

POLE ATTACHMENT AGREEMENT

BETWEEN

Habersham EMC

AND

Trailwave Fiber Inc

DATED 7.14, 2021

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POLE ATTACHMENT AGREEMENT

THIS POLE ATTACHMENT AGREEMENT ("Agreement"), effective as of July 1, 2021, ("Effective Date") is made by and between Habersham EMC, a corporation organized under the laws of the State of Georgia with a business address of 6135 State Hwy. 115W, Clarkesville, GA 30523, (the "Pole Owner"), and Trailwave Fiber Inc, a corporation organized under the laws of the State of Georgia with a business address of 6135 State Hwy. 115W, Clarkesville, GA 30523 (the "Licensee", and collectively with the Pole Owner hereinafter called the "Parties" or either as "Party").

WHEREAS, Licensee is a communications service provider as defined in O.C.G.A. § 46-3-200.4(a)(3) and desires to connect or fasten its wires or cables or other ancillary non-wireless equipment on the Pole Owner's Poles on a non-exclusive basis in one foot of the Communications Space (as defined in Article 2 herein) in accordance with this Agreement; and

WHEREAS, the Pole Owner will allow the installation, maintenance, and removal of Licensee's Pole Attachments (as defined in Article 2 herein) on its Poles on a non-exclusive basis in one foot of the Communications Space (as defined in Article 2 herein) subject to the rates, fees, terms, conditions, and specifications set forth herein;

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

ARTICLE 1 - SCOPE OF AGREEMENT

- A. This Agreement shall cover the attachment of Licensee's wires and cables to all Pole Owner's electric distribution Poles (as defined in Article 2 herein) in the State of Georgia.
- B. Consistent with O.C.G.A. § 46-3-200.4 and the Pole Attachment Regulations for the Georgia Public Service Commission, ¶ 4, this Agreement is a mutually negotiated pole attachment agreement.
- C. Nothing in the foregoing shall preclude the Parties to this Agreement from entering into supplemental operating routines or working practices as they mutually agree in writing to be necessary or desirable to effectively administer the provisions of this Agreement.
- D. This Agreement and any amendment thereof shall be effective subject to the condition that, during any period in which the Pole Owner is a borrower from the Rural Utilities Service ("RUS") and if RUS approval of this Agreement or any amendment to it is required, the Agreement and any amendment to it shall have the approval in writing of the RUS Administrator.
- E. The Pole Owner reserves the right to exclude from this Agreement any of its facilities for any reason.

ARTICLE 2 - DEFINITIONS

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

- A. "Actual Costs" means all costs incurred including, but not limited to, the cost of materials and equipment, fully loaded direct and indirect labor, engineering, supervision and overhead.
- B. "Attaching Entity" means a communications service provider (as defined in O.C.G.A. § 46-3-200.4(a)(3)) attaching to a Pole owned by an electric membership corporation.
- C. "Claims" shall have the meaning set forth in Article 21.
- D. "Communications Space" means the lower usable space on a Pole (as defined in Article 2 herein) located at or above the lowest height above ground level necessary for wireline attachments to achieve minimum mid-span clearance and below the Safety Space, which typically is reserved for low-voltage communications equipment.
- E. "Complex Make-Ready Work" means Transfers and work within the Communications Space that would be reasonably likely to cause a service outage(s) or facility damage, including work such as splicing of any communication attachment or relocation of existing wireless attachments. Any and all wireless activities, including those involving mobile, fixed, and point-to-point wireless communications and wireless internet service providers, and any work involving the space above the Safety Space (i.e., the power space) are to be considered complex.
- F. "Georgia One-Touch Make-Ready" or "GOTMR" means the optional application process and procedure described in Article 4 which is available for completion of Simple Make-Ready Work.
- G. "Imposition Fee" is a 25% fee on top of Actual Costs associated with performance by the Pole Owner of certain tasks as specified in Article 9, when the Licensee fails to comply, after notice.
- H. "Indemnitees" shall have the meaning set forth in Article 21.
- I. "Invoice Due Date" means sixty (60) days from the date of the invoice.
- J. "Make-Ready Work" means engineering or construction activities necessary to make a Pole or similar structure available for a new Pole Attachment, Pole Attachment modification, or additional facilities including, but not limited to, rearrangement, removal and replacement of the pole, Transfers, and other work incident thereto.
- K. "NEC" means the National Electrical Code published by the National Fire Protection Association.
- L. "NESC" means the American National Standards Institute's National Electrical Safety Code published by the Institute of Electrical and Electronics Engineers, Inc.
- M. "NJUNS" means the National Joint Utilities Notification System.
- N. "Overlash"/"Overlashing" means the attachment of additional wires and/or cables to existing facilities that already are attached to a Pole (as defined in Article 2 herein). An Overlash is not considered a separate attachment and is not subject to a separate additional annual Pole Attachment Rental Fee.

- O. "Pole" means Pole Owner's wood, concrete or metallic poles used in whole or in part for electric distribution by an EMC or an affiliate thereof. It does not include fiberglass, aluminum, or decorative or ornamental street/security light poles used solely for the purpose of lighting, nor shall it include any poles used for transmission purposes.
- P. "Pole Attachment" means the connection or fastening of a wire or cable or other ancillary non-wireless equipment to a Pole.
- Q. "Pole Attachment Audit" means any audit done at the option of the Pole Owner to count the number of Pole Attachments by Licensee and/or other existing Attaching Entities.
- R. "Pole Attachment Rental Fee" means the annual amount per pole that Licensee must pay to the Pole Owner pursuant to Article 11 in order to affix its Pole Attachment(s) to a Pole.
- S. "Qualified Contractor" shall mean a contractor that meets all of the minimum requirements set forth in Article 4.D.9.
- T. "Safety Inspection" means any inspection done at the option of the Pole Owner to ensure that Licensee's Pole Attachments comply with applicable safety standards and specifications set forth in Article 3 and Appendix C.
- U. "Safety Space" means The Communication Worker Safety Zone as defined in the current issue of the NESC, which in general is the space located between the areas to which electric conductors and communications circuitry may be attached.
- V. "Security Instrument" means a performance bond, irrevocable letter of credit, or other similar instrument.
- W. "Service Drop" means any connection from distribution facilities to the building or structure being served that does not require guys under standard industry design practice. Service Drops are considered to be Pole Attachments.
- X. "Simple Make-Ready Work" is work in the Communications Space of the pole where facilities can be rearranged without any service outage or facility damage and does not require a pole replacement or splicing of any existing communications attachment.
- Y. "Transfer" means the removal of Pole Attachments from one Pole and the placement of those or substantially similar Pole Attachments upon another Pole.
- Z. "Unauthorized Attachment" means any affixation of any of Licensee's Pole Attachments or other equipment of any nature to any Poles and/or property of the Pole Owner, which has not been previously authorized by the Pole Owner. Overlapping of existing facilities without complying with the terms of this Agreement also constitutes an Unauthorized Attachment. Unauthorized Attachment may include, without limitation, any Pole Attachment affixed to the Pole Owner's Poles without permission from the Pole Owner as provided for in this Agreement (or a prior agreement).

ARTICLE 3 - STANDARDS AND SPECIFICATIONS

- A. Pole Attachments and Overlapping shall be installed and maintained (in a safe condition and thorough repair) in accordance with:

1. The edition of the NESC and NEC in effect at the time the Pole Attachment is installed;
 2. The U.S. Department of Agriculture's Rural Utilities Service regulations and standards as they apply to Pole Attachments;
 3. The Bellcore Manual of Construction Procedures (Blue Book) and subsequent revisions thereof;
 4. The Society of Cable Television Engineer's *Recommended Practices for Coaxial Cable Construction and Testing and Recommended Practices for Optical Fiber Cable Construction and Testing* and subsequent revisions thereof;
 5. The codes, rules, or regulations of any federal, state or local governing body having jurisdiction;
 6. The Pole Owner's engineering or other standards/specifications for safety and reliability in effect at the time the Pole Attachment is installed and, in the case of any Pole Attachment that is modified or altered after its initial installation, in effect at the time the Pole Attachment is modified or altered. Pole Owner agrees to provide at least sixty (60) days' written notice to Licensee prior to the effective date of any changes to the Pole Owner's engineering or other standards/specifications. Such notice shall be provided to the "Make-Ready Invoicing" contacts identified in Appendix B; and
 7. The Rules and Practices for Pole Attachments set forth in Appendix C.
- B. Where there is a disagreement between the above-referenced specifications, the more stringent shall apply. The requirements of the NESC are minimum requirements and certain requirements of the Pole Owner may exceed or supplement the NESC.
- C. Upon receiving actual or constructive notice, regardless of the source, Licensee shall immediately repair any NESC or NEC violation or other non-conformance to the above-referenced Standards and Specifications associated with their Pole Attachments or Overlapping if that violation poses an imminent danger to life or property. If the Licensee did not cause the violation, the Licensee may seek reimbursement from the entity causing the violation but only after repair of the violation has been made. If the Licensee does not immediately repair a violation subject to this provision, the provisions of Article 9 shall also apply.
- D. Upon receiving actual or constructive notice, regardless of the source, Licensee shall repair any NESC or NEC violation or other non-conformance to the above-referenced Standards and Specifications not posing an imminent danger to life or property within thirty (30) days except in extraordinary circumstances, the burden of proof of which shall be borne by the party whose Pole Attachment or Overlapping is non-compliant. The Pole Owner may grant or deny additional time to cure in its reasonable discretion. If the Licensee is responsible for the violation, it shall bear the Actual Cost of repair. If a third-party is responsible for the violation, the responsible third-party shall correct the violation within thirty (30) days of notice from the party whose Pole Attachment or Overlapping are non-compliant as a result of the third-party's actions. If the Licensee does not immediately repair a violation subject to this provision, the provisions of Article 9 shall also apply.

- E. Licensee's Pole Attachments shall be identified consistent with the Georgia Overhead Marking Standards as adopted by the Georgia Utility Coordination Council. Pole Attachments previously in place on the Pole Owner's Poles shall be so identified by Licensee as regular or emergency work occurs or at the next system rebuild opportunity, but not later than five (5) years from the Effective Date of this Agreement. Licensee shall be responsible for periodically inspecting its Pole Attachments to ensure they have permanent identification markers. After the fifth (5th) year, should the Pole Owner encounter any of Licensee's Pole Attachments without permanent identification markers, the Pole Owner may notify Licensee of the need to place the permanent identification markers. If the markers are not then placed within sixty (60) days of such notice, the Pole Owner may install the necessary markers, and Licensee shall reimburse the Pole Owner for the Actual Costs and the Imposition Fee.

ARTICLE 4 - ACCESS AND REMOVAL OF ATTACHMENTS

- A. Contracts: Prior to making any Pole Attachment, an Attaching Entity shall have a written and executed pole attachment agreement with the Pole Owner. Pole Attachments made without a written and executed pole attachment agreement shall be deemed Unauthorized Attachments and subject to processes for removal at the Attaching Entity's expense consistent with Article 10. Nothing herein shall be construed to authorize Licensee to attach any antenna, small cell facility, device, associated equipment or other facility used in any way in the transportation or provision of wireless communication services of any kind.
- B. Pole Attachment Applications:
1. Except in connection with (i) the placement of Service Drops; (ii) Transfers; (iii) the correction of safety violations or actions to bring a Pole Attachment into compliance with applicable specifications on previously authorized Pole Attachments; (iv) risers to permitted horizontally-run cables]; Licensee must submit to the Pole Owner an "Application" (in the form of Appendix A or such other form as may be mutually agreed upon, specifying fully, to the extent applicable, the information shown on Appendix A) for any construction on the Pole Owner's Poles (including reconstruction of existing Pole lines, road improvement projects and the Overlashing of Licensee's cables) in association with the placement of new Pole Attachment(s), Overlashing existing Pole Attachment(s), or removal of existing Pole Attachments. Pole Attachments and Overlashing made without a permit from the Pole Owner shall be deemed Unauthorized Attachments and subject to processes for removal at the Licensee's expense consistent with Article 10.
 2. The Application shall be sent either [(i) by electronic mail with electronic mail "read" receipt obtained] , or (ii) by being deposited in the United States mail with proper postage or via nationally recognized overnight courier, in either case properly addressed to the person receiving the Application. [When transmittal is by U.S. mail or by overnight courier, the Licensee will also send an electronic mail message, "read" receipt requested, to the Pole Owner as notice that the permit information is being carried by the U.S. mail or overnight courier, and to notify the

Pole Owner of the impending twenty (20) day, or other appropriate interval to respond to Licensee's Application.] This is to prevent disputes regarding the fulfillment of the twenty (20) day, or other appropriate interval below, and to avoid the Unauthorized Attachment fee in Article 10.

3. The Pole Owner may, without qualification, reserve space on their own Poles or facilities for future provision of their services. When the Pole Owner chooses to exercise its right to reserve space, and receives a subsequent Application from Licensee seeking occupy the reserved space, the Pole Owner may, by written notice (via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B) in response to the Application, either (a) prohibit Licensee's use of that space; or (b) permit Licensee's use of that space, if the conditions below are satisfied, until such time as the Pole Owner has actual need for the reserved space. In the event Licensee chooses to occupy the reserved space, Licensee shall, within sixty (60) days of written notice (via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B) that reserved space is actually needed by the Pole Owner, vacate the space at Licensee's expense. In such case, Licensee shall be permitted to request the Pole Owner to expand capacity, or otherwise modify the Pole, to maintain the Licensee's attachment. In the event the Pole Owner grants Licensee's request, Licensee shall cover the Actual Costs of expanding capacity or modifying the Pole.
4. The Licensee shall furnish the following information as part of a permit application or access request:
 - a) The location of the Pole where access is requested (including Pole number, if available);
 - b) The amount of space requested;
 - c) The number and type of Pole Attachments;
 - d) The physical characteristics of the Pole Attachment, including, to the extent applicable, the size and type of the support messenger; the strength and type of the guys; the characteristics of the existing and proposed cable attachments; and the weight, height, width, and depth;
 - e) The location on the Pole where access is requested;
 - f) The proposed route(s), if applicable;
 - g) The proposed schedule for construction;
 - h) The purpose of the Pole Attachment and/or the services to be supported by or provided via the Pole Attachment;
 - i) The characteristics including size, type, and holding capacity of existing and proposed anchors; and
 - j) Any other information reasonably necessary for the Pole Owner to evaluate and process the request.

A complete Application for access shall be one that provides all of the above information requested by the Pole Owner.

5. For Overlashing, the Licensee shall identify in the Application the size and type of the proposed and existing facilities to be Overlashed, the location of the relevant Poles and facilities, the proposed date of Overlashing, the services to be provided via the Overlashing facilities, and proof of consent to the Overlash from the host entity, if the Licensee seeks to Overlash a third-party's facilities.
6. Licensee shall not be required to submit an Application prior to installing a Service Drop provided that installation of the Service Drop can be made in compliance with the Standards and Specifications in Article 3. The Licensee shall account for and report the Service Drop on a quarterly basis, including the location of the Service Drop and whether it is in an area deemed "served" or "unserved" (see Article 11 for an explanation of what is considered a "served" area and what is considered an "unserved" area).
7. Except as to (1) installation of new Poles where none currently exist, as provided for in Article 5, (2) road widening projects, or (3) solely to provide notice of removal of Licensee's Pole Attachments, each Application submitted by Licensee, shall be accompanied with a check in the amount of fifty dollars (\$50.00) for the Pole Owner to process the Application. Failure to include payment of the fees when submitting the Application will result, at the Pole Owner's option, in the returning of the Application to Licensee unapproved or holding the Application (and stopping any associated deadlines and time clocks) until payment is received. [Licensee and Pole Owner may agree to allow Licensee to establish an "escrow account" with the Pole Owner for the Application fees [and Make-Ready Work] costs provided for herein. Licensee shall maintain any such "escrow account" at a level that is mutually agreed to by the Parties, but not to exceed an amount equivalent to six (6) months forecasted permit [and Make-Ready Work] activity].
8. The Pole Owner may identify, account for, and charge Licensee actual engineering and administrative costs and fees associated with both (1) a request to make a Pole Attachment and inspection of Overlashed facilities and (2) estimating the Make-Ready Work necessary to complete the Pole Attachment (or Make-Ready Work or corrective work relating to an Overlash). In the event the Pole Owner charges Licensee actual engineering and administrative costs and fees, the Pole Owner shall identify and account for those costs in any invoices or payment requests issued to Licensee. Payment for invoices issued by the Pole Owner shall be timely made on or before the Invoice Due Date, regardless of whether the Licensee elects to proceed with the Pole Attachment or Overlash. Interest in accordance with the rate of judgment interest set forth in O.C.G.A § 7-4-12 shall accrue on any costs and fees not timely paid.
9. If Licensee does not invoke the Georgia One-Touch Make-Ready process, as outlined elsewhere herein, the Pole Owner shall approve or deny Application(s) as soon as reasonably practicable, but in no event later than:
 - a) 20 days after receipt of a complete Application(s) for attachment to no more than 300 Poles in any 30-day period; or
 - b) 45 days after receipt of a complete Application(s) for attachment to more than 300 Poles but less than 500 Poles in any 30-day period; or

- c) Any mutually-negotiated period after receipt of a complete Application(s) for attachment to 500 Poles or more in any 30-day period.
10. The Pole Owner may condition approval of an Application on completion of Make- Ready Work. The Pole Owner is permitted to extend the deadline to approve or deny any Application an additional 20 days. The Pole Owner may only extend the deadline by providing the Licensee with notice (to the "Make-Ready Invoicing" contact on Appendix B) of the extension of the deadline and the specific reasons therefore. If the Application exceeds the above limits, the Parties shall work in good faith to negotiate a mutually agreeable timeframe. Nothing in this subsection shall prohibit the Parties from mutually agreeing to a different timeframe for Application approval.
11. Once an Application is approved, the Licensee shall provide Pole Owner with a preliminary schedule for Licensee's planned construction of Licensee's approved Pole Attachments. No later than 72-hours before commencing actual construction, Licensee shall provide Pole Owner notice of its actual date for commencing installation of its Pole Attachments and Overlashing, and any ancillary non-wireless equipment related thereto. The notice shall include the Licensee's planned construction activities, the name and contact number of the party performing the work, and the forecasted duration of the activities. So long as Licensee has provided its original notice 72-hours before commencing actual construction, Licensee may make same-day changes in its construction schedule by providing e-mail and telephone notice of such change no later than 9:00 AM EST to Pole Owner's notice address.

C. Standard Make-Ready Process:

1. If the Pole Owner grants approval of an Application that requires Make-Ready Work, the Pole Owner shall provide, in writing, a detailed list of Pole Owner's Make-Ready Work necessary to accommodate the proposed Pole Attachment. Such detailed list shall include the activities and materials to be used in the Make-Ready Work, along with an Actual Cost estimate, within fifteen (15) days from the date of approval of the Application.
2. The Make-Ready estimate shall offer sufficient detail so that Licensee can readily identify the components of the proposed Make-Ready Work and shall reflect costs that are verifiably comparable with Actual Costs. The Licensee shall request clarification on the Make-Ready estimate before requesting the Pole Owner to commence Make-Ready Work.
3. Within fifteen (15) days of the receipt of the Make-Ready Work estimate from the Pole Owner, the Licensee shall provide a written response either accepting the estimate and making payment arrangements as set forth in Article C.6. below, or, if the Licensee has a disagreement with the Make-Ready Work estimate, or the estimated number of days to complete the work, it shall provide, in writing, a list of any areas of disagreement to the Pole Owner. The Pole Owner will have fifteen (15) days from receipt of the applicant's disagreement response to provide a response to the Licensee.

4. If the Pole Owner approves an Application requiring Make-Ready Work, and the Licensee accepts the Make-Ready Work estimate, the Pole Owner may, at its option, timely proceed with completion of the Make-Ready Work at the Licensee's expense, or retain one of its contractors to perform the work within the same time frame, at the Licensee's expense.
5. Unless the Parties agree otherwise, or rendered impossible or impractical due to circumstances beyond the Pole Owner's control, Make-Ready Work shall be commenced within twenty (20) business days from the date the Licensee made payment for the Make-Ready Work estimate, and shall be completed in a timely manner and as soon as reasonably practicable after the date payment is received from the Licensee, but not later than:
 - a) 60 days (90 days for attachments above the Safety Space) after the date payment is received for Applications requesting attachment to no more than 300 Poles in any 30-day period; or
 - b) 75 days (105 days for attachments above the Safety Space) after the date payment is received for Applications requesting attachment to more than 300 but less than 500 Poles in any 30-day period.
 - c) If an Application seeks attachment to 500 Poles or more, or multiple applications submitted by the same applicant within a 30-day period total 500 poles or more, the Parties shall negotiate a reasonable timeframe for completion of the Make-Ready Work covered by the Application(s).
6. If the Licensee fails to (1) make payment of Pole Owner's Make-Ready Work as set forth on the Make-Ready estimate within sixty (60) days after Licensee's written response accepting the estimate or (2) install the subject Pole Attachment(s) within six (6) months of the completion of all Make-Ready Work required by the Pole Owner, the Pole Owner may, in its sole discretion, deem its approval of the Application null and void, retain previously paid fees and/or costs, and require the submission of another Application, along with engineering fees necessary to reimburse the Pole Owner for new engineering and any necessary cost estimates.
7. Both the Pole Owner and the Licensee shall place, Transfer and rearrange their own attachments, and shall place guys and anchors to sustain any unbalanced load caused by their attachments. On existing poles, each party will perform any tree trimming or cutting necessary for their installation or additional Pole Attachments. Anchors and guys shall be in place and in effect prior to the installation of Pole Attachments. Each party shall, with due diligence, attempt at all times to execute such work promptly and in such a manner as to not interfere with the service of the other Party.
8. Licensee may request expedited handling of the Pole Owner's work, which the Pole Owner may accept or reject in its sole discretion. If such handling is requested, Licensee shall be responsible for the additional Actual Costs incurred by the Pole Owner for such expedited processing.

9. Licensee, without following the Application procedure, may utilize vertical unused space below its Pole Attachment for vertical risers only if Licensee's existing Pole Attachment on such Pole is authorized, is in compliance with the terms and conditions of this Agreement, and such use does not interfere with the Pole Owner's operations or the operations of other Attaching Entities presently attached to the Pole. Any such vertical risers will be subject to all terms and conditions of this Agreement.
10. Except as provided for in Articles 12, Defaults, and 20, Term of Agreement, the Licensee shall have the right to Transfer its Pole Attachments from an existing Pole to a new Pole installed as part of a road-widening project and to continue applicability of the terms of this Agreement with respect to the transferred Pole Attachments.

D. Georgia One-Touch Make-Ready ("GOTMR"):

1. *Invoking GOTMR.* Licensee may apply to the Pole Owner to make a new Pole Attachment and/or Overlash and, when so doing, elect to invoke GOTMR. When Licensee elects to utilize GOTMR, the Pole Owner and Licensee shall abide by the following procedures for processing the Application and completing the Make-Ready Work. It is the responsibility of the Licensee to ensure that its Qualified Contractor determines whether the Make-Ready Work requested in an Application is Simple Make-Ready Work (and not Complex Make-Ready Work).
2. *Initial Application Review.* Any GOTMR Application must be certified by a Qualified Contractor, stating that the Make-Ready Work required for every Pole in the application does not require a Pole replacement or anything more than Simple Make-Ready Work. The Pole Owner shall review a new GOTMR Application for completeness within ten (10) business days of receipt of the Application and notify the Licensee (to the "Make-Ready Invoicing" contact on Appendix B) within those same ten (10) business days if the Application is not complete. A GOTMR Application is considered complete if it provides the Pole Owner with the certification and information reasonably necessary to make an informed decision on the Application. Failure to notify the Licensee that the Application is not complete, or failure to timely specify the reason the Application is incomplete, will render the Application complete.

If the Pole Owner notifies the Licensee that the Application is not complete, the Licensee may submit the missing information to complete the Application and continue with the Application process. If the Licensee fails to timely submit the missing information, within five (5) days following such notice, the Application shall be deemed abandoned and the Pole Owner shall have no further obligation to take any action.

3. *Application Review on the Merits.* The Pole Owner shall review a completed Application requesting GOTMR and respond to the Licensee either granting or denying an Application within fifteen (15) days of the Pole Owner's receipt of a complete Application. The Pole Owner shall be allowed thirty (30) days for Applications seeking access, via the GOTMR process, to three hundred (300) or more Poles.

4. *Pole Owner Objection to Make-Ready Work Designation.* Prior to the deadline for issuing its decision on the merits of the Application, the Pole Owner may object to the Licensee's designation that certain of the work required is Simple Make-Ready Work. If the Pole Owner objects, then the work is deemed Complex Make-Ready Work and the GOTMR process is not available to the Licensee and the Application must be processed under the standard Make-Ready provisions set forth in this Agreement. The Pole Owner's determination is final and determinative so long as it is specific, in writing, and includes all relevant evidence and information relied upon by the Pole Owner to support the decision, is made in good faith, and explains how such evidence and information relate to a determination that the process will involve Complex Make-Ready Work.
5. *GOTMR Surveys.* The Licensee is responsible for coordinating all surveys required as part of the GOTMR process and shall use a Qualified Contractor that is going to complete the Make-Ready Work in compliance with the terms of this Agreement.
6. *Notice to the Pole Owner and Existing Attaching Entities.* Licensee shall make commercially reasonable efforts to provide at least three (3) business days advance notice to the Pole Owner and existing Attaching Entities to allow them to be present for any surveys performed in advance of a GOTMR application (or desired GOTMR application). The notice shall include the date, time, and location of the surveys and the name of the Qualified Contractor performing the surveys. The Pole Owner and existing Attaching Entities attending pre-GOTMR application surveys shall do so at their own cost.
7. *Completion of the Make-Ready Work.* If the Licensee's GOTMR application is approved and if it has provided fifteen (15) days prior written notice of the Make-Ready Work to the Pole Owner and existing Attaching Entities, the Licensee may proceed with the Make-Ready Work using a Qualified Contractor.
 - a) The Licensee's prior written notice to the Pole Owner and existing Attaching Entities shall include the date and time of the Make-Ready Work to be performed to allow interested parties an opportunity to be present at their cost.
 - b) The Licensee shall notify the Pole Owner and/or existing Attaching Entities immediately if the Make-Ready Work performed damages any equipment or facilities of the Pole Owner or of an another Attaching Entity. Upon receiving notice from the Licensee, the Pole Owner or an existing Attaching Entity may each make the decision either to: (A) complete any necessary remedial work and bill the Licensee for the Actual Costs incurred related to fixing the damage or outage, or (B) require the Licensee to fix the damage or outage at its expense immediately following notice from the Pole Owner or any existing Attaching Entity (for such notice to Licensee, via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B).
 - c) In performing the Make-Ready Work, if the Licensee or Pole Owner determines that Make-Ready Work previous classified as Simple

Make- Ready Work is actually Complex Make-Ready Work, then that specific Make-Ready Work must be halted and the determining party must provide immediate notice to the other party (for such notice to Licensee, via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B) of its determination and the impacted poles. The remaining Make-Ready Work shall be completed in accordance with the regulations for standard Make-Ready Work.

8. *Post-Make-Ready Work.* The Licensee shall notify the Pole Owner and any existing Attaching Entity within fifteen (15) days after the Make-Ready Work is completed on a particular Pole. The Pole Owner shall have ninety (90) days from receipt of the notice to inspect the Make-Ready Work at the Licensee's cost. The Pole Owner and any existing Attaching Entity shall then have fourteen (14) days from the completion of their inspection to notify the Licensee of any damage or new code violations on the Pole, any facilities, or equipment that Licensee caused during the GOTMR process. The Pole Owner and existing Attaching Entities shall have the option to complete any necessary remedial work and bill the Licensee for the Actual Costs incurred or require the Licensee to fix the damage and/or code violations at its expense within fourteen (14) days following notice (via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B) from the Pole Owner or existing Attaching Entity.
9. *Qualified Contractors.* All contractors certifying whether Make-Ready Work requires pole replacement, certifying whether Make-Ready Work is Simple Make-Ready Work, or performing Make-Ready Work, whether Simple Make-Ready Work or Complex Make-Ready Work, must meet the following minimum requirements:
 - a) The contractor has agreed to follow all published safety and operational guidelines of the Pole Owner including, but not limited to, the Standards and Specifications set forth in Article 3 of this Agreement;
 - b) The contractor has acknowledged that it knows how to read and follow the engineered pole designs for Make-Ready Work, if required by the Pole Owner;
 - c) The contractor has agreed to follow all local, state, and federal laws and regulations including, but not limited to, the rules regarding Qualified and Competent Persons under the requirements of the Occupational and Safety Health Administration (OSHA) rules;
 - d) The contractor has agreed to meet or exceed any uniformly applied and reasonable safety and reliability thresholds set by the Pole Owner, if made available;
 - e) The contractor is adequately insured or will provide an adequate performance bond for the Make-Ready Work it will perform, including work it will perform on facilities owned by existing Attaching Entities; and

- f) The contractor is licensed to do business in the State of Georgia.
- E. Pole Owner Objection to Contractor: The Pole Owner may object to the Licensee's selected contractor but must do so in writing. Such objection must be provided to the Licensee in sufficient time for the Licensee to identify and select another Qualified Contractor to perform the work. The Pole Owner may only object to the Licensee's selected contractor for at least one of the following reasons:
1. The contractor has at least one instance of failing to safely and properly engineer or complete work on the Pole Owner's facilities and equipment within the past five (5) years, even if the contractor is a Qualified Contractor under the requirements set forth above; or
 2. The contractor fails to meet the requirements for a Qualified Contractor set forth above.
 3. The Pole Owner does not have to accept a certification from, and no Make-Ready Work shall be completed by, any contractor to which a Pole Owner has objected to in good faith as set forth above.
- F. Installations and Make-Ready Communications Construction:
- If rearrangement or Transfer of a third-party's facilities is required to accommodate the Pole Attachment(s) in an approved Application, Licensee shall be responsible for coordinating with the affected third-parties to obtain Rearrangement, Transfer, or relocation of the third-party's affected facilities at Licensee's sole expense.
- G. Notice of Removal: The Pole Owner shall provide Licensee sixty (60) days' written notice (via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B) prior to:
1. Removal of facilities or termination of any service to those facilities (such removal or termination arising out of a rate, fee, term, condition or specification in this Agreement);
 2. Any modification of facilities other than routine maintenance or modification in response to emergencies.
- H. Imminent Danger:
- Notwithstanding the above, the Pole Owner shall have the discretion to immediately remove or modify facilities without notice and at Licensee's expense, if removal or modification is required due to imminent danger to life or property. The Pole Owner shall have the discretion to restore the facilities at the Licensee's cost after the imminent danger has been alleviated, or, alternatively to not restore the facilities but inform the Licensee (via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B) within ten (10) days of the removal or modification of the need to restore the facilities.

ARTICLE 5 - PLACEMENT OF NEW POLES

- A. Whenever the Pole Owner requires new Pole facilities within a portion of Pole Owner's service territory that has a Licensee Pole Attachment on the existing pole line, for any reason, including an additional Pole line, an extension of an existing Pole line, or in connection with the reconstruction of an existing Pole line, Pole Owner will

endeavor to notify Licensee (via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B) to that effect in writing (verbal notice subsequently confirmed in writing may be given in cases of emergency) stating the proposed location and character of the new Poles and the character of circuits it intends to use thereon and indicating whether or not such Pole facilities will be, in the estimation of the Pole Owner, suitable for Licensee's existing Pole Attachment(s). In case of emergency, the Licensee will preliminarily respond verbally on an expedited basis that it does or does not want to seek to attach facilities to the new Poles and will generally describe its planned initial Pole Attachments. Within a reasonable period (not to exceed fifteen (15) business days) after the receipt of such written notice, the Licensee will submit an Application, as such may be required by Article 4, Access and Removal of Attachments. Should the Licensee fail to submit an Application within fifteen (15) business days, and subsequently wishes to attach to new Pole facilities, Licensee must submit an Application in accordance with Article 4, Access and Removal of Attachments, including the payment of all applicable Application fees, inspection fees and the amount of the Make-Ready estimate.

- B. The Pole Owner shall provide its normal initial right-of-way clearance on each side of the center line to the extent practicable, all right-of-way in excess of the normal swath to be borne by the Party requiring the additional width. Each Party shall, with due diligence, attempt to execute its work promptly and in such manner as not to interfere with the service of the other Party.

ARTICLE 6 - RIGHTS OF WAY FOR LICENSEE'S ATTACHMENTS

While the Pole Owner and Licensee will cooperate as far as may be practicable in obtaining rights-of-way for both Parties to be attached to Poles, the Pole Owner does not warrant or assure to the Licensee any right-of-way privileges or easements on, over or across streets, alleys and public thoroughfares, and private or publicly owned property, and if the Licensee shall at any time be prevented from placing or maintaining its Pole Attachments on the Pole Owner's Poles, no liability on account thereof shall attach to the Pole Owner. Licensee is responsible for ensuring it has all easement rights for and across private and publicly owned property that are required for its Pole Attachments. If drawn into question by any third-party, the Pole Owner may request and Licensee shall provide the Pole Owner with proof of such easement rights or other sufficient property right permitting Licensee access on or over the relevant real property.

ARTICLE 7 - MAINTENANCE OF POLES AND ATTACHMENTS

- A. Licensee acknowledges that the Pole Owner's Poles and related items carry hazardous voltages, deteriorate over time, and may contain various hazardous chemicals or properties. Licensee shall instruct and equip its personnel, including its employees, contractors and other agents, of the hazards associated with working on the Pole Owner's Poles and Licensee will provide necessary training and equipment for its representatives to safely execute their work. Licensee shall, prior to working on a Pole that contains non-compliant or unsafe conditions, promptly notify the Pole Owner of any existing substandard condition (either physical, mechanical or electrical, etc.), that could jeopardize either the general public or workman safety. Licensee's workmen will not subject themselves or others to an

unsafe condition. Licensee shall become familiar with the terms of any applicable material safety data sheet and comply with the terms and all directions contained therein or otherwise required by state and federal law regarding the maintenance, replacement, and/or disposal of the Pole. The Pole Owner does not warrant, guarantee, or imply that any Pole abandoned by the Pole Owner possesses sufficient mechanical strength for any use, including by Licensee.

- B. When replacing a Pole carrying terminals of aerial cable, underground connection, or transformer equipment, the new Pole shall be set in a manner to facilitate Transfer of Pole Attachments, unless special conditions make it desirable to set it in a different location. Replacement Poles where risers (dips) are installed should be set as close as possible to the existing Pole. In determining the location of the new Pole, the Pole Owner will take into consideration any requests it receives from Licensee regarding the location of the new Pole.
- C. When any entity, whether Pole Owner, Licensee, or another Attaching Entity, requires a new Pole to accommodate an additional attachment or facility, or has another need for additional capacity of any kind, the entity causing the need for the new Pole or capacity shall pay the full, actual replacement cost of such Pole, including the cost of removing the existing Pole, less any salvage value.
- D. When an existing Pole must be replaced for safety or reliability reasons as a result of normal wear and tear or other natural causes, and not as the result of any particular Pole Attachment or Overlashed facility, or the actions of any other third-party, the Pole Owner shall be responsible for the cost of removing the old Pole and the cost of the replacement Pole.
- E. Except during restoration efforts after natural disasters, such as hurricanes, ice storms, etc., whenever it is necessary to replace or relocate a Pole, the Pole Owner will attempt, before making such replacement or relocation give reasonable notice thereof in writing (except in case of emergency, when verbal notice will be given and subsequently confirmed in writing) to the Licensee (via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B), specifying in such notice the time of such proposed replacement or relocation and the Licensee shall at the time so specified Transfer its Pole Attachments to the new or relocated Pole. On highway relocation projects, the schedule for Transfers shall be consistent with the Georgia Department of Transportation's "utility adjustment schedule" and any subsequent revisions.
- F. The electronic notification system, provided by the NJUNS, may be used as the notification required by this Article 7. As a prerequisite for use of this system, the Parties shall have and properly utilize the correct NJUNS member codes as provided by each Party to the other and as required by NJUNS for this system and mutually agree to its use for the written notice of required Transfers, Rearrangements, and other actions, as appropriate.
- G. Transfer of Licensee's Pole Attachments by the Pole Owner: In any case where it is mutually beneficial and agreeable by the Parties, the Pole Owner (or its contractors) may Transfer the Pole Attachments of the Licensee and the Licensee will reimburse the Pole Owner the Actual Costs it incurs in making such Transfers on behalf of the Licensee. When the Transfer can be accomplished concurrently with other work that the Pole

Owner is undertaking on the same Pole, the charges for such Transfers will be in accordance with pricing detailed in Article 7.G.4, or such other amounts as may be agreed to by the Parties. The Pole Owner will use due diligence and care in making such Transfers so as not to damage or cause a disruption in the services provided by the Licensee. However, except in cases of the Pole Owner's gross negligence or willful misconduct, the Pole Owner shall not be liable for any damages or disruptions in service that may occur as a result of Transfers made on behalf of the Licensee.

1. **Normally Scheduled Construction** - Approval for such Transfers made by the Pole Owner on behalf of the Licensee during normally scheduled construction shall be obtained prior to making such Transfers and will be made on a project-by-project basis unless otherwise agreed upon.
2. **Emergency Construction** - In such cases, in the judgment of the Pole Owner, a Pole requires immediate replacement due to a dangerous condition or conditions, the Pole Owner (or its contractors) will replace the Pole and may Transfer the Licensee's Pole Attachments without prior permission. The Pole Owner shall use reasonable care to avoid damage to Licensee's facilities and shall notify the Licensee of such Transfer after work is completed.
3. **Facility Types To Be Transferred** - The Pole Owner (or its contractors) will only Transfer Pole Attachments which require a bolt, clamp, or "J" hook either installed through the Pole or otherwise attached. All service wire Pole Attachments to a single "J" hook shall be Transferred at the rate stated below. The hardware on the old Pole will be used to attach to the new Pole. The Pole Owner (or its contractors) shall not supply any additional material in making Transfers of Licensee's Pole Attachments.
4. **Pricing for Transfers** - When the Pole Owner Transfers Licensee's Pole Attachments in accordance with the above provisions: the pricing set forth below (e.g., the cost set forth in the table as adjusted by the Handy Whitman Index) will apply to Transfers done as part of non-emergency work and the pricing set forth below plus any increased Actual Costs incurred by the Pole Owner will apply to Transfers done as part of emergency work. At the end of the duration set forth in the table below, the base cost for Transfers set forth in the table shall be adjusted in an amount equal to the cumulative change in the July edition of the Handy Whitman Index for the South Atlantic Region, Account 364, Poles, Towers and Fixtures for the period of time since the last such adjustment.

Costs to Transfer Licensee's Pole Attachments Concurrently with Other Non-Emergency Work by the Pole Owner:

Duration	Cable Attachments	Service Drop
Contract start date to June 30, 2022	\$70.00	\$40.00

- H. **Prohibition Against Redundant Poles**: Redundant Poles are prohibited. Redundant Poles are those Poles located within close geographic proximity of one another when one or both of the Poles possess sufficient existing capacity to alone support the attachments of both Poles without compromising the needs and services of the Pole Owner or existing Attaching Entities.

1. Licensee shall remove its Pole Attachments and Overlashing from any Poles removed, replaced, or abandoned by the Pole Owner within forty-five (45) days of being notified (via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B) of the Pole Owner's removal, replacement, or abandonment. Licensee has the option to Transfer their Pole Attachments and/or Overlashing to any newly installed nearby Pole with sufficient capacity or to remove their Pole Attachments and/or Overlashing entirely.
2. If Licensee and all existing Attaching Entities have timely removed their Pole Attachments and/or Overlashing from a Pole Owner's abandoned Pole, the Pole Owner shall have thirty (30) days to remove the Pole and restore the real property, as much as reasonably possible, to its pre-installation condition.
3. If Licensee fails to timely remove its Pole Attachments and/or Overlashing from a Pole Owner's abandoned Pole, and a redundant Pole with sufficient capacity to support the Pole Attachments and/or Overlashing exists nearby, legal title to the abandoned Pole, and all associated responsibilities and liabilities, shall transfer, if notice is given by the Pole Owner (for such notice to Licensee, via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B), on the sixty-first (61st) day after the Pole Owner's abandonment notice, on a pro-rata basis, to all entities with Pole Attachments and/or Overlashing remaining on the abandoned Pole. **IN SUCH CASE, THE ABANDONED POLE SHALL BECOME THE PROPERTY OF ALL ENTITIES WITH POLE ATTACHMENTS AND/OR OVERLASHING REMAINING ON THE ABANDONED POLE, "AS IS". ALSO, IN ADDITION TO LICENSEE'S INDEMNIFICATION OBLIGATIONS SET FORTH IN ARTICLE 21, AT THE TIME THE ABANDONED POLE BECOMES THE PROPERTY OF ALL ENTITIES WITH POLE ATTACHMENTS AND/OR OVERLASHING REMAINING ON THE ABANDONED POLE, EACH OF THESE ENTITIES THAT BECOME THE OWNER OF THE ABANDONED POLE (INCLUDING LICENSEE) SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE INDEMNITEES FROM ALL CLAIMS ARISING OUT OF OR RELATED TO THE PRESENCE OR CONDITION OF SUCH POLE OR OF ANY ATTACHMENTS THEREON, EXCEPT LICENSEE SHALL NOT INDEMNIFY THE INDEMNITEES TO THE EXTENT A CLAIM: (A) ARISES OUT OF THE SOLE NEGLIGENCE OF INDEMNITEES, OR (B) OCCURS PRIOR TO THE TRANSFER OF OWNERSHIP AND IS A CLAIM FOR WHICH LICENSEE DOES NOT ALREADY HAVE AN INDEMNITY OBLIGATION UNDER ARTICLE 21.** For clarity, the carve out in part (B) of the preceding indemnity shall not operate to excuse Licensee from its indemnity obligations to the Indemnitees for any Claim which first arises from or after the date ownership of the abandoned Pole transfers to the entities with Pole Attachments and/or Overlashing remaining on the abandoned Pole regardless of whether the condition of the abandoned Pole that caused or contributed to the Claim was known prior to the date ownership of the abandoned Pole transferred. Beginning on the date legal title of the abandoned Pole transfers, Licensee shall pay to the Pole Owner a \$500.00 per month fee for every month in which the abandoned Pole remains installed while a nearby redundant Pole exists. The fee shall be assessed to the remaining Attaching Entities

on a pro- rata basis if title to the abandoned Pole transfers to multiple Attaching Entities.

4. In the event the Pole Owner does not invoke the ownership transfer provision set forth above, any Licensee or any remaining Attaching Entity that has failed to transfer shall pay double the applicable Pole Attachment Rental Fee for that Pole starting at the expiration of the 45-day period.
5. Regardless of whether the Pole Owner invokes the ownership transfer provision set forth above, the Pole Owner will always have the option of making the Transfer(s) themselves (or hiring a Qualified Contractor to make the Transfer(s)) and recovering from the Licensee and any remaining Attaching Entities the Actual Costs for the Transfer work (including the Imposition Fee). In the event of multiple Attaching Entities, the Attaching Entities will be responsible for the pro-rata share of the Actual Costs of the Transfer work, but each Attaching Entity will be responsible for its own Imposition Fee in the full amount (applied to their pro-rata share). The Licensee and any remaining Attaching Entities shall indemnify, defend, and hold harmless the Pole Owner from all obligations, liabilities, damages, costs, expenses or charges arising from, or relating to, the transferred Pole Attachment(s).
6. Upon Licensee notification to the Pole Owner that the Transfer has been completed, if the Pole Owner returns to the job site for removal of the old Pole and discovers that the Transfer has not been made, the Licensee shall also pay the Pole Owner's Actual Costs associated with the additional trip.
- I. Right of Way Maintenance: Except as provided for in Article 5.B., each Party shall be responsible for right-of- way maintenance for its own circuits at its own expense including, but not limited to, the pruning or removal of vegetation that will impose forces (including mechanical abrasion) on facilities that can cause damage to lashing wires, messenger cables, or otherwise result in cable failures, Pole failure, reduced clearances, damage to utility facilities, or personal injury. For clarity, because certain of Pole Owner's costs of right-of-way maintenance are included in the calculation and determination of the Pole Attachment Rental Fee, Licensee shall not be subject to a separate fee in addition to the Pole Attachment Rental Fee to cover costs incurred by Pole Owner in connection with Pole Owner's normal right-of-way clearance activities.
- J. No Ownership of Pole: Any payments for Pole(s) made by the Licensee shall not entitle the Licensee to the ownership of any part of said Pole(s) for which it has contributed in whole or in part.

ARTICLE 8 - SAFETY INSPECTIONS

- A. The Parties shall jointly participate in Safety Inspections of the Licensee's Pole Attachments, the Licensee's Overlashing, and the Pole Owner's Poles to which Licensee's Pole Attachments and Overlashing are attached to determine whether Licensee's facilities comply with the terms of this Agreement. Pole Owner may invite other attaching entities to jointly participate in the Safety Inspection for the purposes of simultaneously inspecting all Attaching Entities' Pole Attachments and Overlashing. Such Safety Inspections and the reasonable procedures by which they

will be completed will be coordinated by the Pole Owner and conducted at least every five (5) years but not more frequently than every three (3) years. The Pole Owner shall provide at least six (6) months' advance written notice to Licensee (to the "Make-Ready Invoicing" contact on Appendix B) prior to the start of each Safety Inspection. The Pole Owner may elect to segment the Licensee's Pole Attachments for purposes of Safety Inspections and conduct such inspections for each segment on a rotating basis so long as each of Licensee's Pole Attachments is inspected at least every (5) years but not more frequently than every three (3) years.

- B. Licensee shall pay a pro-rata share of the Pole Owner's total inspection costs and will incur its own costs to participate in such periodic inspections.
- C. Failure of Licensee to provide a representative to accompany Pole Owner, after receiving adequate written notice pursuant to Article 8.A., shall not relieve Licensee from the results of the Safety Inspection and the obligations of Licensee related thereto. Pole Owner shall provide a description of the nature of Licensee violations and provide the location of the Pole, the Pole number, if the Pole number is available, and provide Licensee an opportunity to review the violation.
- D. Any safety issue identified during the Safety Inspection shall be cured by the party whose attachment or facility is the source of the safety issue within thirty (30) days of Licensee's receipt of the results of the Safety Inspection identifying the issue as outlined in Article 8 (C). Separate written notice from the Pole Owner (or any other party) to the responsible party shall not be required to trigger the thirty-day deadline to cure the safety issue. Licensee and/or other existing Attaching Entities may request additional time to cure the safety issue from the Pole Owner. The Pole Owner may grant or deny additional time to cure in its reasonable discretion, including to accommodate any engineering work that may be required to cure the safety issue. The thirty (30) day cure period shall not apply to any safety issues causing imminent danger to life or property. Safety issues causing imminent danger to life or property shall be cured immediately.
- E. If it cannot be determined who is responsible for a particular violation or there is a mixture of the parties causing the violation, then all attaching parties will work together to minimize the cost of correcting any such deficiencies, and all parties that may have caused such violation will share equally in such costs; provided, however, that if a party can modify its Pole Attachments so that they no longer may be a cause of the violation or deficiency, then such party may elect to make such modification instead of otherwise sharing in such costs. Such a modification shall not relieve a party from sharing in such costs if the party making the modification could still have been a cause of any deficiency that remains.

ARTICLE 9 - LICENSEE'S FAILURE TO PERFORM WORK

In any instance where the Pole Owner requests that Licensee perform work on its Pole Attachment(s) to (1) complete a Transfer; (2) bring the Pole Attachment(s) into compliance with applicable laws, codes, rules, regulations, standards or other applicable authorities; (3) accommodate a new attaching entity; (4) comply with the terms of this Agreement; or (5) satisfy any other obligation imposed by law or this Agreement, and Licensee fails to timely commence such work within thirty (30) days and complete such

work within forty-five (45) days after proper notice (via NJUNS or to the "Make-Ready Invoicing" contact on Appendix B) to from the Pole Owner, the Pole Owner shall have the right to perform the work without notice to Licensee and charge the Actual Cost of the work plus the Imposition Fee to Licensee. The Licensee shall make payment on or before the Invoice Due Date. Interest in accordance with the rate of judgment interest set forth in O.C.G.A. § 7-4-12 shall accrue on any Actual Costs and Imposition Fees not timely paid. The Pole Owner shall further have the right to collect the associated costs from any Security Instrument provided by Licensee. Except in cases of Pole Owner's gross negligence or willful misconduct, the Pole Owner shall not be liable to Licensee for any damages or disruptions in service that may occur as a result of the work performed by the Pole Owner due to the Licensee's failure to timely perform work as provided in this Article 9.

ARTICLE 10 - POLE ATTACHMENT AUDITS - UNAUTHORIZED ATTACHMENTS

- A. The Parties shall jointly participate in audits of the Attaching Entities' Pole Attachments, the Attaching Entities' Overlashing, and the Pole Owner's Poles to which Attaching Entities' Pole Attachments and Overlashing are attached for purposes of counting the number of Pole Attachments and Overlashed facilities by Licensee and other existing Attaching Entities.
- B. Audits and the reasonable procedures by which they will be completed shall be coordinated by the Pole Owner and conducted at least every five (5) years but not more frequently than every three (3) years. The Pole Owner may elect to segment the Licensee's Pole Attachments for purposes of such audits and conduct such audits for each segment on a rotating basis so long as each segment is inspected at least every (5) years but not more frequently than every three (3) years.
- C. The Pole Owner shall provide at least six (6) months' advance written notice to Licensee (to the "Make-Ready Invoicing" contact on Appendix B) prior to the start of each Pole Attachment Audit.
- D. Licensee shall pay a pro-rata share of the Pole Owner's audit costs and will incur its own costs to participate.
- E. Licensee shall be allowed forty-five (45) days from the date Pole Owner provides Licensee with the results of the inventory to perform any necessary verifications. If Pole Owner has GIS data showing the location of Licensee's Pole Attachments it shall make such data available to Licensee.
- F. For every Unauthorized Attachment by Licensee discovered during the Pole Attachment Audit, or at any other time, Licensee shall pay to the Pole Owner a one-time fee of one hundred dollars (\$100.00) per Unauthorized Attachment plus a sum equal to the Pole Attachment Rental Fee that would have been payable from and after the date the Unauthorized Attachment was made. If the date of such Unauthorized Attachment cannot be determined, then the Licensee will pay to the Pole Owner a sum equal to the Pole Attachment Rental Fee that would have been payable from and after the date the last Pole Attachment Audit was conducted. Such Unauthorized Attachments are also subject to review by the Pole Owner (at the Licensee's expense)

to determine compliance with all applicable standards and specifications. Should corrective work be necessary for any Pole Attachments or Overlashing of Licensee, it shall be at Licensee's expense and addressed consistent with the other terms of this Agreement.

G. The Pole Owner may remove Unauthorized Attachments and abandoned Pole Attachments ninety (90) days after discovery.

1. Upon discovering Unauthorized Attachments made by Licensee or abandoned Licensee Pole Attachments, the Pole Owner shall, as soon as reasonably practicable, notify Licensee of the Pole Owner's right to remove the Pole Attachment(s) at Licensee's expense.
2. Upon being notified of the discovery of its Unauthorized Attachments or abandoned Pole Attachments, Licensee shall have thirty (30) days to submit a complete Application for its Unauthorized Attachments at issue, or remove the Unauthorized Attachment or abandoned Pole Attachments prior to the Pole Owner's removal.
3. If Licensee fails to timely submit a completed Application for its Unauthorized Attachments, or, as the case may be, fails to remove its Unauthorized Attachments or abandoned Pole Attachment, and the Pole Owner proceeds with removal, the Licensee shall be liable for the Actual Costs incurred by the Pole Owner. Following removal of the Unauthorized Attachments or abandoned Pole Attachments, the Pole Owner shall submit to the Commission and the Licensee, an accounting of all actions taken and the Actual Costs incurred by the Pole Owner in removal. Within sixty (60) days of receipt of the Pole Owner's accounting, the Licensee shall fully reimburse the Pole Owner for the Actual Costs incurred and also pay the Imposition Fee. Interest in accordance with the rate of judgment interest set forth in O.C.G.A § 7-4-12 shall accrue on any Actual Costs and Imposition Fees not timely paid.

ARTICLE 11 - POLE ATTACHMENT RENTAL FEE

- A. For (A) all Pole Attachments existing on or before July 1, 2021 in areas identified as "served" and "unserved" by Georgia's Department of Community Affairs Broadband Map as such map existed on December 30, 2020, and (B) any new Pole Attachments made after July 1, 2021 in areas identified as "served" by Georgia's Department of Community Affairs Broadband Map as such map existed on December 30, 2020, the annual Pole Attachment Rental Fee for attaching in the Communications Space shall be \$27.71 per Pole per year in accordance with this Agreement.
- B. For eligible new Pole Attachments made after July 1, 2021 in areas identified as "unserved" by Georgia's Department of Community Affairs Broadband Map as such map existed on December 30, 2020, the annual Pole Attachment Rental Fee for attaching in the Communications Space shall be \$1.00 per Pole per year for a period of six (6) years from the date the attachment is made and thereafter shall revert to the regular rate of \$27.71 per pole per year.

To be eligible for the \$1.00 Pole Attachment Rental Fee in this Subsection B:

1. Licensee must not already have a Pole Attachment on the Pole Owner's Pole to which the new Pole Attachment will be made; and
2. The new Pole Attachment must be made in order to deliver broadband service to retail customers in an area identified as "unserved" by Georgia's Department of Community Affairs Broadband Map as such map existed on December 30, 2020.

If a Pole Attachment does not meet the eligibility requirements for the \$1.00 rate, the rate for attaching in the Communications Space shall be \$27.71 per Pole per year.

- C. For a year for which there is a Pole Attachment Audit, the number of Poles to be charged the annual applicable Pole Attachment Rental Fee shall be based on the Pole Attachment Audit results.
- D. For any year thereafter, the number of new Poles subject to the applicable Pole Attachment Rental Fee will be increased or decreased based on the Licensee's Applications accepted by the Pole Owner.
- E. Pole Attachment Rental Fees shall be collected in advance for the year, e.g. by billing in January of a calendar year the Pole Attachment Rental Fees due for January-December of that calendar year. In addition the annual billing shall include the Pole Attachment Rental Fees in arrears for any new Pole Attachments added during the previous calendar year that were not part of the previous calendar years billing.
- F. The Pole Attachment Rental Fee payment provided for in this Agreement shall be paid on an annual basis by the Invoice Due Date within forty-five (45) days after Licensee's receipt of the Pole Owner's invoice for such fee. The Pole Owner's invoice shall generally be issued in January of each year.

ARTICLE 12 - DEFAULTS

- A. Except as provided in Article 9, in the event either party deems an event of default has taken place and prior to engaging in the formal default provisions in this Agreement, the system General Manager for Licensee's system and the President/CEO/General Manager of the Pole Owner shall meet in person or on the telephone to attempt to resolve the matter in good faith within ten (10) business days of the initial request of either Party to meet.
- B. In the absence of resolution of the matter, the aggrieved Party may provide a notice of default to the other Party in writing. Should such default continue for thirty (30) days after due notice thereof in writing (for such notice to Licensee, to the "Contract/Legal Notices" contact on Appendix B) describing the nature of the default, the rights under this Agreement may be suspended insofar as concerns the granting of Pole Attachments. Upon receipt of such notice of default, the Party in default shall either work diligently and cooperatively to correct such default or present sufficient evidence that a default does not exist or is not attributable to the allegedly defaulting Party. If Licensee is the defaulting Party and default shall continue for a period of ninety (90) days after such suspension, the Pole Owner may, at its sole discretion and option, terminate this Agreement, deny future Pole Attachments and/or remove the Licensee's Pole Attachments at Licensee's expense,

and, except in cases of Pole Owner's gross negligence or willful misconduct, the Pole Owner shall not thereafter be liable to Licensee for any damages or disruptions in service that may occur as a result of such actions. Notwithstanding the foregoing, the cure periods may be extended upon mutual agreement of the Parties if a cure is not reasonably possible within the time frames specified above.

- C. The time periods provided for in this Article 12 shall not operate to add any conditions to or extend any of the time periods set forth in Article 9.

ARTICLE 13 - RIGHTS OF OTHER PARTIES

- A. If the Pole Owner, prior to the execution of this Agreement, conferred upon others, not parties of this Agreement (for purposes of this Article 13, "Outside Parties"), by contract or otherwise, rights or privileges to attach to, and/or reserve space on any of its Poles covered by this Agreement, nothing herein contained shall be construed as affecting said rights or privileges with respect to existing attachments of such Outside Parties, which attachments shall continue in accordance with the present practice; all future attachments of such Outside Parties shall be in accordance with the requirements of Section B below, except where such Outside Parties have by agreements entered into prior to the execution of this agreement acquired enforceable rights or privileges to make attachments which do not meet such space allocations. Any contractual rights or privileges of Outside Parties recognized in this paragraph shall include renewals of or extensions of the term (period) of such contracts.
- B. In the event any of the Pole Owner's Pole(s) to which Licensee has made its Pole Attachments would, but for the Pole Attachments of Licensee, be adequate to support additional facilities desired by the Pole Owner, the Pole Owner's subsidiary or affiliate, or by an Outside Party with whom the Pole Owner has a prior agreement and which Outside Party is either occupying space or has requested to attach or reserve space on such Pole(s) prior to the placement of Licensee's Pole Attachment on such Pole(s), then the Pole Owner shall notify Licensee (to the "Make-Ready Invoicing" contact on Appendix B) of any changes necessary to provide an adequate Pole or Poles and the estimated Actual Costs thereof. Upon receipt of such notice, Licensee shall remove its Pole Attachments at its sole expense or reimburse the Pole Owner, on demand, for the Actual Costs incurred by the Pole Owner in making such changes. Should Licensee submit a request to make a new Pole Attachment on a Pole that an Outside Party is not already attached to but on which the Outside Party has reserved space, the Pole Owner will provide notice of such space reservation to Licensee (to the "Make-Ready Invoicing" contact on Appendix B), provided that the Pole Owner has such knowledge on or prior to the date of Licensee's Application.

ARTICLE 14 - ASSIGNMENTS OF RIGHTS

- A. Except as otherwise provided in this Article 14 Agreement, Licensee shall not assign or otherwise dispose of this Agreement or any of its rights or interests hereunder, or the Pole Attachments or rights-of-way covered by this Agreement, to any firm, corporation or individual, without the prior written consent of the Pole Owner, which consent shall not be unreasonably withheld. Subject to the provisions of Article 14 B. below, no consent shall be required, however, for assignment of this Agreement to an

entity directly or indirectly owned or controlled by [Licensee] so long as the proposed assignee agrees in writing to accept all liabilities of Licensee under the Agreement and possesses the same or better creditworthiness of Licensee at the time of such assignment.

- B. For a Pole Owner to consider providing its approval of an assignment of Licensee's interests in this Agreement or for assignment to a qualified entity owned or controlled by [Licensee] to occur without Pole Owner's approval as provided for in Article 14 A. above, the following must be true: (1) Licensee must not be in breach of this Agreement at the time of the assignment or transfer; and (2) the proposed assignee or transferee must satisfy all pre-attachment requirements imposed on Licensee by this Agreement, including but not limited to the proposed assignee or transferee's proof of satisfactory insurance and security and shall not be in breach of this Agreement or any other agreement between the Pole Owner and the proposed assignee or transferee.

ARTICLE 15 - WAIVER OF TERMS OR CONDITIONS

The failure of either Party to enforce any term or condition of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, and the terms and conditions of this Agreement shall remain at all times in full force and effect.

ARTICLE 16 - PAYMENT OF TAXES

Each Party shall pay all taxes and assessments lawfully levied on its own property upon said poles, and the taxes and the assessments which are levied on said Poles shall be paid by the owner thereof, but any tax, fee, or charge levied on the Pole Owner's Poles solely because of their use by the Licensee shall be paid by the Licensee.

ARTICLE 17 - BILLS AND PAYMENT FOR WORK

- A. Upon the completion of work performed hereunder by either Party, the expense of which is to be borne wholly or in part by the other Party, the Party performing the work shall present to the other Party within ninety (90) days after the completion of such work an itemized statement of the costs and such other Party shall pay to the Party doing the work such other Party's proportion of the cost of said work on or before the Invoice Due Date.
- B. All amounts to be paid by either Party under this Agreement shall be due and payable by the Invoice Due Date. Except as provided in Article 17.C below, any payment not made on or before the Invoice Due Date shall bear interest at the rate of set forth in O.C.G.A. § 7-4-12. If a Party bills the interest provided for in this paragraph but then receives a payment showing that the payment was timely made, the billing Party will write-off and cancel the interest.
- C. A Party receiving a bill may, in good faith and for good cause, dispute the amount or adequacy of substantiation for the bill, provided said dispute is received prior to the Invoice Due Date. In the event that a Party so disputes only a portion of a bill, then such Party shall promptly pay the undisputed amount. In the event of such dispute, the Parties shall meet, by telephone or in person, within ten (10) business days of a dispute being raised to discuss the disputed item and establish a procedure for

addressing the disputed amount in accordance with this Agreement. Upon resolution of the dispute, if the amount and substantiation were correct and sufficient, interest will be paid on the unpaid balance from the Invoice Due Date at the rate set forth in O.C.G.A. § 7-4-12 until paid; but, if the amount was not correct or substantiation was not sufficient, no interest will be payable unless the amount determined to be correct is not paid within sixty (60) days of receipt of substantiation and determination of the correct amount.

ARTICLE 18 - NOTICES

- A. Appendix B shall be completed by Licensee initially upon execution of the Agreement and shall be updated in order to properly reflect any changes in contact information pursuant to the provisions of this Article 18. All notices provided by Pole Owner to Licensee, shall be made to the associated address set forth on the form in Appendix B, Notices-Licensee Contact Information Form.
- B. All notices required of either Party pursuant to Article 12, Article 14, Article, 19, Article 20, Article 21, and for any changes to contact information on Appendix B or in Article 18.D shall be in writing and delivered in person and shall be deemed delivered when it is either (a) personally delivered to the office of the Party receiving such notice; (b) deposited in the United States mail properly addressed to the Party to be given such notice, sent certified mail, return receipt requested or deposited with a nationally recognized overnight courier, or (c) sent via email to the electronic mailbox address of the Party receiving such notice provided that notice is also sent via the method described in (a) or (b) of this paragraph on the date such email is sent.
- C. Except as provided by the provisions of Article 18.B. above, all notices required of either Party pursuant to this Agreement must be in writing and shall be deemed delivered when it is either (a) personally delivered to the office of the Party receiving such notice; (b) deposited in the United States mail properly addressed to the Party to be given such notice, sent certified mail, return receipt requested, or deposited with a nationally recognized overnight courier; (c) delivered electronically over the internet via NJUNS; or (d) sent via email to the electronic mailbox address of the Party receiving such notice.

D. Pole Owner Contact Information:

EMC Name: Habersham EMC
Address: 6135 State Hwy. 115W
Clarkesville, GA 30523

Attention: George Prince
Email: George.prince@hemc.coop
Phone: 706-839-4243

ARTICLE 19 - DISPUTE RESOLUTION

Disputes concerning Licensee's Pole Attachments and Overlapping shall be resolved in accordance with the Dispute Resolution procedures attached hereto as Appendix D.

ARTICLE 20 - TERM OF AGREEMENT

- A. This Agreement shall continue in full force and effect for five (5) years from the Effective Date (Initial Term), [and shall automatically renew thereafter for successive one (1) year terms (Renewal Term)]. Either Party may terminate the Agreement at the end of the then existing term by giving to the other Party six (6) months' notice (for such notice to Licensee, to the "Contract/Legal Notices" contact on Appendix B) in writing of intention to terminate the Agreement prior to the end of the Initial Term or any Renewal Term. Notwithstanding the foregoing, this Agreement shall continue in full force and effect for all existing Pole Attachments during any negotiations of the Parties for a subsequent agreement.
- B. Upon termination of this Agreement in accordance with any of its terms, Licensee shall within 180 days remove all its Pole Attachments owned by Licensee from all the Pole Owner's Poles. If not so removed, the Pole Owner shall have the right to remove and dispose of all of Licensee's Pole Attachments without any liability or accounting therefore. Licensee shall reimburse the Pole Owner for any and all Actual Costs incurred by the Pole Owner in the removal of Licensee's Pole Attachments. In the event that Licensee has not reimbursed the Pole Owner within forty-five (45) days of invoicing following the Pole Owner's removal of said Pole Attachments, the Pole Owner may pursue, without notice or demand to Licensee, one or more of the remedies contained in Article 12, including making demand on the Security Instrument described in Article 21.
- C. Termination of this Agreement shall not relieve either Party from fulfilling any and all of its obligations that accrued while the Agreement was in effect.

ARTICLE 21 - LIABILITY, INDEMNIFICATION, INSURANCE AND SECURITY REQUIREMENTS

- A. For purposes of this Article 21, the following terms shall have the following definitions:
 - 1. "Claims" shall mean any and all claims, including those for bodily injury, death, or damage to property, demands, lawsuits, actions, administrative proceedings, orders, damages, penalties, fines, costs, fees and expenses, of whatever kind (including, but not limited to, attorney's fees); and
 - 2. "Indemnites" shall mean the Pole Owner and its officers, directors, employees, members, and agents.
- B. Licensee's use of the Pole Owner's Poles as provided for in this Agreement is not for the benefit of the Pole Owner; rather, it is solely for the benefit of Licensee in carrying on its business of supplying the services authorized herein. This Agreement is entered into with the explicit understanding that, except as set forth below, Licensee assumes sole responsibility for all injuries and damages arising, or claimed to have arisen, by, through or as a result of any of its cables, wires, appliances, equipment or facilities

(including those of any third-party overlasher to Licensee's cables, wires, appliances, equipment or facilities or any assignee of Licensee's rights) attached to the Pole Owner's Poles, equipment, or facilities.

- C. To the fullest extent permitted by law, Licensee shall indemnify, defend, and hold harmless the Indemnitees against any and all Claims arising out of or claimed to have arisen from, in whole or in part, by through or as a result of (i) Licensee's acts or omissions under this Agreement, (ii) any work performed by, on behalf of, or at the direction of Licensee, (iii) Licensee's cables, wires, appliances, equipment, or facilities attached to the Pole Owner's Pole, equipment or facilities, or (iv) any act, omission, negligence or intentional or wanton misconduct by, on behalf of, or at the direction of Licensee, except to the extent a Claim arises out of the sole negligence of the Indemnitees.
- D. In any matter in which Licensee shall be required to indemnify the Indemnitees hereunder, Licensee shall control the defense of such matter in all respects, and the Indemnitees may participate, at its sole cost, in such defense. The Indemnitees shall not settle or compromise any matter in which Licensee is required to indemnify the Indemnitees without the prior consent of Licensee.
- E. The Pole Owner expressly agrees to indemnify, defend and hold harmless Licensee from all Claims resulting from the sole negligence of the Indemnitees.
- F. In any matter in which the Pole Owner shall be required to indemnify Licensee hereunder, the Pole Owner shall control the defense of such matter in all respects, and Licensee may participate, at its sole cost, in such defense. Licensee shall not settle or compromise any matter in which the Pole Owner is required to indemnify Licensee without the prior written consent of the Pole Owner.
- G. Insurance: - Licensee, and any contractors (including Qualified Contractors) of Licensee, shall contract for and maintain in effect throughout the period during which Licensee maintains Pole Attachments on any of the Pole Owner's Poles, insurance which meets or exceeds the amounts set forth in subsections (1) through (3) below. Failure to provide and maintain the required insurance coverage shall constitute a default under Article 12.
 - 1. Worker's compensation insurance, with minimum limits of \$5,000,000.00, covering all employees of Licensee who shall perform any work on Poles or property owned or controlled by Pole Owner, including easements and rights-of-way, whether or not such insurance is required by law. If any employee is not subject to the workman's compensation laws of the state wherein work is performed, Licensee shall extend said insurance to such employee as though said employee were subject to such laws.
 - 2. Commercial general liability insurance covering all operations under this Agreement, including erection, installation, maintenance, rearrangement and removal of Licensee's Pole Attachments, in an amount for bodily injury of not less than [\$5,000,000.00] for one person and [\$5,000,000.00] for each accident or occurrence and for property damage of not less than [\$5,000,000.00] for each accident or occurrence.

3. Automobile liability insurance on all self-propelled vehicles which may be used in connection with this Agreement, whether owned, non-owned, or hired, in an amount for bodily injury of not less than \$5,000,000.00 for one person and \$5,000,000.00 for each accident or occurrence and for property damage of not less than \$5,000,000.00 for each accident or occurrence.
 4. The policies required hereunder shall be in forms at least as broad as the ISO standard and issued by carriers authorized to do business under the laws of the State of Georgia and have an "A-" or better rating in Best's Guide.
 - a) The Pole Owner, its board of directors, officers, employees, and agents shall be shown as additional insured on each policy (except worker's compensation) on a primary and noncontributory basis only with respect to liability arising from Licensee's operation in conjunction with this Agreement; and
 - b) Licensee agrees to release and will require its insurers (by policy endorsement) to waive their rights of subrogation against the Pole Owner, its board of directors, officers, employees, and agents for loss under the policies of insurance described herein; and
 - c) The required policies will provide for notice of cancellation in accordance with policy provisions; provided, however, if the insurer will not provide notice of cancellation at least thirty (30) days before the insurance lapses it shall be Licensee's obligation to provide such notice; and
 - d) Licensee shall furnish the Pole Owner certificates evidencing such insurance within thirty (30) days of the Effective Date of this Agreement and shall provide the Pole Owner with copies of any renewal certificates promptly after they become available.
 5. Notwithstanding the above, if Licensee is authorized to operate as a self-insured entity under the laws of the State of Georgia, Licensee may provide self-insurance to meet the requirements set forth herein, upon terms and conditions satisfactory to the Pole Owner.
- H. Security Instrument: - Licensee shall furnish and maintain throughout the term of this Agreement, and thereafter until all of the obligations of Licensee have been fully performed, a bond, or other Security Instrument satisfactory in form and content to the Pole Owner in substitution therefore, to guarantee the payment of any sums which may become due to the Pole Owner (or its agent) for Pole Attachment Rental Fees, Attaching Entity's Failure to Perform Work, inspections, inventories, Make- Ready estimates, Unauthorized Attachment fees, for work performed for the benefit of Licensee under this Agreement, including the removal of Pole Attachments upon termination of this Agreement, for any expense that may be incurred by the Pole Owner (or its agent) because of any default of Licensee, or for any other expense that is to be borne by Licensee under this Agreement. The amount of said Security Instrument, which amount shall be maintained throughout the term of the Agreement and thereafter until all of the obligations of Licensee have been fully performed, shall be equal to ten thousand dollars (\$10,000.00), or twenty-five dollars (\$25.00) per Pole

on which Licensee has a Pole Attachment, whichever is larger. The amount of the Security Instrument may, in the Pole Owner's discretion, be adjusted if Licensee purchases, acquires, or obtains a controlling interest in additional broadband or other facilities within the Pole Owner's service territory not currently covered by this Agreement which results in a significant increase in the number of Poles on which Licensee has a Pole Attachment. Any such adjustment shall not exceed twenty-five dollars (\$25.00) per new Pole on which Licensee has a Pole Attachment. Failure to provide and maintain the aforementioned Security Instrument shall be deemed a default under Article 12. The furnishing of such Security Instrument shall not affect, limit, diminish or otherwise reduce any obligations of Licensee under this Agreement.

ARTICLE 22 - CONSTRUCTION

This Agreement was drafted by the Parties and is not to be construed against any Party. Neither the negotiations of the language of this Agreement nor any prior drafts of this Agreement or the inclusion or exclusion of any language from prior drafts shall be admissible or probative as to the meaning of this Agreement.

ARTICLE 23 - MISCELLANEOUS

Unless otherwise provided in this Agreement, all remedies set forth in this Agreement are cumulative and in addition to any other remedies that may be available herein or at law or in equity, if any. All appendices hereto are incorporated in this Agreement by this reference as if set forth fully herein.

ARTICLE 24 - GOVERNING LAW, ENTIRE AGREEMENT

- A. The parties agree that all prior pole attachment agreements and/or pole license agreements between Pole Owner and Licensee (and/or their predecessors and assignees) are terminated and/or superseded by this Agreement. Beginning on the Effective Date of this Agreement, the terms of this Agreement shall govern all existing and future Licensee Pole Attachments on Pole Owner's Poles. The aforementioned notwithstanding, this Agreement shall not be construed to, nor shall it have the effect of, extinguishing any liabilities, invoices, amounts outstanding, or other obligations incurred under prior agreements between the Parties and remaining on the Effective Date of this Agreement, unless expressly agreed otherwise in writing by the Parties. Licensee shall not be required to submit a new Application for Pole Attachments existing prior to the Effective Date of this Agreement. All pre-existing Pole Attachments shall be subject to the terms and conditions of this Agreement, and for the avoidance of doubt, must be maintained in a safe condition and thorough repair in accordance with Article 3.
- B. This Agreement shall be governed and controlled by the laws of the State of Georgia and supersedes all previous agreements, representations, and understandings between the Pole Owner and Licensee for placement and maintenance of Pole Attachments of Licensee on the Pole Owner's Poles. This Agreement may not be modified except in writing upon the mutual agreement of the Parties, evidenced by the signature of an authorized representative of each Party hereto.

In witness whereof the Parties have caused this Agreement to be executed by their duly authorized representative in one or more counterparts, each of which shall be deemed an original, and their corporate seals to be affixed hereto all as of the Effective Date.

POLE OWNER

Signed: Josh Allen
Name: Josh Allen / Hebersham GMC
Title: VP Operations & Engineering
Date: 7/16/21

[CORPORATE SEAL]

LICENSEE

Signed: Glenn Purcell
Name: Glenn Purcell / Trailware Fiber Inc
Title: VP Technology
Date: 7-16-2021

[CORPORATE SEAL]

APPENDIX A - POLE ATTACHMENT APPLICATION

Standard Pole Attachment ☐ GA One-Touch Make-Ready ☐ Served Area ☐ Unserved Area (\$1 Deal) ☐

Licensee hereby requests permission pursuant to its Pole Attachment Agreement to make new Pole Attachment(s) to Poles, remove Pole Attachment(s) to Poles and/or provides notice of intent to Overlash cables affixed to Poles, all as shown on the attached construction plans and drawings. The attached plans and drawings show the Poles Licensee desires to attach to or Overlash, the number and character of Pole Attachments proposed, any Rearrangements requested with respect to existing wires, fixtures or apparatus, any relocations or replacements of existing Poles requested, the heights of all points of attachment, all mid-span clearances, and any new Pole placement requested. Should additional information be required by the Pole Owner for verification of compliance with the NESC or other applicable standards, the Licensee will provide such information. Licensee certifies that all required rights-of-way, easements, permits, and consents have been obtained from the owner(s) of the property(ies) on which the Poles being attached to are currently located or will be located. Payment for the fees is included with this request. The table below provides detailed information regarding this request.

LICENSEE				
Company		Poles with Attachments	Added	
Project			Removed	
Request #			Overlashed	
Request Date		Estimated Construction Dates	Start	
Name			Completion	
Signature		Fees	Application	\$
Phone			Inspection	\$
Fax			Design	\$
Email			Total	\$

Please advise Licensee as to whether or not these Pole Attachments will be permitted and if necessary provide an estimate for any additional costs that Licensee may be required to pay as Make-Ready Work. If Make-Ready Work is required, upon receipt of Pole Owner supplied Make-Ready Estimate the Licensee shall provide notice to the Pole Owner of either approval of the cost estimate or that Licensee will not undertake to make these Attachments. Upon receipt by the Pole Owner of Licensee's notice of estimate approval and payment of Make-Ready Estimate, the Pole Owner will proceed with Make-Ready Work.

EMC POLE OWNER				
Response Date		Pole Owner Make-Ready Construction Required?	Yes	
Name			No	
Signature		Pole Owner Make-Ready	\$	

Phone			Construction Estimate	
Fax			Payment Date	
Email			Permit #	
Request Response	Approved		Reason for denial	
	Denied			

APPENDIX B - NOTICES - LICENSEE CONTACT INFORMATION FORM

GENERAL CONTACT INFORMATION	
Name	
Corporate Address	
Local Address	
Telephone Number:	
Office	
Cell	
Submitted By	

CONTRACT/LEGAL NOTICES	
Name	
Address	
Telephone Number:	
Office	
Cell	
Email	
Fax	

INSURANCE NOTICES	
Name	
Address	
Telephone Number:	
Office	
Cell	
Email	
Fax	

BILLING / INVOICING / RENTAL PAYMENTS	
Name	
Address	
Telephone Number:	
Office	
Cell	
Email	
Fax	

APPENDIX B - NOTICES - LICENSEE CONTACT INFORMATION FORM (*continued*):

MAKE-READY INVOICING	
Name	
Address	
Telephone Number:	
Office	
Cell	
Email	
Fax	

ATTACHMENT TRANSFER NOTICES	
Name	
Address	
Telephone Number:	
Office	
Cell	
Email	
Fax	

NJUNS MEMBER CODE	
Code	
Description	
Area (if applicable)	

EMERGENCY / DAMAGED PLANT / NETWORK OPERATIONS CENTER	
Name	
Address	
Telephone Number:	
Office	
Cell	
Email	
Fax	

OTHER	
Name	
Address	
Telephone Number:	
Office	
Cell	
Email	
Fax	

APPENDIX C - RULES AND PRACTICES FOR POLE ATTACHMENTS

1. Except as set forth herein, or elsewhere in this Agreement, Licensee shall install and maintain its Pole Attachments (in a safe condition and thorough repair) at its own expense.
2. Any unbalanced loading of the Pole Owner's Poles caused by the placement of Licensee's circuits shall be properly guyed and anchored by Licensee with a guy and anchor provided by Licensee, at no expense to the Pole Owner. Licensee may not place new guy attachments on the Pole Owner's anchors without the Pole Owner's prior consent. If mutually agreed between the Licensee and the Pole Owner, the Pole Owner may install anchors and anchor rods, at Licensee's expense, with sufficient capacity for the Pole Owner's and Licensee's guying attachments. When the Parties agree to use a common anchor, Licensee shall re-install the Pole Owner's anchor rod bonding clamps on the Pole Owner's anchors after installing guy attachments to the anchor.
3. A preliminary ride through of the proposed route of Licensee's communications facility may be made by representatives of the Pole Owner and Licensee when necessary.
4. Licensee shall check and verify the condition of any Pole prior to climbing or performing work on it. If a Pole is deemed unsafe, Licensee must immediately cease all work on said Pole and notify the Pole Owner by telephone and in writing as soon as practicable.
5. All Pole Attachments shall be located on the same side of each Pole as any existing telephone or communications cable, or as otherwise designated by the Pole Owner.
6. On Poles where the Pole Owner has secondary conductors, all Pole Attachments shall be located on the same side of the Pole as the secondary conductors, or as otherwise designated by the Pole Owner.
7. Licensee shall cause all cabinets, enclosures, and messengers to be effectively grounded in accordance with the NESC and all revisions thereof. Licensee shall instruct its employees, contractors, and other representatives working on the Pole Owner's Poles of the dangers associated with bonding its facilities to the Pole Owner's "vertical ground wire" and associated dangers thereof, and shall provide adequate training and protective equipment so as to protect its employees, contractors, and other representatives from bodily harm. The Pole Owner assumes no responsibility either for instructing Licensee's personnel or furnishing equipment to Licensee's personnel, or for any liability for Licensee's personnel working on the Pole Owner Poles, except as provided for in the indemnity provisions of Article 21.
8. Licensee shall install no power supply on any of the Pole Owner's Poles on which underground electric services, capacitor banks, sectionalizing equipment or voltage regulators are already installed.
9. No electrical service connection to a communications power supply shall be made or installed by Licensee until after the Pole Owner shall have completed inspection of an approved fused service disconnect switch or circuit breaker.

10. No bolt used by Licensee to attach its facilities shall extend or project more than one inch beyond its nut.
11. All of Licensee's Pole Attachments shall have at least two (2) inches clearance from unbonded hardware such as pedestals and any other enclosures containing equipment.
12. All of Licensee's Pole Attachments shall comply with the more stringent of the Standards and Specifications set forth in Article 3 and shall be located on all new or transferred attachments a minimum of forty (40) inches below the Pole Owner's lowest attached facilities. On Poles supporting streetlights, Licensee's Pole Attachments may be installed to comply with the NESC clearance requirements for the street light brackets and/or street light "drip loops", as long as Licensee's Pole Attachment also maintains forty (40) inches from the Pole Owner's other facilities on the Pole. All mid-span clearances between Licensee's facilities and the Pole Owner's lowest conductors shall comply with NESC clearance requirements.
13. Licensee may, with prior approval of the Pole Owner, install cross arms, alley arms, or cable extension arms for the support of any of its facilities. However, Licensee shall not use any cross arm or alley arm brace above the arm that it supports.
14. Guy markers shall be installed and maintained on all guys.
15. Wherever space is available, and at the sole discretion of the Pole Owner, the future installation of a transformer, underground cable riser, or other similar equipment is likely, all new attachments will be made at least seventy-two (72) inches under the primary neutral. Clearances not specified in this rule shall be determined by reference to the National Electrical Safety Code. Licensee shall be notified of this possibility in the Application process. Nothing in this provision shall be construed to expand the forty-inch (40") Communication Worker Safety Zone.
16. All anchors and guys shall be installed and prior to the installation of any of the Licensee's messenger wires or cables. All anchors and rods shall be in line with the strain and shall be installed so that approximately six (6) inches of the rod remains out of the ground. Cutting of anchor rods to reduce anchor rod extension above the ground line is not permitted. The entire length of the anchor rod should be set in a straight line between the Pole Attachment and the point where the rod attaches to the anchor. In cultivated fields or other locations the projection of the anchor rod above earth may be increased to a maximum of twelve (12) inches to prevent burial of the rod eye. The backfill of all anchor holes must be thoroughly tamped the full depth.
17. Sidewalk guys shall be permitted by special exception only.
18. No Licensee guys may be attached to the Pole Owner's anchors (except grounding connections). Pole Attachment of Licensee guys to the Pole Owner's anchors shall be permitted only with approval by the Pole Owner.
19. With respect to all communications-protective devices, Licensee agrees that the Pole Owner may construct all its facilities in accordance with "Grade C" construction as applicable under NESC Rule 242, Table 242-1, Footnote 7.

APPENDIX D – DISPUTE RESOLUTION PROCEDURE

- A. In the event of a dispute regarding any compliance or non-compliance with the Standards and Specifications applicable to Pole Attachments to the Pole Owner's poles, either party may submit the matter to the Georgia Public Service Commission ("Commission") for binding resolution by a Referee and consistent with the Georgia Broadband Opportunity Act (O.C.G.A. §46-3-200.4) and the Pole Attachment Regulations adopted by the Commission pursuant thereto.
1. Binding resolution by Referee will be initiated by either Party's submission of a letter to the Commission requesting appointment of a Referee by the Commission, with a copy sent to the other party's representative. The letter requesting appointment of a Referee shall include a concise summary of the dispute and will designate the Party's point of contact for the dispute.
 2. The other Party shall, within ten (10) business days of receipt of the letter requesting appointment of a Referee, respond with a letter similarly sent and copied that provides such party's summary of the dispute and designation of the Party's point of contact.
 3. The Commission shall appoint a Referee for binding resolution of the dispute with fifteen (15) business days of receipt of the other Party's letter as follows:
 - a) Each Party will appoint an outside Professional Engineer licensed in the State of Georgia and these two (2) engineers will appoint a third outside Professional Engineer licensed in the State of Georgia or other qualified person to serve as the Referee.
 - b) In the event that the two (2) engineers so appointed are unable within ten (10) business days of receipt of the second letter to agree upon a third outside engineer or other qualified person who is willing and able to serve as the Referee, then the Referee will be appointed as follows: Three (3) names will be blindly drawn from the list of persons then comprising the NESC committee whose work is most closely related to the dispute (e.g., Clearances Committee or Strength and Loading Committee), or such other group as may be mutually agreed upon. Each Party will strike one such name and the remaining person will serve as the Referee. If the Parties strike the same name, then the Referee will be selected from the remaining two (2) names by coin toss. If the NESC committee member so selected is unwilling or unable to serve as Referee, then this procedure will be repeated (starting with the blind drawing of three different names as provided above) as necessary until a Referee that is acceptable to the Commission is selected who is willing and able to serve as Referee. If all committee member names of the NESC committee first selected are exhausted without a Referee being appointed who is willing and able to serve as Referee, then the Parties will repeat the above-described procedure with the next NESC committee whose work is most closely related to the dispute, and so on until a Referee that is acceptable to the Commission is selected who is willing and able to serve as Referee.
 4. The Referee will make such investigation of the dispute as deemed appropriate in his or her discretion, which will include conferring with each Party, in whatever

manner the Referee deems appropriate, so long as each Party is afforded equal opportunity.

5. The Referee shall issue a binding decision in writing to the Parties, from which there will be no appeal, within ninety (90) days of appointment to the matter by the Commission. Upon good cause shown, the Referee may apply for a limited extension to issue a binding decision. The Party whose position is not upheld by the Referee shall be responsible to pay the Referee's fees and expenses. If Parties' positions are upheld in part, they will share the Referee's fees and expenses equally.
 6. Nothing herein shall preclude the Parties, at any time, from independently resolving a dispute concerning any compliance or non-compliance with the standards and specifications applicable to Pole Attachments to poles prior to the Referee's issuance of a binding resolution. Upon appointment of a Referee by the Commission, the Parties agree to be bound to pay the Referee's fees and expenses, irrespective of any subsequent resolution by the Parties.
- B. Complaints alleging that the Pole Owner is not complying with the terms of the Georgia Broadband Opportunity Act or the Commissions' Pole Attachment Regulations shall be filed with the Commission and resolved on an expedited basis.
- C. The Licensee shall have the burden of establishing a prima facie case that the rate, fee, term, condition, or specification is not just, reasonable, nondiscriminatory or commercially reasonable. The complaint shall include:
1. A concise and specific statement of why a rate, fee, term, condition or specification in any this Agreement is not just, reasonable, nondiscriminatory or commercially reasonable, the harm caused by such rate, fee, term, condition or specification, and all data and information supporting such statement.
 2. A concise and specific statement that the rate, fee, term, condition or specification was not mutually agreed upon by the Parties and all data and information supporting such statement.
 3. A complete copy of this Agreement; or, if no pole attachment agreement has been entered by the Parties, a statement to that effect and the reasons therefor.
 4. A certification of service confirming service of the complaint upon the Pole Owner.
- D. The Pole Owner shall file a response to the complaint within thirty (30) days of receipt of service of the complaint. The response shall respond to the complaint and, at a minimum, include:
1. A concise and specific statement of why the allegedly improper rate, fee, term, condition or specification is just, reasonable, nondiscriminatory or commercially reasonable, does or does not cause the harm allegedly suffered, and all data and information supporting such statement, or alternatively, why the Licensee failed to establish a prima facie case in the complaint.
 2. A concise and specific statement that the rate, fee, term, condition or specification was or was not mutually agreed upon by the Parties and all data and information supporting such statement.

3. A complete copy of this Agreement if the Pole Owner contends that the copy submitted with the complaint is incorrect or inaccurate in any fashion.
 4. A certification of service confirming service on the response to the Licensee.
- E. No additional filings by either Party shall be permitted unless expressly granted by the Commission. Upon its own motion or by motion of the Parties, the Commission shall have discretion to order, grant, or deny any hearings, testimony, live or otherwise, oral argument or form of discovery or supplemental briefing it believes will aid in resolution of the complaint. Any such hearings, testimony, arguments or form of discovery or briefing shall not delay resolution of the complaint beyond the applicable deadline.
- F. The Commission shall either grant or deny the complaint, in whole or in part, for any reason supporting such decision. If the Commission determines that the rate, fee, term, condition or specification is not just, reasonable, nondiscriminatory, or commercially reasonable, it may:
1. Prescribe a replacement rate, fee, term, condition or specification that is as close as possible to the challenged rate, fee, term, condition, or specification but is just, reasonable, non-discriminatory, and commercially reasonable;
 2. Sever and terminate the invalid rate, fee, term, condition or specification from the pole attachment agreement;
 3. Direct the Parties to reach agreement on a new rate, fee, term, condition or specification with or without guidance from the Commission; and/or
 4. Grant other such equitable relief as the Commission may deem appropriate.
- G. Complaints alleging that the Pole Owner is not complying with the terms of the Georgia Broadband Opportunity Act or the Commissions Regulations shall be resolved by decision of the Commission within one hundred eighty (180) days from the date of the filing of the complaint. Under extraordinary circumstances, the Commission shall have the discretion to extend the deadline for decision.
- H. At any time, the Commission shall have authority to order the Parties to participate in mediation, arbitration, settlement conference or other form of alternative dispute resolution before a Commission-appointed administrative law judge(s), officer(s), mediator(s), arbitrator(s) or other individual(s). The deadline for resolution of the complaint shall be stayed pending the Commission's referral of the complaint and the Parties' completion of alternative dispute resolution.
- I. In any proceeding, including but not limited to any proceedings before the Georgia Public Service Commission, the state or federal trial or appellate courts in the state of Georgia, or any other governmental authority having jurisdiction over a dispute between these Parties relating to this Agreement, the prevailing Party, as determined by the authority having jurisdiction over the dispute, shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the authority having jurisdiction.