

POLE ATTACHMENT AGREEMENT

DATED \_\_\_\_\_

BETWEEN

VERIZON NEW YORK INC. (LICENSOR)

AND

\_\_\_\_\_ (LICENSEE)

POLE ATTACHMENT AGREEMENT

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POLE ATTACHMENT AGREEMENT

THIS AGREEMENT, made as of the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, between VERIZON NEW YORK INC., formerly known as NEW YORK TELEPHONE COMPANY, a corporation of the State of New York, having its principal office at 140 West Street, New York, New York 10007 (hereinafter called "Licensor"), and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, having its principal office at \_\_\_\_\_ (hereinafter called "Licensee").

W I T N E S S E T H

WHEREAS, Licensee for its own use desires to place and maintain cables, equipment and facilities on Poles of Licensor; and

WHEREAS, Licensor is willing to permit, to the extent it may lawfully do so, the placement of said cables, equipment and facilities on its Poles.

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

ARTICLE I

SCOPE OF AGREEMENT

Subject to the provisions of this Agreement, the Licensor will issue to Licensee for any lawful purpose revocable, nonexclusive licenses authorizing the attachment of Licensee's equipment and facilities to Licensor's Poles in the State of New York.

ARTICLE II

DEFINITIONS

1. Anchor

A facility consisting of an assembly of a rod secured to a fixed object or plate designed to resist the pull of a guy strand or strands.

2. Anchor Attachment

A guy strand attached to an Anchor solely owned or jointly owned by Licensor or for which Licensor is responsible for authorizing attachments.

3. Appurtenance Attachment

Any article of equipment attached to a point on a Pole not normally occupied by a strand attachment (i.e. equipment cabinets, terminals, etc.).

4. Licensor

The owner or custodian of a Pole and the only party permitted to issue licenses to that Pole and its associated Anchor(s).

5. Licensee

The person, corporation or other legal entity authorized by the Licensor under this Agreement to attach its facilities to Pole and Anchor and the party responsible for compliance with Licensor's regulations regarding such accommodations.

6. Licensee's Facilities

The cables and all associated equipment and hardware installed for the sole use of the Licensee.

7. Guy Strand

A metal cable (facility) which is attached to a Pole and Anchor (or another Pole) for the purpose of reducing Pole stress.

8. Joint Owner

A person, corporation or other legal entity having an ownership interest in a Pole and/or Anchor with the Licensor.

9. Joint User

A party who owns Poles or Anchors to which the Licensor is extended or may hereafter be extended joint use privileges, or to which the Licensor has extended or may hereafter extend joint use privileges of the Licensor's Poles or Anchors. The term "Joint User" shall not include Licensees.

10. Make-Ready Work

All work, including but not limited to rearrangement and / or transfer of existing facilities, replacement of a Pole or any other changes required to accommodate the attachment of Licensee's facilities to a Pole or any other changes required to accommodate the attachment of Licensee's facilities to a Pole or Anchor.

11. Other Licensees

Any person, corporation, or other legal entity other than the Licensee herein, to whom the Licensor has or hereafter shall extend an authorization to attach facilities to a Pole or Anchor.

12. Periodic Inspection

Inspections conducted at scheduled intervals on portions of Licensee's facilities, to determine that attachments are authorized and that attachments are maintained in conformance with the required standards.

13. Pole Attachment

Any of Licensee's facilities in direct contact with or otherwise supported by a Pole.

14. Post-Construction Inspection

The work operations and functions performed to measure and/or visually observe Licensee's attachments, during or shortly after completion of the construction of such facilities, to determine that all attachments have been authorized and construction conforms to the standards required by this Agreement.

15. Preconstruction Survey

The work operations and functions performed in order to process an application for Pole and Anchor attachments to the point just prior to performing any necessary make-ready work. There are two elements of the Preconstruction Survey: 1) field inspection of the existing facilities, and 2) administrative effort required to process the application and prepare the make-ready work order.

16. Subsequent Inspections

Inspections performed to confirm the correction of non-conformance to specification that are observed during Post Construction Inspections.

17. Suspension Strand (messenger cable)

A metal cable attached to a Pole and used to support facilities.

18. Unit Cost

A dollar amount subject to periodic revision, applicable to specified work operations and functions, including materials and labor costs.

19. Pole

A Pole solely owned or jointly owned by the Licensor and used to support its facilities, the facilities of a joint user and/or Authorized Licensee.

20. Attachment Rate

A specified amount revised periodically, billed semi-annually to the Licensee, and payable in advance to the Licensor for each attachment. The rate shall be the standard Pole Attachment Rate as approved by the NYSPSC.

### ARTICLE III

#### GENERAL CONDITIONS

1. Compliance with Applicable Laws

The Licensee and the Licensor shall at all times observe and comply with, and the provisions of this Agreement are subject to, all laws, ordinances, and regulations which in any manner affect the rights and obligations of the parties.

2. Rights in Poles and Anchors

No use, however extended, of a Pole or Anchor or payment of any fee or charge required hereunder shall create or vest in the Licensee any ownership or property right in such a Pole or Anchor.

3. Requirement to Construct and Maintain a Pole and Anchor

Nothing contained herein shall be construed to compel the Licensor to construct, reconstruct, retain, extend, repair, place, replace or maintain any Pole or Anchor or other facility not needed for the Licensor's own service requirements, except as provided in Article IV (3. b. (2)) and Article IV (5. d.).

4. Other Agreements

Nothing contained in this Agreement shall be construed as a limitation, restriction, or prohibition against Licensor entering into agreements with other parties regarding the poles covered by this Agreement. The Licensor, in negotiating and entering into any future agreement(s) and arrangement(s), shall give due and reasonable regard to the Licensee's interest in a Pole and Anchor to be covered by such future agreement(s) and arrangement(s). The rights of the Licensee shall at all times be subject to any existing agreement(s) or arrangement(s) between Licensor and any Joint Owner(s) or Joint User(s) of Licensor's poles.

5. Assignment of Rights

a. Licensee shall not assign or transfer any license or any authorization granted under this Agreement, and such licenses and authorizations shall not inure to the benefit of Licensee's successors or assigns, without the prior written consent of Licensor, which shall be in the form of the document of assignment (Exhibit H). Licensor shall not unreasonably withhold, condition, or delay such consent.

b. In the event such consent or consents are granted by Licensor, then the provisions of this Agreement shall apply to and bind the successors and assigns of Licensee. Notwithstanding anything herein to the contrary, Licensee may, assign this Agreement without Licensor's consent to an entity controlling, controlled by, or under common control with Licensee or to an entity acquiring fifty-one percent (51%) or more of Licensee's stock or assets provided that any such assignment shall be subject to any such assignment shall impose no obligations upon or be effective against Licensor, and Licensor shall have no liability to any assignee of such assignment, until Licensor has received prior notice of any such assignment. Licensee may also assign this Agreement, without Licensor's consent and without prior notice to Licensor, to an institutional mortgagee or lender providing financing to Licensee with respect to Licensee's Facilities in the event such institutional mortgagee or lender exercises its foreclosure right against Licensee and operates the Licensee Facilities on the Right of Way; provided such institutional mortgagee or lender is capable of assuming all of the obligations of the Licensee hereunder and further provided that such assignment shall not be effective against Licensor unless and until written notice of such assignment and exercise of rights is provided to Licensor. Anything herein to the contrary notwithstanding, Licensee shall not be relieved of any of its obligations hereunder without Licensor's prior written consent. Upon Licensee's assignment of the Agreement in compliance with the terms set forth herein, including paragraph c. below, Licensee shall be relieved of its obligations hereunder.

c. All notice of such assignments shall include any change to the notice address provided in Article III (8). Within sixty (60) days of receipt of the document of assignment from Licensee, Licensor will execute the document of assignment. The assignment requirements herein shall be deemed met if Licensor fails to respond within sixty (60) days of such documentation receipt by Licensor. Exhibit I shall not be changed materially without the prior written consent of the Licensee and Licensor.

6. Permits and Consents

a. Licensee shall be responsible for obtaining from private and/or public authority any necessary easement, right of way, license, permit, permission, certification or franchise to construct, operate and/or maintain its facilities on private and public property at the location of the Pole and/or Anchor to which Licensee attaches its facilities. The Licensor does not warrant the validity or apportionability of any rights it may hold to place facilities on private property. The Licensor will, upon written request by the Licensee, provide available information and copies of any documents in its files pertinent to the nature of the rights the Licensor possesses over private property. The cost of providing such information and reproducing documents shall be borne by Licensee.

b. Where Licensor has an easement over a public or private right of way sufficiently broad under applicable law to permit Licensee attachment, Licensee shall not be required to obtain independent permission of the property owner to attach. In any case where the Licensor seeks to obtain any necessary permission from a property owner for Licensee's attachments, the fully allocable costs of such efforts shall be paid by the Licensee along with make-ready costs, if any.

7. This Agreement supersedes all previous agreements between the parties for maintenance and placement of aerial cables, equipment and facilities by the Licensee and constitutes the entire agreement between the parties. It may not be modified or amended nor may any obligation of either party be changed or discharged except in writing signed by the duly authorized officer or agent of the party to be charged. Currently effective licenses, if any, issued pursuant to previous agreements shall remain in effect as if issued pursuant to this Agreement.

8. Any legal notice to be given to the Licensee pursuant to Articles IV (for periodic inspections only), VII, X and XI of this Agreement shall be sent by certified mail, return receipt requested or a by a nationally recognized overnight carrier service to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any such notice shall be effective immediately upon receipt.

Any other notice to be given to Licensee under this Agreement may be sent using first class mail or, if time sensitive, successfully transmitted facsimile or electronic mail to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Such notice shall be deemed effective as of the date of the notice.

9. If the presence of the Licensee on Licensor's Poles causes Licensor to pay any new or additional tax which Licensor would not otherwise pay, Licensee shall reimburse Licensor to the full extent of such new or additional tax, as additional rent, within thirty (30) days of receiving a bill therefor from Licensor. Upon request, Licensor shall provide evidence that such new or additional tax was in fact paid by Licensor.

10. This Agreement shall be governed by, and interpreted according to, the laws of the State of New York.

## ARTICLE IV

### PROCEDURES

#### 1. Application for Authorization

a. Prior to the Licensee attaching equipment and/or facilities to any Pole or Anchor, Licensee shall make written application for and have received an authorization therefore (Exhibits A or C).

b. Licensee shall file applications for Pole attachment authorizations which designate a desired priority of authorizations in blocks of 300 Poles or less.

c. The Licensor will accept applications on a first come first served basis and shall attempt to satisfy the designated priority of completions. Licensor shall be obligated to perform the required preconstruction survey and/or make-ready work in accordance with the time frames set forth in paragraph (4)(1) of this Article to permit the issuance by the Licensor and/or a joint user of a volume not to exceed a total of 1,500 Pole attachment authorizations per month in each of the Licensor's plant construction operating area, i.e., Western, Central, Northeastern, MidState, Long Island and each of the five Boroughs of the City of New York. If more than 1,500 Poles are included in all such applications received for any one month in each construction operating area, at least one block of 300 Poles or less per applicant will be processed, selected in the sequence in which the applications were received, until the 1,500 Pole limit has been reached. If one block of 300 Poles or less for each applicant is processed and the 1,500 Pole limit has not been exceeded, the remaining applications shall be processed on a first come first served basis.

#### 2. Multiple Attachment Applications

The provisions of this Article IV (2) apply in the case of applications received by the Licensor from two or more Licensees for attachment authorizations on the same Pole, prior to completion of the preconstruction survey and the commencement of any make-ready work required to accommodate any Licensee.

a. Applications received from multiple applicants for the same Pole will be classified as follows:

- (1) non-simultaneous - received by the Licensor on different business days.
- (2) simultaneous - received by the Licensor on the same business day.

b. Where applications are non-simultaneous, the initial applicant will be offered the following options after the application is received from the additional applicant(s):

Option 1 - the application of the initial applicant will be processed as if there is no other attachment application on file for the same Pole or Anchor.

Option 2 - the applications of the initial and additional applicant(s) will be processed as if they were simultaneous applications.



(1) The initial applicant will be required to indicate the option desired no later than fifteen (15) days after the Licensor has quoted the make-ready charges that will apply under each option, otherwise the Licensor will deem the initial applicant to have selected Option 1. Selection of an option prior to the quotation of the aforementioned make-ready charges is permissible.

(2) Option 2 will be subject to acceptance by all of the multiple applicants involved. The additional applicant(s) will have fifteen (15) days from the date of receipt of written notification from the Licensor that the initial applicant has selected Option 2, to accept or reject the conditions applicable under Option 2, otherwise, the Licensor will deem the additional applicant(s) to have rejected such conditions.

(3) All work in progress on the initial applicant's application involving multiple applications will be suspended by the Licensor from the time that the initial applicant is offered Options 1 and 2 until it notifies the Licensor of the option it elects in accordance with (1) preceding.

c. Where multiple applicants are simultaneous or the initial applicant in the case of non-simultaneous applications has selected Option 2, the multiple applicants must develop a mutually agreeable order of facility availability and overall make-ready work completion schedule. Where multiple applicants cannot reach mutual agreement regarding order of facility availability and an overall make-ready work completion schedule within fifteen days (15) of written notification from the Licensor of the charges for the required make-ready work, the Licensor will offer as an alternative to complete the total make-ready work required for all multiple applicants before simultaneously granting attachment authorizations to the multiple applicants.

d. Any multiple applicant who fails to agree to the alternate arrangement set forth in c., preceding within ten (10) days after being advised in writing of the availability of such alternate arrangement by the Licensor, will be considered by the Licensor to have canceled its application(s) relative to those facilities which involve pending attachment applications by other Licensees.

e. Where multiple applications are non-simultaneous and the initial applicant has selected Option 1, the Licensor:

(1) will consider the initial applicant as a non-multiple applicant. Any change of priority or facility availability or work schedule completion that is desired after either has been initially agreed upon by the initial applicant with the Licensor will be subject to the Licensor's ability to accommodate such changes in its established work schedule.

(2) will not perform the required make-ready work for the additional applicant until attachment authorizations have been granted to the initial applicant, unless the performance of such work will not delay the completion of the make-ready work required to accommodate the initial applicant.

f. Preconstruction survey costs will be allocated as follows:

(1) Simultaneous applications - each applicant will bear an equal share of the total initial and resurvey costs involved.

(2) Non-simultaneous applications - each applicant will bear the costs related only to determining the accommodation requirements for its specific application.

g. Make-Ready cost will be allocated as follows:

(1) Simultaneous applications -

(a) each applicant will be charged an equal share of the total make-ready cost.

(b) if only one applicant agrees to the shared portion of total cost, that applicant will be quoted the cost applicable to accommodate a single licensee.

(2) Non-simultaneous applications -

(a) the initial applicant will be charged the total make-ready cost to accommodate its facilities.

(b) the additional applicant(s) will be charged the total added make-ready cost to accommodate the additional applicant's facilities.

3. Specifications

a. Licensee's Facilities shall be placed and maintained in accordance with the requirements and specifications of the latest editions of the "Blue Book - Manual of Construction Procedures" (Blue Book), published by Telcordia Technologies Inc.; the "National Electrical Code" (NEC), published by the National Fire Protection Association, Inc.; the "National Electrical Safety Code" (NESC), published by the Institute of Electrical and Electronics Engineers, Inc.; and rules and regulations of the U.S. Department of Labor issued pursuant to the "Federal Occupational Safety and Health Act of 1970", as amended, (OSHA) or any governing authority having jurisdiction over the subject matter. Where a difference in specifications may exist, the more stringent shall apply.

b. Should Licensor, Joint Owner(s), Joint User(s), or other Licensee need to attach additional facilities to any of Licensor's poles, to which Licensee is attached, Licensee will upon written notice from the Licensor either rearrange its attachments on the pole or transfer them to a replacement pole as reasonably determined by Licensor so that the additional facilities of Licensor, Joint Owner(s) Joint User(s) or other Licensee may be attached. Provided that, except to the extent such relocation is required to accommodate the needs of Licensor, Joint Owner(s), Joint User(s) such rearrangement does not materially reduce, impair or otherwise diminish Licensee's operations from the property and subject to receipt of all necessary government permits and approvals for such rearrangement or transfer. Licensee shall not be required to bear any of the costs of rearranging its facilities if such rearrangement is required as a result of an additional occupancy by any entity including Licensor or other Licensees. Any rearrangement costs shall be borne by the entity or entities requesting rearrangement. Licensee shall be solely responsible for collecting any rearrangement costs incurred pursuant to this paragraph. Licensor's sole responsibility shall be limited to reimbursement of its pro rata share of such costs caused by its own additional occupancies. However, Licensor shall, upon receipt of written request, provide Licensee with any information in Licensor's possession which may facilitate Licensee's collection of such costs. If Licensee does not rearrange or transfer its facilities within sixty (60) days after receipt of written notice from the Licensor requesting such rearrangement or transfer, the Licensor, Joint Owner or Joint User may perform or have performed such rearrangement or transfer and Licensee shall pay the cost thereof. However, prior to rearranging or transferring a Licensee's facilities, Licensor shall notify Licensee by means of US Mail or overnight courier service. The foregoing shall not preclude Licensee from thereafter seeking reimbursement of such rearrangement/transfer costs as if it had performed the work in accordance with this paragraph. If Licensee claims non-payment from a new 3<sup>rd</sup> party commercial attaching entity, it shall so notify VZ of such non-payment in writing and the sixty (60) day notice period shall be extended

until Licensee notifies Licensor that such payment has been received.

(1) Where such work and/or actions entail new or additional attachments to the Licensor's Anchors, authorizations for such attachments shall be issued by the Licensor. Licensee's privileges and obligations with respect to authorizations so issued shall be as provided in this Agreement.

(2) Where such work and/or actions entail the placement of and attachment to Anchors for the Licensee's sole use, these Anchors shall be the property of the Licensee.

In either (1) or (2) preceding, the guy strand shall be the property of the Licensee.

c. Licensor shall not use, nor shall Licensor permit its lessees, licensees, employees, invitees or agents to use any portion of Licensor's poles in any way which materially interferes with the operations of Licensee

#### 4. Pre-Construction Surveys and Make-Ready Work

a. A pre-construction survey will be required for each Pole and Anchor for which attachment is requested to determine the adequacy of the Pole and Anchor to accommodate Licensee's facilities. At the option of Licensee, the field inspection will be performed:

(1) by representatives of the Licensor with optional participation by joint owner(s), joint user(s), other Licensees and the Licensee, or

(2) by Licensee, after first providing written notice to the Licensor of its intention to perform said field inspection. If the field inspection is performed by Licensee, the Licensee shall, prior to commencement of the field inspection, obtain from the Licensor information as to the Licensor's planned future construction on the Poles and/or Anchors involved. Licensee shall furnish the required field inspection data to the Licensor in a format specified by the Licensor as set forth in Exhibit I.

The field inspection data shall be of an accuracy and completeness necessary to permit the performance of make-ready and other work required to accommodate Licensee's facilities in a manner consistent with the requirements of Article IV (3.) and IV (4. c.). The Licensee and Licensor may employ contractors to perform the field inspection.

b. Licensee shall pay the Licensor at the time Licensee furnishes the field inspection data, an administrative handling charge per Pole as provided in the Schedule of Unit Costs filed with the Public Service Commission and incorporated herein as Exhibit G.

c. In the event the Licensor determines that a Pole to which Licensee desires to make attachments is inadequate or that a Pole or Anchor needs rearrangement of the existing facilities thereon to accommodate the facilities of Licensee, the Licensor will inform Licensee in writing of the cost of the required make-ready work. Charges for make-ready work, the cost of surveys and/or inspections, shall be as specified in Article VIII; Rates and Charges.

d. The Licensor shall specify the point of attachment on each of the Poles and/or Anchors to be occupied by Licensee's equipment and/or facilities. Where multiple Licensee's attachments are involved, the Licensor will attempt, to the extent practical, to designate the same relative position on each Pole for each Licensee's facilities.

e. Licensee shall have thirty (30) days from the receipt of written notification from the Licensor of the costs of make-ready work to accept and pay all make-ready costs; provided, however, that if the Licensor receives a request from another Licensee for

an authorization to attach to a Pole or Anchor for which a written notification of make-ready work costs has been sent to Licensee, then Licensee must accept within fifteen (15) days after receipt of notification from the Licensor of the other attachment request or until the end of the thirty (30) day period, whichever period of time is shorter.

f. Any required make-ready work will be performed following receipt by the Licensor of payment of the cost of make-ready work. Licensee shall also reimburse the owner(s) of other facilities attached to said Poles or Anchors for any expense incurred by them in transferring or rearranging such facilities to accommodate Licensee's facilities.

g. When Licensor deems it an immediate threat to safety and/or an emergency exists, it may rearrange, transfer, or remove Licensee's attachments to Licensor's Poles at Licensee's expense. Licensor shall make reasonable efforts to contact Licensee as circumstances permit.

h. Upon written notice from Licensor, Licensee shall promptly rearrange and/or transfer its attachments and/or Anchors as required by Licensor to permit Licensor to perform any routine maintenance, including replacement of worn or defective Poles, guys or Anchors. Licensee shall be responsible for all costs associated with such rearrangements/transfers.

i. Authorization to attach a guy strand to an existing utility anchor shall be granted where adequate capacity is available as specified in the then current written procedures for determining the adequacy of attachment capacity, filed separately with the Public Service Commission, (Exhibit D). Should the Licensor, Joint Owner or Joint User for its own service requirements need to increase its load on the Anchor to which Licensee's guy strand is attached, and where a larger Anchor is required that would not have been necessary but for the attachment of Licensee's guy strand, Licensee will either rearrange its guy strand on the Anchor or transfer it to a replacement Anchor as determined by the Licensor. The cost of such rearrangement/transfer shall be borne by the Licensor, Joint Owner or Joint User requiring the larger Anchor. Licensee shall be solely responsible for collecting its rearrangement/transfer costs under such circumstances. Licensor's responsibility shall be limited to reimbursement of its pro rata share of such costs caused by its own additional attachment or modification to the Pole. However, Licensor shall, upon receipt of written request, provide Licensee with any information in Licensor's possession which may facilitate Licensee's collection of such costs. If Licensee does not rearrange or transfer its guy strand within thirty (30) days after receipt or written notice from the Licensor regarding such requirement, the Licensor or Joint User may perform, or have performed, the work involved and Licensee shall pay the cost thereof. The foregoing shall not preclude Licensee thereafter from seeking reimbursement of any rearrangement/transfer costs in accordance with this paragraph.

j. Licensee shall notify the Licensor in writing before adding to, relocating, replacing or otherwise modifying its equipment and/or facilities on a Pole or Anchor, where additional space or holding capacity may be required.

k. When additional Make-Ready or related work is required as a result of circumstances beyond anyone's control, including but not limited to storms, vehicular accidents, or public work projects, Licensee is responsible for the timely repairing, relocating or replacing of its own facilities.

l. Unless prevented from doing so by circumstances beyond Licensor's reasonable control, including, but not limited to acts of god, fire, strikes, embargo, seasonal limitations on construction, acts or inaction of the Government, or acts or inaction of a joint owner, joint user or other Licensee, and subject to the quantity limitations set forth in paragraph (1) (c) of this Article, Licensor shall adhere to the following timetable in the performance of pre-construction and Make-Ready work:

(1) Upon receipt of a written application (Exhibits A or C), Licensor shall verify Pole ownership and perform a pre-survey with all affected parties, unless Licensee opts to perform the pre-survey for itself. Licensor shall determine whether Licensee's proposed attachment or Anchor can be accommodated and determine what, if any, Make-Ready work is required for Licensee's proposed attachments and/or Anchors. Licensor shall complete these tasks within forty-five (45) days of receipt of Licensee's written application.

(2) If Make-Ready work is required and there are other entities with attachments to the poles, Licensor shall send written notification to all such entities describing the proposed modifications to the poles and/or anchors based on Licensee's application. Entities receiving such notice shall have sixty (60) days to determine whether they wish to add to or modify their existing attachments and to submit written notification of their requirements to Licensor.

(3) Licensor shall design the Make-Ready work, or redesign the Make-Ready work to incorporate any additional requirements submitted by other entities pursuant to subparagraph (2) above, and estimate the costs of the Licensor's Make-Ready work. Licensor shall complete these tasks within thirty (30) days of receipt of all written notifications of modification requirements or notifications that no additional requirements are sought.

(4) Licensor shall complete all its Make-Ready work which does not involve pole replacements within sixty (60) days of receipt of payment by Licensee of the estimated Make-Ready work costs. For Make-Ready work involving pole replacements, Licensor shall complete all its Make-Ready work within ninety (90) days of receipt of payment by Licensee of the estimated Make-Ready work costs. For Make-Ready work involving the placement of poles greater than forty-five (45) feet in height, and where permissible under the Licensor's collective bargaining agreements, the Licensor may require the Licensee or an authorized representative to perform the work. The foregoing Make-Ready commitments shall apply solely to Make-Ready work to be performed by Licensor. These commitments shall not apply to Make-Ready work to be performed by Joint Owners, Joint Users or other Licensees.

(5) Licensor shall not be considered in default of any of its obligations under this paragraph (m) unless such default continues for more than fifteen (15) days after Licensee shall have provided Licensor written notice specifying the nature of the default and, if applicable, the location(s) of Poles for which Make-Ready work has not been performed.

## 5. Inspections of Licensee's Facilities

a. The Licensor reserves the right to make post-construction, subsequent and periodic inspections (of any part or all) of Licensee's facilities attached to a Pole and/or Anchor.

b. Licensee shall provide written notice to the Licensor, at least fifteen (15) days in advance, of the exact Pole locations where Licensee's plant is to be constructed and shall also notify the Licensor in writing of the actual dates of attachment, including overlashing, within five (5) days of the date(s) of such attachment.

c. Where post-construction inspection by the Licensor has been completed within thirty (30) days of the date of notice of attachment of Licensee's facilities required in b. above, Licensee shall be obligated to correct such non-complying conditions within fifteen (15) days of the date of the written notice from the Licensor or as agreed to by the parties. If corrections are not completed within said fifteen (15) day period, attachment authorizations for the Poles and/or Anchors where non-complying conditions remain uncorrected shall terminate forthwith, regardless of whether Licensee has energized the

facilities attached to said Poles and/or Anchors, and Licensee shall remove its facilities from said Poles and/or Anchors in accordance with provisions in Article VII. No further attachment authorizations shall be issued to Licensee until Licensee's facilities are removed from the Poles and/or Anchors where such non-complying conditions exist.

d. Where post-construction inspection by the Licensor has not been completed within thirty (30) days of the date of notice of attachment of Licensee's facilities, Licensee shall correct such non-complying conditions within fifteen (15) days of the date of the written notice from the Licensor or as agreed to by the parties. If corrections are not made by Licensee within said fifteen (15) day period, the Licensor shall perform or have performed such corrections and Licensee shall pay to the Licensor the cost of performing such work.

e. Within seven (7) days of the completion of a post-construction inspection, the Licensor shall notify the Licensee in writing of the date of the completion of the post-construction inspection.

f. Subsequent inspections to determine if appropriate corrective action has been taken may be made by the Licensor. Licensee shall reimburse the Licensor for the cost of such inspections as specified in Article VIII.

g. The making of post-construction, subsequent and/or periodic inspections or the failure to do so shall not operate to relieve Licensee of any responsibility, obligation or liability specified in this Agreement.

h. The costs of inspection made during construction and/or the initial post-construction survey shall be billed to the Licensee at the same time as Make-Ready charges. The costs of Periodic Inspections or any inspections found necessary due to the existence of substandard or unauthorized attachments shall be recovered according to the Schedule of Unit Costs filed with the Public Service Commission.

i. Licensor reserves the right to make periodic inspections of all or any part of the cable, equipment and facilities of Licensee on Poles owned by the Licensor and/or Joint User(s), at the expense of the Licensee as specified in Article VIII. Periodic inspections of the entire plant of the Licensee will not be made more often than once every five years and upon 30 days notice to Licensee unless in Licensor's judgment such inspections are required for reasons involving safety or because of an alleged violation of the terms of this Agreement by Licensee.

## 6. Unauthorized Attachment

a. If any equipment and/or facilities of the Licensee shall be found attached to a Pole and/or Anchor for which authorization has not been granted by the Licensor, the Licensor, without prejudice to its other rights or remedies under this Agreement, including termination or otherwise, may impose a charge and require the Licensee to submit in writing, within ten (10) days after receipt of written notification from the Licensor of the unauthorized attachment, a Pole and/or Anchor attachment application. If such application is not received by the Licensor within the specified time period, the Licensee will be required to remove its unauthorized attachment within ten (10) days of the final date for submitting the required application, or the Licensor may remove the Licensee's facilities without liability, and the cost of such removal shall be borne by the Licensee.

b. For the purpose of determining the applicable charge, the unauthorized attachment shall be treated as having existed for a period of five (5) years prior to its discovery or for the period beginning with the date of the initial agreement, whichever period shall be shorter; and the charges as specified in Article VIII shall be due and payable forthwith whether or not Licensee is permitted to continue the attachment.

c. No act or failure to act by the Licensor with regard to said unauthorized attachment shall be deemed as the authorization of the attachment; and, if any authorization should be subsequently issued, said authorization shall not operate retroactively or constitute a waiver by the Licensor of any of its rights or privileges under this Agreement, or otherwise, provided, however, that Licensee shall be subject to all liabilities, obligations and responsibilities of this Agreement in regard to said unauthorized attachment from its inception.

## ARTICLE V

### OTHER OBLIGATIONS OF LICENSEES

#### 1. Insurance

a. Licensee shall secure and maintain (and ensure its subcontractors, if any, secure and maintain) all insurance and/or bonds required by law or this Agreement including without limitation:

(1) Commercial General Liability insurance (including, but not limited to, premises-operations; explosion, collapse and underground hazard; broad form property damage; products/completed operations; contractual liability; independent contractors; personal injury) with limits of at least two million dollars (\$2,000,000) combined single limit for each occurrence.

(2) Commercial Automobile Liability insurance with limits of at least two million dollars (\$2,000,000) combined single limit for each occurrence. Notwithstanding, if the Licensee does not own or operate any vehicles or automobiles associated with the Licensee's business or associated with the work related to this Agreement, then Licensee must only provide satisfactory evidence that its subcontractor(s) have purchased and maintained Commercial Automobile Liability insurance in such amount.

(3) Workers' Compensation insurance as required by statute and Employer's Liability insurance with limits of not less than one million dollars (\$1,000,000) per occurrence.

b. All policies provided by the Licensee shall be deemed primary and non-contributory to all other applicable coverages. The Commercial General Liability and Commercial Auto Liability policies must name Licensor, its subsidiaries and affiliates excluding Verizon Wireless as additional insureds. The Licensee's insurance companies must be licensed to do business in the applicable state(s) and must meet or exceed an A.M. Best rating of A-X or its equivalent.

c. All insurance must be in effect before Licensor will authorize Licensee to make attachment to Licensor's poles and shall remain in force until such facilities have been removed from all such poles. For all insurance, the Licensee must deliver an industry-recognized certificate of insurance evidencing the amount and nature of the coverage, the expiration date of the policy and stating that the policy of insurance issued to Licensee will not be cancelled without thirty (30) days written notice to Licensor. Also, where applicable, such certificate of insurance shall evidence the name of the Licensor as an additional insured. The Licensee shall submit such certificates of insurance annually to the Licensor as evidence that it has maintained all required insurance.

d. Licensee is responsible for determining whether the above minimum insurance coverages are adequate to protect its interests. The above minimum coverages shall not constitute limitations upon Licensee's liability.

2. Surety Requirements

a Licensee shall furnish a Surety Bond or irrevocable Letter of Credit satisfactory to the Licensor according to the following criteria:

<b>Poles</b>	<b>Security</b>
1 - 50	\$10,000
51 - 500	\$75,000
501 - 2000	\$300,000
2001 - 3000	\$450,000
3,000 +	\$500,000

b. The maximum security limit required is \$500,000.

c. If the financial security is in the form of a bond, irrevocable Letter of Credit, or other security as deemed acceptable by Licensor, such instrument shall be issued by a nationally recognized and rated surety company or bank and shall guarantee Licensee's obligations under the agreement. The Licensee is obligated to maintain the security in the full amount for the terms of the agreement.

d. The amount of the bond or the financial security shall not operate as a limitation upon the obligations of the Licensee.



## ARTICLE VI

### LIABILITY AND DAMAGES

1. The Licensor reserves to itself, its successors and assigns, the right to relocate and maintain its Poles and Anchors and to operate its facilities in conjunction therewith in such a manner as will best enable it to fulfill its own service requirements. The Licensor shall be liable to Licensee only for and to the extent of any damage caused by the negligence of the Licensor's agents or employees to Licensee's facilities attached to a Pole or Anchor. The Licensor shall not be liable to Licensee for any interruption of Licensee's service or for interference with the operation of Licensee's facilities arising in any manner out of Licensee's use of Poles or Anchors.

2. Licensor shall exercise reasonable care to avoid damaging the facilities of Licensee attached to poles under this Agreement, and shall make an immediate report to Licensee of the occurrence of any such damage caused by Licensor's employees, agents or contractors.

3. Licensee shall exercise reasonable care to avoid damaging the facilities of Licensor and of others attached to Licensor's poles, and shall make an immediate report of damage caused by Licensee to the owner of facilities so damaged.

4. Licensor and Licensee shall each indemnify, protect and save harmless each other from and against any and all claims, demands, causes of actions and costs, including reasonable attorneys' fees, for damages to the property of the other party and other persons and injury or death to the other party's employees or other persons, including but not limited to, payments under any Workers Compensation law or under any plan for employee's disability and death benefits, which may arise out of or be caused by the negligence or intentional misconduct of the indemnifying party as it relates to the erection, maintenance, presence, use or removal of the indemnifying party's facilities, or by any act or omission of the indemnifying party's employees, agents or contractors on or in the vicinity of Licensor's poles. The foregoing indemnity, hold harmless and defense provisions shall not apply in the case of claims, which solely arise from the negligence, misconduct or other fault of the other party. It shall apply, however, if a claim is the result of the joint negligence, joint misconduct or joint fault of Licensee and Licensor, their agents, employees or contractors, but in such case the amount of the claim for which each party is entitled to indemnification shall be limited to that portion of such claim attributable to the negligence, misconduct or other fault of the respective party.

5. Each party shall indemnify, protect and save harmless the other party from any and all claims, demands, causes of action and costs, including reasonable attorneys' fees, which arise directly from or are caused by the negligence or intentional misconduct of the indemnifying party as it relates to the construction, attachment or operation of its facilities on Licensor's poles, including but not limited to damages, costs and expense of relocating poles due to the loss of right-of-way or property owner consents, taxes, special charges by others, claims and demands for damages or loss from infringement of copyright, for libel and slander, for unauthorized use of television or radio broadcast programs and other program material, and from and against all claims, demands and costs, including reasonable attorneys' fees, for infringement of patents with respect to the manufacture, use and operation of the indemnifying party's facilities in combination with poles or otherwise. The foregoing indemnity shall not apply in the case of claims, which solely arise from the negligence, misconduct or other fault of the other party. It shall apply, however, if a claim is the result of the joint negligence, joint misconduct, or joint fault of Licensee and Licensor, their agents, employees or contractors, but in such case the amount of the claim for which each party is entitled to indemnification shall be limited to that portion of such claim attributable to the negligence, misconduct or other fault of the respective party.

6. Licensors and Licensees shall promptly advise the other of all claims relating to damage to property or injury to or death of persons, arising or alleged to have been caused by the erection, maintenance, repair, replacement, presence, use or removal of facilities governed by this License Agreement. Copies of all accident reports and statements made to a Licensor's or Licensee's insurer by the other Licensor or Licensee or affected entity shall be furnished promptly to the Licensor or Licensee.

7. Notwithstanding anything to the contrary herein, neither Licensor nor Licensee shall be liable to the other for any special, consequential or other indirect damages arising under this Agreement, including without limitation loss of profits and revenues.

8. The provisions of this Article shall survive the expiration or earlier termination of this Agreement or any license issued hereunder.

## ARTICLE VII

### TERMINATIONS OF AUTHORIZATIONS

1. In addition to rights of termination provided to the Licensor under other provisions of this Agreement, the Licensor shall have the right to terminate Pole/or Anchor attachment authorizations and rights granted under provisions of this Agreement where:

a. the Licensee's facilities are maintained or used in violation of any law or in aid of any unlawful act or undertaking, or

b. the Licensee ceases to have authority to construct and operate its facilities on public or private property at the location of the particular Pole or Anchor covered by the authorization and has not sought judicial or regulatory review of any decision that (1) acted to terminate such authority or (2) declared that Licensee lacks such authority; or

c. the Licensee materially fails to comply with any of the terms and conditions of this Agreement or materially defaults in any of its obligations thereunder; or

d. the Licensee attaches to a Pole and/or Anchor without having first been issued authorization therefore; or

e. the Licensee, subject to the provisions specified in Article III (5.), should cease to provide its services.

f. the Licensee sublets or apports part of the licensed assigned space or otherwise permits its assigned space to be used by an entity or an affiliate not authorized pursuant to Article III (5).

g. except in circumstances in which Licensor has accepted evidence of self-insurance in accordance with Article VI, the Licensee's insurance carrier shall at any time notify the Licensor that the policy or policies of insurance as required in Article VI will be or have been cancelled or amended so that those requirements will no longer be satisfied;

h. the Licensee shall fail to pay any sum due under Article VIII or to deposit any sum required under this Agreement, or shall fail to maintain satisfactory surety as required in Article V;

i. any authorization that may be required by any governmental or private authority for the construction, operation and maintenance of the Licensee's facilities on a Pole or Anchor is denied, revoked or cancelled by a final, non-appealable order or decision.

2. The Licensor will promptly notify the Licensee in writing of any instances cited in Article VII (1.) preceding. The Licensee shall take corrective action as necessary to eliminate the non-compliance and shall confirm in writing to the Licensor within thirty (30) days following such written notice that the non-compliance has ceased or been corrected. If Licensee fails to discontinue such non-compliance or to correct same and fails to give the required written confirmation to the Licensor within the time stated above, the Licensor may terminate the attachment authorizations granted hereunder for Poles and/or Anchors as to which such non-compliance shall have occurred.

3. Licensee may at any time remove its facilities from a Pole or Anchor after first giving the Licensor written notice of Licensee's intention to so remove its facilities.

4. In the event of termination of any of the Licensee's authorizations hereunder, the Licensee will remove its facilities from the Poles and Anchors within thirty (30) days of the effective date of the termination; provided, however, that Licensee shall be liable for and pay all fees and charges pursuant to provisions of this Agreement to the Licensor until Licensee's facilities are actually removed from the Poles and Anchors. If the Licensee fails to remove its facilities within the specified period, the Licensor shall have the right to remove such facilities at the Licensee's expense.

5. When Licensee's facilities are removed from a Pole or Anchor, no attachment to the same Pole or Anchor shall be made until the Licensee has first complied with all of the provisions of this Agreement as though no such Pole or Anchor attachment had been previously made and all outstanding charges due to the Licensor for such Pole or Anchor attachment have been paid in full.

6. Prior to terminating or revoking any license under this Agreement or the Agreement itself for whatever cause or purpose, a petition may be brought, by either party, to the Public Service Commission requesting the Commission to decide the dispute. A Public Service Commission determination shall be binding on all parties to this Agreement. However, the right of the Licensor or Licensee for judicial review of the Commission's determination remains.

## ARTICLE VIII

### RATES AND CHARGES

The Licensee is responsible for payment of all rates, charges and costs as specified elsewhere in this Agreement and as set forth below. Licensee shall be responsible for payment of all charges for preconstruction survey and make-ready work, in advance for work performed or expenses incurred by the Licensor regardless of whether Licensee subsequently withdraws its application for attachment authorizations for the Poles and Anchors on which such work was performed.

Licensee agrees that, in the event Licensee fails to pay an amount due and owing within the period of time set forth for payment in this Agreement, interest shall accrue on the unpaid balance thereof at the rate of 1 1/2% per month for each month from the expiration of such period until payment is received by Licensor.

#### 1. Attachment Rates

The attachment rates shall be as specified in a schedule currently filed with the Public Service Commission and attached as Exhibit E.

2. Charges for Make-Ready Work (UNIT COSTS)

Make-ready charges shall be billed, payable up to thirty (30) days prior to the commencement of work on individual Poles, according to the current Schedule of Unit Costs filed with the Public Service Commission and incorporated herein as Exhibit G. When Licensor employs an outside contractor rather than its own work forces to perform make-ready, Licensee shall pay an amount equal to the contractor's fees plus a premium equal to no more than 10% of those fees. Licensor shall make available copies of all written contracts, agreements, understandings and work orders pertinent to make-ready work performed by such contractors.

3. Charges for Inspections

a. The cost of the post-construction inspection shall be billed in advance with the charges for make-ready work. If the post-construction inspection is not performed Licensor shall refund the amounts paid for such inspection.

b. The cost of Periodic Inspection will be billed to the Licensee upon completion of the inspection by the Licensor.

c. Licensee shall pay the cost of subsequent inspections to insure correction of variances from required construction and maintenance practices, determined to exist through post-construction or periodic inspections.

4. Payment of Rates and Charges

Unless otherwise provided elsewhere in this Agreement, Licensee shall pay all rates and charges, as specified in the Agreement and/or in a schedule currently filed with the Public Service Commission, within thirty (30) days from the dates of billing thereof.

ARTICLE IX

EQUAL EMPLOYMENT OPPORTUNITIES

Licensee affirms that the Equal Employment Opportunity provisions required by law, regulation or executive order to be incorporated in this Agreement as set forth in a Compliance Undertaking prepared by Licensor have been read and signed by Licensee, and that the said Compliance Undertaking has been delivered to Licensor. Such Compliance Undertaking shall continue in effect until specifically withdrawn in writing by Licensee (Exhibit F).

ARTICLE X

WAIVER OF TERMS AND CONDITIONS

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

ARTICLE XI

TERM OF AGREEMENT

If not terminated in accordance with its terms, this Agreement shall continue in effect for a term of one (1) year from the date hereof and thereafter until three (3) months after written notice of termination is given by either party. Such notice of termination may be given to take effect at the end of the original one (1) year period or at any time thereafter.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple originals on the day and year first above written.

**VERIZON NEW YORK INC.**

**By:** \_\_\_\_\_

(Print Name)\_\_\_\_\_

(Title)\_\_\_\_\_

(Date)\_\_\_\_\_

\_\_\_\_\_ **(LICENSEE)**

**By:** \_\_\_\_\_

(Print Name)\_\_\_\_\_

(Title)\_\_\_\_\_

(Date)\_\_\_\_\_

APPLICATION AND POLE LICENSE <sup>1</sup>

\_\_\_\_\_ N.Y., \_\_\_\_\_ 20 \_\_\_\_

Verizon New York Inc.  
\_\_\_\_\_, New York

In accordance with the terms and conditions of the Pole Attachment Agreement between us, date as of \_\_\_\_\_ 20 \_\_\_\_\_, application is hereby made for a license to make attachments to the following Poles which are indicated to be Verizon New York Ownership, Joint Ownership or unmarked.

<u>Pole No. &amp; Ownership<sup>2</sup></u>	<u>Location</u>	<u>Attachment<sup>3</sup></u>	<u>Municipality</u>
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\_\_\_\_\_  
(Name of Licensee)

By \_\_\_\_\_

Title \_\_\_\_\_

License Number<sup>4</sup> \_\_\_\_\_ is hereby granted, for attachment to such of the above Poles as have not been stricken from the above list, \_\_\_\_\_, 20 \_\_\_\_\_

Verizon New York Inc.

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

1. Applications shall be submitted in duplicate.
2. Indicate T for Verizon New York Ownership  
    Jt for Joint Ownership  
    U for unmarked  
    E for Electric Company Ownership
3. A complete description of all facilities shall be given, including quantities, sizes and types of all cables and equipment.
4. This license is issued under the terms and conditions of the Pole Attachment Agreement.

NOTIFICATION OF REMOVAL OF POLE AND/OR ANCHOR ATTACHMENT BY  
LICENSEE

\_\_\_\_\_, N.Y., \_\_\_\_\_ 20 \_\_\_\_\_  
Verizon New York Inc.  
\_\_\_\_\_, New York

In accordance with the terms and conditions of the Pole Attachment Agreement between us, dated as of \_\_\_\_\_, 20 \_\_\_\_\_, kindly cancel from your records the following Poles and/or Anchors covered by the licenses indicated from which our attachments were removed on \_\_\_\_\_, 20 \_\_\_\_\_.

<u>Pole Number</u>	<u>Pole Location</u>	<u>License Number</u>	<u>Municipality</u>
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\_\_\_\_\_  
(Name of Licensee)

By \_\_\_\_\_

Title \_\_\_\_\_

RECEIPT of the above Notice is hereby acknowledged, \_\_\_\_\_ 20 \_\_\_\_\_

Verizon New York Inc.

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

(Submit in duplicate)

APPLICATION AND ANCHOR LICENSE<sup>1</sup>

\_\_\_\_\_, N.Y., \_\_\_\_\_ 20 \_\_\_\_

Verizon New York Inc.  
\_\_\_\_\_, New York

In accordance with the terms and conditions of the Pole Attachment Agreement between us, dated as of \_\_\_\_\_, 20 \_\_\_\_\_, application is hereby made for a license to make attachments to the following Anchors for which Verizon New York Inc. or the Power Company is Licensor.

<u>Pole No. &amp;<sup>2</sup></u>	<u>Anchor<sup>3</sup></u>	<u>Location</u>	<u>Attachment<sup>4</sup></u>	<u>Municipality</u>	<u>Make Ready<sup>5</sup></u>
<u>Licensor</u>					<u>By Whom</u>

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

By \_\_\_\_\_

Title \_\_\_\_\_

License Number<sup>6</sup> \_\_\_\_\_ is hereby granted, for attachment to such of the above Poles as have not been stricken from the above list, \_\_\_\_\_, 20 \_\_\_\_\_

Verizon New York Inc.

By \_\_\_\_\_

Title \_\_\_\_\_

1. Applications shall be submitted in duplicate.
2. Indicate T – Verizon New York is Licensor  
L - Power Company is Licensor
3. Indicate N, E, S, or W, for North, East, South or West and inside, middle or outside Anchor as appropriate.
4. A complete description of all facilities shall be given, including quantity, size and type of guy strand.
5. A complete description of all “Make Ready Work,” if necessary.
  6. This license is issued under the terms and conditions of the Pole Attachment Agreement.



PROCEDURE FOR DETERMINING WHEN EXISTING VERIZON NEW YORK  
ANCHORS HAVE CAPACITY TO ACCOMMODATE AUTHORIZED LICENSEE  
ATTACHMENTS

1 - Determine the maximum capacity of the guy rod. Newer guy rods are marked with their capacity; if the rod is unmarked, the capacity is listed in the following table. The Guy Rod and Strand Gauge should be used in determining the Anchor Rod diameter.

UNMARKED ROD DIAMETER (INCHES)	CUMULATIVE STRAND SIZE CAPACITY
1/2	2.2M
5/8	6 or 6.6 M
3/4	16M
1	26M
1 1/4*	32M

\* Swamp Anchor w/1 1/4" Rod - 6M Capacity.

2 - Determine the combined capacity of the guy strands attached to the Anchor rod.

Example:

Table A Section 4\*\*. (6M Plus 10M = 16M)

3 - The difference between the Anchor rod capacity and the combined capacity, of the guy strands attached, is the capacity available for the licensees' guy strand attachment.

Example:

1" Anchor Rod - 26M Capacity  
10M (TEL) plus 11M (EL) = 21M, The Spare Capacity is 5M

4 - Determine the licensees' guy strand requirements, Section 8\*\*. Add capacity of licensees' guy strand to cumulative capacity presently attached to the Anchor rod.

5 - Only when the known capacity of the Anchor is equal to or greater than the total guy strand requirements, shall a license be issued to the Licensee allowing the attachment.

\*\* Telcordia Blue Book - Manual of Construction Procedures (Blue Book)

Example:

1" - Anchor Rod - 26M Capacity

Total of Guy strands - 10M (TEL) plus 11M (EL) plus 4.7M CATV=25.7M

6 - If it is determined that an Anchor does not have sufficient unused capacity to allow the attachment of the Licensee, a License shall not be issued. The Licensee will then have the following options:

- (a) The licensee can obtain right-of-way and place its own Anchor and guy.
- (b) For sidewalk Anchors only, the Licensee can request that the Licensor of the Pole replace the existing Anchor with an Anchor having larger capacity at the Licensee's expense.
- (c) The Licensee can request at Licensee's expense that the Licensor and Joint User reevaluate the existing guy capacity versus the required guy strength for the stress on the Pole, to determine if the existing guys are oversized. Licensee's permission to attach would then be based on the actual requirements of the existing guys.

SCHEDULE OF RATES FOR  
VERIZON NEW YORK INC.  
STANDARD POLE ATTACHMENT  
FILED WITH NEW YORK STATE PUBLIC  
SERVICE COMMISSION

1. RATE

Pole Attachment Annual Rate - \$8.97  
per attachment per Pole per year. Attachment to Anchors that are authorized is included in the above fee.

Pole Attachment Rate for an optional one-time payment-  
The formula for determining the one-time payment is:

$$P = F \times P/W$$

where

P is the one-time payment

F is the current Annual Attachment Fee filed with  
the Public Service Commission

P/W is the present worth of an annuity,  
compounded annually to 30 years, at the interest  
rate currently paid by the Licensor on  
deposit of its subscribers.

2. COMPUTATION

For the purpose of computing the total attachment fees due hereunder, the total fee shall be based upon the number of attachments licensed whether or not attachments are actually made on the fifteenth (15) day of June and the fifteenth (15) day of December of each year. The first payment of the annual charge for licenses granted under this Agreement shall be prorated from the month of issuance of the license to the first regular payment date at the rate of seventy-five (.75) cents a month per Pole attachment.

3. PAYMENT DATE

Attachment fees shall be due and payable semi-annually, in advance, on the 31st day of January for the first half of the calendar year and on the 31st day of July for the last half of the calendar year. Failure to pay such fees within thirty (30) days after presentment of the bill therefore or on the specified payment date, whichever is later, shall constitute default under this Agreement.

4. TERMINATION OF LICENSE

a) Annual Rate

Upon termination of a license granted hereunder, the applicable attachment fee shall be pro-rated at the rate of seventy-five (.75) cents a Pole attachment per month remaining in the period for which rental has been paid.

b) One Time Payment

Upon termination of a license granted hereunder, the applicable attachment fee shall be retained by the Licensor except that, if within the first 30 years of issuance of a license under the one-time payment option, Licensor revokes such license under circumstances where Licensee's facilities thereunder cannot be relocated pursuant to Article VII of the Pole Attachment Agreement, Licensor shall refund to the Licensee a pro-rated portion of the one-time payment charge calculated for such 30 year period. The attachment fee is not transferable to another Pole.

E.E.O. COMPLIANCE UNDERTAKING

## I. EQUAL EMPLOYMENT OPPORTUNITY PROVISIONS

In accordance with Executive Order No. 11246, dated September 24, 1965, as amended by Executive Order No. 11375, date October 13, 1967, and U.S. Code of Federal Regulations, Title 41-Public Contracts and Property Management, Chapter 60-Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor, Part 60-1-Obligations of Contractors and Subcontractors, the parties include in this contract the following understanding and agreement:

A. FOR CONTRACTS EXCEEDING \$10,000  
EQUAL EMPLOYMENT OPPORTUNITY CLAUSE (41 CFR 60-1.4)

During the performance of this contract \_\_\_\_\_  
(hereafter referred to as Contractor) agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the present rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in the Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of the paragraphs (1) through (7) in every subcontract or purchase order unless exempted by such rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204, of Executive Order No.11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor, or vendor as the result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### B. CERTIFICATION OF NONSEGREGATED FACILITIES (41 CFR 60-1.8)

The contractor certifies to Verizon New York Inc. that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It understands and agrees that a breach of this certification may be violation of Equal Opportunity clause required by Executive Order 11246 of September 24, 1965.

As used in this certification, the term “segregated facilities” means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are in fact segregated on the basis of race, color, religion, sex or national origin, because of habit, local custom or otherwise except as permissible by law (e.g. restrooms designated for employees on the basis of sex).

It further agrees that (except where it has obtained similar certification from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that it will retain such certification in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted similar certification for specific time periods):

“NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES. A certification of non-segregated Facilities, as required by the May 9, 1967, order on Elimination of Segregated Facilities, by the Secretary of Labor (32 Fed. Reg. 7439, May 19, 1967), must be submitted prior to the award of a subcontract exceeding \$10,000 which is not except from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually).”

NOTE: “Whoever knowingly and willfully makes any false, fictitious or fraudulent representation may be liable to criminal prosecution under 18 U.S.C. 1001.”

#### C. FOR CONTRACTS EXCEEDING \$50,000 WITH CONTRACTOR WITH 50 OR MORE EMPLOYEES (41 CFR 60-1.40) AFFIRMATIVE ACTION PROGRAM CERTIFICATION

The contractor, (or subcontractor) certifies to the Verizon New York Inc. that it has developed or will develop a written affirmative action compliance program in accordance with the requirements set forth in Title 41-Public Contracts and Property Management, Chapter 60-Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor, Part 60-1-Obligations of Contractors and Subcontractors, Section 60-1.40, Code of Federal Regulations, effective July 1, 1968, as amended.

#### D. CONTRACTOR'S INFORMATION REPORT CERTIFICATION (41 CFR 60-1.7)

The contractor, (or subcontractor) certifies to Verizon New York Inc. that E.E.O. -1, Standard Form 100 promulgated jointly by the Office of Federal Contract Compliance, the Equal Employment Opportunity Commission and Plants for Progress, has been or will be filed in accordance with the requirements set forth in Title 41-Public Contracts and Property Management, Chapter 60-Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor, Part 60-1--Obligations of Contractors and Subcontractors, Section 60-1.7 Code of Federal Regulations, effective July 1, 1968, as amended.

#### II. MINORITY BUSINESS ENTERPRISES (41 CFR 1-1. 1310-2)

In accordance with Executive Order No. 11625, dated October 13, 1971, and U.S. Code of Federal Regulations, Title 41-Public Contracts and Property Management, Chapter 1-Federal Procurement Regulations, Part 1-1.13--Minority Business Enterprises, as such may be amended from time to time, the parties include in this contract the following understanding and agreement:

##### FOR CONTRACTS EXCEEDING \$5,000--- UTILIZATION OF MINORITY BUSINESS ENTERPRISES

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purpose of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

##### FOR CONTRACTS EXCEEDING \$500,000-- MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM

(a) The Contractor agrees to establish and conduct a program which will enable minority business enterprises (as defined in the clause entitle Utilization of Minority Business Enterprises"), to be considered fairly as subcontractor and suppliers under this contract. In this connection, the Contractor shall--(1) Designate a liaison officer who will administer the Contractor's minority business enterprises program. (2) Provide adequate and timely consideration of the potentialities of known minority business enterprises in all "make-or-buy" decisions. (3) Assure that known minority business enterprises will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority business enterprises. (4) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority business enterprises, (ii) awards to minority business enterprises on the source list, and (iii) specific efforts to identify and award contracts to minority business enterprises. (5) Include the Utilization of Minority Business Enterprises clause in subcontracts which offer substantial minority business enterprises subcontracting opportunities. (6) Cooperate with the Contracting Officer in any studies and surveys of the Contractor's minority business enterprises procedures and practices that the Contracting Officer may from time to time conduct. (7) Submit periodic reports of subcontracting to known minority business enterprises with respect to the records referred to in subparagraph (4), above,

in such form and manner and at such time (not more often than quarterly) as the Contracting Officer may prescribe.

(b) The Contractor further agrees to insert, in any subcontract hereunder which may exceed \$500,000, provisions which shall conform substantially to the language of this clause, including this paragraph (b), and to notify the Contracting Officer of the names of such subcontractors.

## II. LISTING OF EMPLOYMENT OPENINGS FOR VETERANS (41 CFR 50-250.2)

In accordance with Executive Order No. 11701, dated January 24, 1973, and U.S. Code of Federal Regulations Title 41-Public Contracts and Property Management, Chapter 50, Part 50-250-Veteran's Employment Emphasis Under Federal Contracts, as such may be amended from time to time, the parties include in this contract the following understanding and agreement.

### FOR CONTRACTS \$2,500 OR MORE –

The contract clauses relating to listing employment openings that may be suitable for qualified disabled veterans and veterans of the Vietnam era, with the local office of the State employment service, contained in 41 CFR 50-250.2 are adopted and incorporated herein by this reference.

### FOR CONTRACTS \$10,000 OR MORE –

The provisions of PL 93-508, 38 U.S.C. 42 Sections 2012 and 2014 requiring affirmative action in the hiring and advancement of qualified disabled veterans and veterans of the Vietnam era are adopted and incorporated herein by this reference.

## IV. EMPLOYMENT OF THE HANDICAPPED CLAUSE (10 CFR 741.3)

In accordance with Executive Order No. 11758, dated January 17, 1974, and U.S. Code of Federal Regulations, Title 20-Employees' Benefits, Chapter VI--Employment Standards Administrations, Department of Labor, Subchapter C--Rehabilitation Act of 1973 (Public Law 93-112, Section 503), Part 741--Affirmative Action Obligations of Contractors and Subcontractors, as such may be amended from time to time, the parties include in this contract the following understanding and agreement:

### FOR CONTRACTS EXCEEDING \$2,500--

(a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

(b) The Contractor agrees that, if a handicapped individual files a complaint with the Contractor that he is not complying with the requirements of the Act, he will (1) investigate the complaint and take appropriate action consistent with the requirements of 20 CFR 741.29 and (2) maintain on file for three years, the record regarding the complaint and action taken.

(c) The Contractor agrees that, if a handicapped individual files a complaint with the Department of Labor that he has not complied with the requirements of the Act, (1) he will cooperate with the Department in its investigation of the complaint, and (2) he will provide all pertinent information regarding his employment practices with respect to the handicapped.

(d) The Contractor agrees to comply with the rules and regulations of the Secretary of Labor in 20 CFR Ch VI, Part 741.

(e) In the event of the Contractor's non-compliance with the requirements of this clause, the contract may be terminated or suspended in whole or in part.

(f) This clause shall apply to all subcontracts over \$2,500.

FOR CONTRACTS UNDER \$500,000---

Paragraphs (a) through (f) above and the following:

(g) The Contractor agrees (1) to establish an affirmative action program, including appropriate procedures consistent with the guidelines and the rules of the Secretary of Labor, which will provide the affirmative action regarding the employment and advancement of the handicapped required by PL 93-112, (2) to publish the program in his employee's or personnel handbook or otherwise distribute a copy to all personnel, (3) to review his program on or before March 31 of each year and to make such change as may be appropriate, and (4) to designate one of his principal officials to be responsible for the establishment and operation of the program.

(h) The Contractor agrees to permit the examination by appropriate contracting agency officials or the Assistant Secretary for Employment Standards or his designee, of pertinent books, documents, papers and records concerning his employment and advancement of the handicapped.

(i) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Assistant Secretary for Employment Standards, provided by the contracting officer stating contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment and the rights and remedies available.

(j) The Contractor will notify each labor union or representative of workers with which he has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

FOR CONTRACTS OVER \$500,000---

Paragraphs (a) through (j) above and the following:

(k) The Contractor agrees to submit a copy of his affirmative action program to the Assistant Secretary for Employment Standards within 90 days after the award to him of a contract or subcontract.

(l) The Contractor agrees to submit a summary report to the Assistant Secretary for Employment Standards, by March 31 or each year during performance of the Contract and by March 31 of the year following completion of the contract, in the form prescribed by the Assistant Secretary covering employment and complaint experience, accommodations made and all steps taken to effectuate and carry out the commitments set forth in the affirmative action program.



NOTE: Paragraphs (g) through (l) are only applicable for contracts and subcontracts which provide for performance of the work in 90 days or more and contracts of a continuing nature.

AGREED AND ACCEPTED

\_\_\_\_\_  
By

\_\_\_\_\_  
(Date)

**UNIT COSTS**

**ASSIGNMENT AGREEMENT**

THIS ASSIGNMENT AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 200 , between VERIZON NEW YORK INC., formerly known as NEW YORK TELEPHONE COMPANY, organized and existing under the laws of the State of New York, having its principal office at 140 West St., New York, New York 10007, and (hereinafter called “Licensor”), \_\_\_\_\_, a \_\_\_\_\_ corporation (hereinafter referred to as the “Assignor”), and \_\_\_\_\_, a \_\_\_\_\_ corporation (hereinafter referred to as the “Assignee”).

**WITNESSETH**

WHEREAS, the Licensor and Assignor, entered into an agreement dated (DATE) (the “Agreement”), as amended, covering attachments to certain poles in the \_\_\_\_\_; and

WHEREAS, on or about \_\_\_\_\_, Assignor was acquired by Assignee.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein contained the parties hereto hereby covenant and agree as follows:

1. The Agreement is hereby amended and restated in its entirety except as follows: any reference in the Agreement to Assignor as the Licensee is hereby deleted and replaced with “\_\_\_\_\_, a \_\_\_\_\_ corporation,” and Assignor shall have no further rights or obligations under the Agreement on or after the effective date of this Assignment Agreement.
2. By execution hereof, Assignee certifies and represents to the Licensor that the insurance required under the Agreement has been obtained in its name, except as otherwise required by such Agreement, and remains in full force and effect. As of the effective date of this Assignment Agreement, Assignee shall comply with all obligations and requirements of the Agreement.
3. The effective date of this Assignment Agreement shall be \_\_\_\_\_.

IN WITNESS WHEREOF, the parties have hereunto caused these presents to be executed by their respective representatives thereunto duly authorized, all as of the day and year first above written.

VERIZON NEW YORK INC.  
(LICENSOR)

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_(ASSIGNOR)

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_(ASSIGNEE)

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

LICENSEE SELF-SURVEY FORM

Summary = Total Poles Surveyed \_\_\_\_\_ Total Poles Requiring Verizon Make-Ready \_\_\_\_\_

FIELD SURVEY / MAKE READY WORK FORM														
SURVEYORS:				DATE OF SURVEY:					EWO #:					
Verizon				MUNIC:			STATE:		Exch Code:		Munic Code:			
<b>Licensee</b>				LICENSEE NAME:					<b>LICENSEE APPLICATION #:</b>					
ELCO				ELCO NAME:					<b>VERIZON APPLICATION #:</b>					
LOCATION		POLE #		ATT	OWNERSHIP					CHARGE		WORK DESCRIPTION		
TEL RTE / STREET NAME		Tel	El	C	J.O.		J.U.		F.O.		YES	NO	TASK #S /	* Height
<i>List one pole per line</i>				<b>P.S. Riser</b>	Tel	El	Tel	El	Tel	El			REMARKS	of Att.
														*
														*
														*
														*
														*
														*
<b>TOTALS:</b>														

- Height of Attachment = Height of Licensee Attachment shall be noted here by Verizon and ELCO surveyor.
- Licensee to complete bold italicized areas only. ( Provide ownership information if known )

**LICENSEE SELF-SURVEY FORM Definitions**  
**EXHIBIT I**

**SUMMARY-** The total number of poles surveyed and the total number of poles requiring Verizon Make-Ready

**SURVEYORS:** Name of Representative attending Survey from VERIZON, Power Company and Licensee

**Date of Survey :** Date Survey is performed

**EWO#:** Verizon's Engineering Work Order Number

**Munic:** Municipality where pole is located **State:** State in which pole is located

**Licensee Name:** Name of Company or Entity applying for Pole Attachments

**Exch Code: Verizon's Exchange Code** = the Exchange in which the Municipality is located.

**Munic Code: Verizon's Municipality Code** = the code for the Municipality in which the pole is located (tax purposes).

**Application #:** The number of the Licensee's Application = sequentially numbered by municipality.

**ELCO NAME:** The name of the Electric (power) Company in whose service area the pole is located.

**Location:** List each individual pole (ONE POLE PER LINE) you wish to attach to (multiple sheets may be used) and provide the following:

**Street, Route, Circuit # and other information which indicates location of poles.**  
Indicate location by providing name of street, highway, route, etc., e.g., South Street, north of (N/O) Jones Road. Private Property Poles should be identified as such e.g., P.P. (Lead off pole 1234 South).

**Pole #:**

Tel = Telephone Company pole #

El= Electric Company pole #

**ATT: Type of Attachment: Specify each piece of equipment associated with the attachment** C=Cable P.S. = Power Supply Riser = Riser Pole

**Ownership:** **JO** = Joint Owned 50%-50% Tel-Elco, **JU** = Joint Use - 100% Tel or 100% Elco, **FO** = 100% Fully owned by Tel or Elco (Other company not on pole)

**Charge:** **Y or N = Y** = Yes, there are make ready charges, **N** = No, there are no make ready charges to the Applicant.

**Work Description: Short description of work operations required.**

Task # should also be included and is defined as the number of the task or tasks required for make ready work. The Task # is associated with a Unit Price from the "Make Ready Unit Price Schedule" Exhibit I.