such abandonment, as provided in Section 21.1, and removing from such pole all Attachments that LICENSEE may have, and in case of such abandonment of the use of any such pole, LICENSEE shall pay to SESD the full rental for the current year for the space on said pole set aside for the use of LICENSEE.

ARTICLE XV ASSIGNMENT OF RIGHTS

Section 15.1. LICENSEE shall not assign, sell, lease, or in any a manner transfer any of the rights granted to it by this Agreement, without prior written consent of SESD. The attempted assignment, transfer, lease, or sale by LICENSEE of any of the rights hereby granted without written consent of SESD shall constitute a breach of this Agreement by LICENSEE, subject to the remedies set forth in Article 14. Such consent, however, may not be unreasonably withheld. Notwithstanding anything to the contrary herein, LICENSEE may assign this Agreement without the necessity of obtaining SESD'S consent, to any person acquiring all or substantially all of LICENSEE'S assets or stock; provided that such assignee has been duly authorized by to provide the services described hereunder and provided further that LICENSEE shall notify SESD in writing, within thirty (30) days of such assignment.

Section 15.2. The terms and provisions of this Agreement shall be binding upon and extended to and inure to the benefit of the successors, assigns, and contractors and/or subcontractors of the LICENSEE.

ARTICLE XVI DEFAULTS AND REMEDIES

Section 16.1. If LICENSEE fails to comply with any of the provision of this Agreement, or is in default in any of its obligations under this Agreement, SESD shall provide thirty (30) days written notice to LICENSEE to correct such default. If LICENSEE fails to correct such default or noncompliance within thirty (30) days after said notice by SESD to LICENSEE, SESD may, at its option, terminate this Agreement or terminate the permit covering the pole or poles as to which such default or noncompliance shall have occurred. In the event the SESD terminates this Agreement, in its entirety, LICENSEE shall have one hundred eighty (180) days within which to remove its Attachments, and in the event that LICENSEE does not remove its Attachments within said period, SESD may do so, the removal cost to be borne by LICENSEE.

Section 16.2. The rights and privileges of LICENSEE hereby granted shall not pass to any trustee, receiver, nor assignee for the benefit of creditors of LICENSEE or be otherwise transferable by operation of law. This Agreement shall terminate, at SESD's election, in the event of the liquidation or involuntary dissolution of LICENSEE, or in the event LICENSEE is adjudicated a bankrupt or insolvent, or if a receiver for LICENSEE's property is appointed and such receiver is not discharged or such appointment revoked within thirty (30) days after the date of the appointment of such receiver. SESD may terminate this Agreement by ten (10) days written notice to LICENSEE upon the happening of any one or more of the following events

- (a) The making by SESD of any assignment for the benefit of creditors;
- (b) The taking of any action for the voluntary dissolution of LICENSEE; or
- (c) The filing by LICENSEE of a voluntary petition in bankruptcy;

(d) The appointment of a receiver for the LICENSEE.

Section 16.3. In the event either party shall be required to resort to litigation for the purpose of enforcing its rights under this Agreement, the judgment resulting from such litigation shall include an allowance for court costs and reasonable attorneys' fees, paid or incurred in connection with enforcing the terms of this Agreement.

ARTICLE XVII ENFORCEMENT

Section 17.1. Failure by SESD 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 terms or conditions.

ARTICLE XVIII RIGHTS OF OTHER USERS

Section 18.1. This Agreement shall not be construed as affecting the rights or privileges previously conferred by SESD, by contract or otherwise, to others not parties to this Agreement, to use any poles covered by this Agreement; and SESD shall have the right to continue and extend such rights and privileges. This Agreement shall not be construed as affecting or limiting the rights of SESD to make other and additional contracts with other persons, firms, or corporations for the joint use or rental of SESD's poles and facilities.

ARTICLE XIX PAYMENT OF INVOICES

Section 19.1. Invoices for expenses and other charges under this Agreement, including without limitation, amounts due under Article 3, shall be paid within thirty (30) days after the invoice date. Nonpayment shall constitute a default of this Agreement if not paid within ten (10) days after written notice of such nonpayment by SESD to LICENSEE.

ARTICLE XX IDENTIFICATION OF LICENSEE'S EMPLOYEES

Section 20.1. In furtherance of the purpose of the laws, rules, and regulations relating to sabotage, espionage, and subversive activities, LICENSEE shall identify each of its employees and agents accessing SESD's poles and will require its contractors and/or subcontractors to have suitable means of identification for their employees who will have occasion to perform work on or about SESD's poles, wires, or other facilities. Upon written request of SESD, LICENSEE shall promptly remove or cause the removal of any employee, agent, or contractor from performing any work on or about SESD's poles, wires, or other facilities, found by the SESD to be unqualified or unfit for the performance of such work or who fails to comply with the terms of this Agreement.

ARTICLE XXI FORCE MAJEURE

Section 21.1. Neither SESD nor LICENSEE shall be liable for any delay for failure to perform its obligations under this Agreement, other than the payment of monies due, in the event of a Force Majeure occurrence. Force Majeure, as used herein, shall include, without limitation, the following: acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, absence of necessary orders and permits of any kind which have been properly applied for, equipment, material, supplies, labor or machinery shortage, epidemics, landslides, lightning, earthquakes, fires, hurricanes, tornadoes, storms, floods, washouts, drought, arrest, war, civil disturbances, explosions, sabotage, injunction, blight, famine,

blockade, quarantine, or any other similar cause or event not reasonably within the control of the party claiming the Force Majeure.

ARTICLE XXII PREVENTION AND SATISFACTION OF LIENS

Section 22.1. LICENSEE agrees that no lien shall attach to the property of SESD. LICENSEE, its subcontractors, servants, agents, or employees shall not file, assert, nor prosecute any mechanic’s or materialman’s liens against SESD or its property. LICENSEE, its subcontractors, servants, agents, or employees also shall not permit any mechanic’s or materialman’s liens to be filed, assigned or prosecuted against SESD or its property.

ARTICLE XXIII NOTICES

Section 23.1. Any notice required or permitted pursuant to this Agreement shall be given by certified mail, return receipt requested, addressed to:

to SESD at:

[_____]
[_____]
[_____]
[_____]

and to LICENSEE at:

[_____]
[_____]
[_____]
[_____]

Either party may, by like written notice at any time, designate a different address to which notices shall subsequently be transmitted to it.

ARTICLE XXIV CONTRACTING

Section 24.1. LICENSEE shall, as soon as practical after the execution of this Agreement, notify SESD in writing of the names of any contractors or subcontractors which the LICENSEE proposes for any or various portions of the work to be performed in attaching LICENSEE’s Attachments to SESD’s poles. LICENSEE shall be fully responsible under the provision of Article 10 to SESD for the acts or omissions of its contractors and/or subcontractors and of the persons directly or indirectly employed by them.

ARTICLE XXV LICENSEE’S COMPLIANCE WITH ORDINANCES, LAWS, RULES AND REGULATIONS

Section 25.1. LICENSEE, in the performance of its cable service obligations and in exercising the rights granted under any license issued to LICENSEE by SESD under this Agreement, shall, at all times, comply with all applicable ordinances, laws, rules, and regulations of any and all governmental authorities having jurisdiction and shall exercise such rights for lawful communication purposes only.

ARTICLE XXVI DISCLAIMER OF WARRANTIES

Section 26.1. LICENSEE ACKNOWLEDGES THAT SESD (OR ANYONE ON SESD’S BEHALF) HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR

GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS, TO, CONCERNING OR WITH RESPECT TO: (a) THE VALUE, NATURE, QUALITY, PHYSICAL OR OTHER CONDITION OF SESD FACILITIES; (b) THE SUITABILITY OF SESD FACILITIES FOR ANY ACTIVITIES AND USES WHICH LICENSEE MAY OR PLANS TO CONDUCT ON SESD FACILITIES; (c) THE COMPLIANCE OF OR BY SESD FACILITIES OR THEIR OPERATION WITH ANY LAWS, RULES, ORDINANCES, APPLICABLE LAW, ORDERS, DECISIONS OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (d) THE HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF SESD FACILITIES; (e) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS INCORPORATED INTO SESD FACILITIES; (f) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF SESD FACILITIES; (g) THE SAFETY OF SESD FACILITIES OR THE PREMISES SURROUNDING SESD FACILITIES; OR (h) ANY OTHER MATTER WITH RESPECT TO SESD FACILITIES AND, SPECIFICALLY, THAT SESD HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL, PROTECTION, POLLUTION, LAND USE, ZONING, DEVELOPMENT OR IMPACT LAWS, RULES, REGULATIONS, ORDERS, DECISIONS OR REQUIREMENTS.

ARTICLE XXVII GENERAL PROVISIONS

Section 27.1. Novation; Integration; No Oral Modification. This Agreement shall supersede any and all prior similar agreements entered into by and between LICENSEE and SESD, and shall act as a novation thereof. This Agreement is a final expression of the Agreement by and between LICENSEE and SESD and may not be contradicted by evidence of any alleged oral agreement. LICENSEE and SESD affirm that no unwritten oral agreement(s) exist. LICENSEE and SESD acknowledge that it would be unreasonable and unjustifiable to rely on any prior or contemporaneous written or oral agreement, representation, warranty or understanding of any kind made by any other party except for the agreements set forth herein. No modification of this Agreement shall be valid unless in writing and signed by both parties.

Section 27.2. Facsimile or Electronic Mail Notice. LICENSEE expressly consents to SESD sending communications to LICENSEE via facsimile or electronic mail at the number(s) or e-mail address(s) provided by LICENSEE and to any number or e-mail address LICENSEE may require.

Section 27.3. Waiver. SESD's failure to exercise any of its rights shall not operate as a waiver of any such rights, and such rights shall continue until all Annual License Fee has been paid in full. All of SESD's rights shall be cumulative and not in the alternative.

Section 27.4. Partial Invalidity. If a court of competent jurisdiction holds any provision of this Agreement to be unlawful, unenforceable or in valid, the validity and enforceability of the remaining provisions shall not be affected.

Section 27.5. Captions. Captions and titles shall not affect the interpretation of the body of this Agreement.

Section 27.6. Choice of Law and Venue. This Agreement shall be governed by the laws of the State of Utah. Venue of any suit brought by either party shall be in United State District Court of the District of Utah or any state court of the State of Utah, in each case located in the County of Salt Lake.

Section 27.7. Assignment. LICENSEE agrees that SESD may transfer or assign this Agreement and all of its rights, interests and remedies hereunder, to any other person, firm, bank or corporation whatsoever, without notice to or consent by Obligor. LICENSEE will not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, by operation of law or otherwise, without SESD'S prior written consent. For purposes of the preceding sentence, and without limiting its generality, any equity sale, merger, consolidation or reorganization involving LICENSEE (regardless of whether LICENSEE is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations or performance under this Agreement for which SESD'S prior written consent is required. No delegation or other transfer will relieve LICENSEE of any of its obligations or performance under this Agreement. Any purported assignment, delegation or transfer in violation of this Section 27.7 is void. This Agreement is binding upon and inures to the benefit of the parties and their respective permitted successors and permitted assigns.

Section 27.8. Executed In Counterparts. This Agreement may be executed in counterpart originals by the parties, and in compliances with the Electronic Signatures in Global and National Commerce Act (“**E-sign Act**”), with each to have the full force and effect of an original for all purposes. This Agreement shall inure to the benefit of and bind the parties, their heirs, personal representatives, successors and assigns.

Section 27.9. Advice of Counsel. LICENSEE and SESD do hereby acknowledge and agree that they have been or have had the opportunity to be represented by independent legal counsel of their own choosing throughout all negotiations which preceded the execution of this Agreement and that they have executed this Agreement with the consent and upon advice of said independent counsel. Accordingly, it is agreed that any legal rule of construction to the effect that ambiguities or any addenda, amendments, additions or supplements thereto that may be construed against SESD are of no force and effect in the interpretation of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the Effective Date.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT A

PERMIT NO.
APPLICATION AND PERMIT

To: [_____]
[_____]
[_____]

In Accordance with the terms of the Pole Attachment Agreement, dated _____, 201_, [_____] hereby applies for a permit to make Attachments to the poles identified below. It has obtained all necessary consents or permits from private property owners and governmental authorities in accordance with Article [___] of the Pole Attachment Agreement.

LOCATION

No. Poles Attached _____

By
Title
Licensee

A permit is issued on _____201_, to place the above described attachment(s) on the identified pole(s), subject to Licensee's acceptance of any changes or rearrangements detailed on the attached sheet, at an estimated cost of \$_____, for SESD's rearrangements. Acceptance should be indicated on this form and returned to SESD within sixty (60) days from the date hereof, failing which the permission hereby granted permit shall automatically be revoked.

[_____] by:

Title _____

To:

The above mentioned changes and rearrangements are accepted by Licensee on

_____, 20__, and the costs hereof will be paid to SESD in accordance with Article VI of the Pole Attachment Agreement.

By _____

Title _____

EXHIBIT B

NOTIFICATION OF ATTACHMENT BY LICENSEE

_____, 201_

To: [_____]
[_____]
[_____]

In accordance with the terms of Pole Attachment Agreement, dated _____,
20__, pole attachment information is shown below:

Location _____
(Street name)

Total Poles Attached _____

By _____

Title _____

Notice Acknowledged

_____, 201_

By _____

Title _____

SESD
Notice No. _____

EXHIBIT C

NOTIFICATION OF REMOVAL BY LICENSEE

To: [_____]
[_____]
[_____]

In accordance with the terms of Pole Attachment Agreement, dated _____, 20__, please cancel the Permit for the following pole(s) from which Attachments(s) were removed on _____, 20__.

Location _____
(Street name)

Total Poles Discontinued _____

By _____

Title _____
Licensee

Notice Acknowledged
_____, 20__