**ATTACHMENT AGREEMENT**

**BETWEEN**

**VERIZON (LICENSOR)**

**AND**

**XXX (LICENSEE)**

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**ATTACHMENT AGREEMENT**

 This Attachment Agreement (“Agreement”), is made as of the date of the last Party signing hereto (the “Effective Date”), between Verizon Pennsylvania LLC and Verizon North LLC (individually and collectively “Verizon”) having its principal office at One Verizon Way, Basking Ridge, NJ 07920, and [insert entity name], organized and existing under the laws of [state], having its principal office at [insert address] (“Licensee”) (Verizon and Licensee are individually a “Party” and collectively the “Parties”).

**WITNESSETH**

WHEREAS, Licensee desires to place and maintain cables, wire and other equipment (“Facilities”) on Poles and in Conduits owned/controlled by Verizon in the State of Pennsylvania;

WHEREAS, Verizon is willing to permit, to the extent it may lawfully do so, the placement of Licensee’s Facilities on Verizon’s Poles and/or in its Conduits, subject to the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the Parties agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 Actual Cost. The cost incurred by Verizon for material, labor and all other expenses associated with Pre-Construction Surveys, Post-Construction Inspections, Periodic Inspections and Make Ready Work to accommodate Licensee’s Attachments and/or occupancy of Verizon’s Conduit System, and Access to Records.

1.2 Anchor. A metal rod secured to the ground or a fixed object that is part of an assembly (also consisting of a Guy wire) designed to maintain Pole stability by balancing the load on the Pole.

1.3 Application. A written request from Licensee, submitted in accordance with this Agreement, to place Attachments.

1.4 Approved Contractor. A contractor approved by Verizon to perform Pre-Construction Surveys and Make-Ready Work on Verizon owned Poles. Verizon’s list of Approved Contractors, as may be updated from time to time, is posted on the Verizon Partner Solutions website.

1.5 Attachment. Facilities affixed to or supported by a Verizon Pole or housed in Verizon Conduit, including any equipment attached to a point on a Verizon Pole not normally occupied by a strand attachment (e.g., antennas, power supplies, cabinets, terminals, etc.).

1.6 Attachment Fee. A specified amount charged as rent for billable Attachments.

1.7 Business Days. All references to Business Days are to days, excluding weekends and holidays observed by Verizon.

1.8 Communications Space. The lower usable space on a Pole.

1.9 Complex Make-Ready. Make-Ready 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, are deemed to be Complex Make-Ready. All Pole replacements are deemed to be Complex Make-Ready.

1.10 Conduit. A tubular structure containing one or more Ducts or Innerducts used to house cables.

 1.11 Conduit Occupancy Fee. A specified amount revised periodically billed semi-annually or annually to the Licensee.

1.12 Conduit Record Search and Manhole Survey. There are two elements of the Conduit Record Search and Manhole Survey: (1) administrative effort required to process the Application and review conduit records and (2) field inspection of the existing Conduit facilities to determine any necessary Make-Ready Work to accommodate Licensee’s facilities and prepare the cost estimate for Make-Ready Work, if applicable.

1.13 Conduit Section. Conduit between two adjacent Manholes or between a Manhole and an adjacent Pole or other structure.

1.14 Conduit System. Any combination of Ducts, Innerducts, Conduits, Manholes and handholes joined to form an integrated whole. A Conduit System does not include a Controlled Environmental Vault, a Central Office Vault or isolated conduits.

1.15 Days. All references to Days are to calendar days, including weekends and holidays. Business Days are defined above.

1.16 Duct. A tubular raceway within a Conduit used for housing an Attachment.

1.17 Existing Attacher. Any entity with facilities on the affected Pole.

1.18 Guy. A metal cable of high tensile strength attached to a Pole, used to stabilize the Pole by transferring an unbalanced load on the Pole to an installed Anchor or support Pole.

1.19 Identification Marker. A tag on an Attachment that identifies the Licensee for that Attachment.

1.20 Innerduct. A Duct housed within another Duct.

1.21 Joint Owner. A third party that shares an ownership interest in a Pole with Verizon.

1.22 Joint User. A third party authorized to place Attachments on specified Verizon Poles under an arrangement in which the third party simultaneously authorizes Verizon to place Attachments on specified Poles owned by the third party. Licensee is not a Joint User.

1.23 License. Verizon’s written authorization that allows Licensee to place an Attachment.

1.24 Licensee Certified Contractor. A contractor that Licensee certifies meets all applicable safety and reliability standards, including but not limited to those set forth in 47 C.F.R. §1.1412 ¶(c) subpara (1),(2),(3),(4) and (5), and any additional requirements specified by Verizon, as may be amended and updated from time-to-time.

1.25 Licensee’s Maintenance Work. Maintenance, repair and replacement work performed by Licensee on its Attachments, not associated with any significant Overlash or Rebuild project.

1.26 Make-Ready Work. All work required to accommodate Licensee’s proposed Attachments on a Pole or in a Conduit System.

1.27 Make-Ready Work Estimated Charges. Verizon’s estimate of costs for the Make-Ready Work required to accommodate Licensee’s proposed Attachments.

1.28 Manhole. A subsurface enclosure used for the purpose of installing, operating and maintaining Facilities. A Manhole does not include a handhole or a Controlled Environment Vault (CEV).

1.29 Material Default. A substantial failure by a Party to perform under a term or terms specified in this Agreement, significant enough to release the other Party from its obligation to further perform under this Agreement, and giving the other Party a cause of action for breach of contract.

1.30 Other Licensee. A third party authorized by Verizon as a licensee who is not a Party to this Agreement.

1.31 Outage. Any service disruption or damage to any equipment or Pole that is reasonably likely to interrupt the service of either Verizon or an Existing Attacher.

1.32 Overlash. Placement on or fastening of an additional cable, wire or other equipment to an existing cable or strand Attachment of Licensee or an Other Licensee. In no event shall Licensee, or any third party, Overlash to Verizon’s facilities.

1.33 Periodic Inspection. Verizon’s inspection of Licensee’s Facilities to verify that Attachments are authorized and otherwise conform to the requirements of this Agreement.

1.34 Pole. A wooden pole that provides support for aerial Attachments, including any Anchor used to support the Pole.

1.35 Post-Construction Inspection. Verizon’s inspection of Licensee’s Attachments, including, but not limited to, any Overlash or Third Party Overlash and any Make-Ready Work performed by Licensee or its subcontractor, to verify that all Attachments are authorized, and any Make-Ready is compliant, and otherwise conforms with the requirements of this Agreement.

1.36 Power Supply. A power source unit contained within a cabinet mounted directly to a Pole, strand mounted or located on a pad at the base of a Pole, typically containing equipment, including batteries and electric meters used to provide electric power to amplifiers or other devices.

1.37 Pre-Construction Survey. A records review, field inspection of Verizon’s Poles or Conduit to determine any required Make-Ready Work, the charges associated with the Make-Ready Work, and/or the administrative effort required to process a Licensee’s Application, as applicable, dependent on the make-ready process.

1.38 Pre-Construction Survey Estimated Charges. Verizon’s estimate of charges to perform applicable Pre-Construction Survey work required to process Licensee’s Application.

1.39 Rebuild. Work performed by Licensee, other than Maintenance Work, to upgrade, replace, add to or alter its existing Attachments.

1.40 Right of Way. Permission to use or pass over, on or under, the land of another person, including the airspace above such property.

1.41 Service Drop. A specific type of Attachment that is a cable attached to a Verizon Pole that runs directly from that Verizon Pole to a Licensee customer location or premise.

1.42 Simple Make-Ready. Make-Ready Work where existing attachments in the Communications Space of a Pole could be rearranged without any reasonable expectation of a service outage or facility damage and does not require splicing of any existing communication attachment or relocation of an existing wireless attachment or the replacement of a Pole.

1.43 Strand Mounted Equipment. Any equipment used to provide wireless service, including, but not limited to, antennas, power supplies and terminals, that are attached to a strand supported by at least two Poles. Strand mounted equipment may be mounted over an existing cable on the strand or may be the sole equipment mounted on the strand.

1.44 Subsequent Inspection. Verizon’s inspection of Licensee’s Attachments, and any Make-Ready performed by Licensee or its subcontractors, to confirm the correction of non-compliant conditions identified as a result of a Post-Construction or Periodic Inspection.

1.45 Third Party Overlash. Cable, wire, or any other facilities, not owned by Licensee, that is mounted on or fastened to an existing Attachment of Licensee.

1.46 Unauthorized Attachment. An Attachment placed by Licensee that is not included in a License.

1.47 Usable Space. The space on a Pole above the minimum grade level which can be used for the attachment of wires, cables, and associated equipment, and which includes space occupied by Verizon.

**ARTICLE 2
SCOPE OF AGREEMENT**

2.1 This Agreement sets forth the terms and conditions under which Verizon will grant a non-exclusive, revocable License authorizing Licensee to place Attachments on Poles and in Conduits.

2.2 Verizon enters into this Agreement in reliance on Licensee’s representation that the Attachments will be used to provide wireless, telecommunications and/or other communications services. This Agreement is not itself a License, and before placing any Attachment, Licensee must apply for and obtain a License from Verizon. Licensee must obtain separate authorization from any Joint Owner or Joint User, as applicable, of the Poles. Notwithstanding the foregoing, Licensee may attach a Service Drop prior to submitting an application for a License; however, Licensee must submit an application for such Service Drop within 10 (ten) business days of installing such Attachment.

2.3 This Agreement supersedes all previous agreements between Verizon and Licensee with respect to Licensee’s use of Verizon’s Poles and Conduits. This Agreement will govern all of Licensee’s Attachments as of the Effective Date, as well as all Attachments from and after the Effective Date.

2.4 No use, however extended, of Verizon’s Poles or Conduits, or payment of any fees or charges required under this Agreement will create or vest in Licensee any ownership or property rights of any kind whatsoever in such Poles or Conduits. Licensee’s rights will be and remain those of a licensee.

2.5 Nothing in this Agreement is intended to or should be construed to require Verizon to acquire, construct, retain, extend, place, or maintain any Pole, Conduit, Right of Way, easement or other facility not needed for Verizon’s own service requirements.

2.6 Nothing in this Agreement shall limit, restrict, or prohibit Verizon from entering into agreements with other parties regarding the Poles and Conduits covered by this Agreement. The rights of Licensee are at all times subject to agreements and other arrangements between Verizon and its Joint Owners or Joint Users.

2.7 Nothing in this Agreement shall require Verizon to grant a license where placement of Licensee’s Attachments would interfere with Verizon’s existing service requirements, or the use of Verizon’s facilities by Other Licensees, or create a hazardous or unsafe condition.

2.8 Licensee shall utilize all electronic systems utilized by Verizon, including, without limitation, VLicense, NJUNS, NOTIFY, SPANS, and any other electronic system that Verizon determines, in its sole discretion, to utilize in the future.

**ARTICLE 3
FEES AND CHARGES**

3.1 General

3.1.1 Licensee agrees to pay to Verizon applicable Attachment and Conduit Occupancy Fees as invoiced by Verizon, and other fees and charges in accordance with the terms of this Agreement. Attachment and Conduit Occupancy Fees are set forth in Appendix I to this Agreement.

3.1.2 Verizon may update the Attachment and Conduit Occupancy Fees specified in Appendix I no more than once annually by providing Licensee with notice no less than sixty (60) Days prior to the date the updates are to become effective. Verizon will provide written notice of updated Attachment and Conduit Occupancy Fees via an email sent to the email address listed in the most current Company Profile Form submitted to Verizon by Licensee. Upon written request, Verizon will document in writing the justification for any change in Attachment and Conduit Occupancy Fees. Notwithstanding any other provision of this Agreement, Licensee may terminate this Agreement within the sixty (60) Day notice period if the change in Attachment or Conduit Occupancy Fees is not acceptable to Licensee. Upon termination, Licensee will remove all of its Attachments and vacate Conduit in accordance with the provisions of this Agreement. Any dispute regarding a change in Attachment and Conduit Occupancy Fees will be addressed through the Dispute Resolution process set forth in Section 16.9.

3.1.3 Charges for Pre-Construction Surveys, Make-Ready Work, and inspections (Post-Construction Inspections, Periodic Inspections and Subsequent Inspections) are based on Actual Costs incurred by Verizon. Upon written request by Licensee, Verizon will provide reasonable backup information supporting its Actual Costs.

3.2 Attachment and Conduit Occupancy Fees

3.2.1 For billing purposes, the Attachment Fee, in accordance with FCC regulations, is determined by the amount of Usable Space on a Pole occupied by Licensee’s Attachments, excluding ground wires, safety signs and risers used by Licensee in the construction, operation or maintenance of Licensee’s facilities.

3.2.2 The Conduit Occupancy Fee, in accordance with FCC regulations, is determined by the amount of conduit capacity occupied by Licensee’s Attachments.

3.2.3 Attachment Fees and Conduit Occupancy Fees are calculated from the first day of the month immediately following the month in which the applicable License is issued and will appear on the next invoice. All Attachment Fees and Conduit Occupancy Fees are paid annually in advance, unless otherwise mutually agreed upon in writing. Payment is due within thirty (30) Days from the invoice date.

3.3 Pre-Construction Survey Charges

3.3.1 Unless Licensee elects, and qualifies for, the OTMR Process, Licensee will pay to Verizon the applicable Pre-Construction Survey Estimated Charge at the time that Licensee submits its Application.

3.3.2 Pre-Construction Survey Estimated Charges will be based on an estimate of the cost of performing the Pre-Construction Survey. Licensee will be credited for any amount paid in excess of Verizon’s Actual Cost, or will be billed for the amount by which Verizon’s Actual Cost exceeds the estimated costs already paid by Licensee.

3.4 Make-Ready Work Charges

3.4.1 Unless Licensee elects the OTMR Process, Make-Ready Work Estimated Charges are to be paid by Licensee within fourteen (14) days after receiving the Make-Ready Work Estimated Charges and in advance of Verizon performing any work.

3.4.2 Make-Ready Work Estimated Charges will be based on an estimate of the cost of performing the Make-Ready Work. Licensee will be credited for any amount paid in excess of Verizon’s Actual Cost, or will be billed for the amount by which Verizon’s Actual Cost exceeds the estimated costs already paid by Licensee.

## 3.5 Inspection Charges

Licensee will pay the amount invoiced by Verizon for Post-Construction Inspections, Periodic Inspections or Subsequent Inspections as based on Actual Costs of Verizon.

3.6 Payments Due For Material Default

In the event Verizon terminates this Agreement because of a Material Default by Licensee, Licensee will remain liable to Verizon for all fees, charges and payments due to Verizon, and all reasonable costs, fees and expenses, including, without limitation, reasonable attorneys’ fees, incurred by Verizon in pursuit of its remedies for the Material Default.

3.7 Payment Requirements

3.7.1 Licensee will pay to Verizon the estimated charge for any Pre-Construction Survey or Make-Ready Work prior to Verizon beginning such work.

3.7.2 Invoices to Licensee must be paid within thirty (30) Days from the date of the invoice. Late payment of an invoice will be subject to a late fee of 1.5% per month or the maximum allowed by law (whichever is greater) applied to the outstanding balance from the due date of the invoice until it is paid in full.

3.7.3 Nonpayment of any invoiced amount will constitute a Material Default and subject this Agreement to termination under the provisions of Article 11 unless the unpaid amount is the subject of a good faith dispute in accordance with subsection 3.8 of this Agreement.

3.7.4 If payment is not received within the prescribed timeframe for a Pre-Construction Survey or for Make-Ready Work, Verizon may notify Licensee that its Application is cancelled. In such event, Licensee must submit a new Application if it wishes to further pursue a License.

3.8 Billing Disputes

3.8.1 If Licensee, in good faith, disputes a Verizon invoice, it must do so within thirty (30) Days of the invoice date and must pay any undisputed portion in accordance with subsection 3.7.2. If, at any time, the total of all disputed charges exceeds $10,000.00, Licensee shall deposit that total disputed amount in an interest-bearing escrow account until such time as the dispute is resolved. The escrow account must be established within ninety (90) Days of the date the disputed charges exceed $10,000.00. In accordance with the terms of the dispute resolution, Licensee shall remit to Verizon the amount to be paid, together with accumulated interest.

3.8.2 If Licensee fails to pay an undisputed amount or to dispute an unpaid amount in accordance with the terms of this Agreement, in addition to all other remedies available to Verizon, Verizon may refuse to perform any Pre-Construction Survey or Make-Ready Work for Licensee and may refuse to issue any License until such time as the amount is paid, or is properly disputed and, if required, deposited into an interest-bearing escrow account.

**ARTICLE 4
APPLICATION FOR AND ISSUANCE OF LICENSES**

4.1 Before Licensee may place an Attachment or place facilities in Verizon Conduit, it must first apply for and receive a License utilizing the forms and providing the information specified by Verizon. There are different forms for OTMR Process and Complex Process and it is the Licensee’s responsibility to submit the proper forms.

4.2 Licensee shall submit an Application. Verizon will review the Application within the timeframe required by applicable law and notify Licensee what, if any, information is missing or inadequate. Licensee shall submit any missing or inadequate information as requested by Verizon. Article 5 sets forth the process for Complex Make-Ready Applications and Article 6 sets forth the process for OTMR Process Applications. An Application shall be considered complete when Licensee has provided all information required. Verizon will notify Licensee when the Application is complete. Once the Application is complete, Verizon shall review the complete Application. Verizon will notify Licensee whether the Application is granted or denied. If Verizon denies the Application, Verizon will include the reason(s) for its denial in its notification to Licensee.

4.3 To the extent required by applicable law, Verizon will process Applications in the same order in which they are received. Properly completed Applications received by Verizon on the same day from two or more Licensees for the same Pole(s) or Conduit(s) will be processed together. In such event, all required Pre-Construction Survey or Make-Ready Work will be completed simultaneously for the benefit of such applicants. All such applicants will be allocated a pro rata share of costs based on the total number of applicants.

4.4 Licensee agrees that no more than 300 (three hundred) Poles will be listed on a single Application. All Poles listed on a single Application must be located within the same municipality. The total number of Poles permissible on all pending Applications from Licensee will be subject to applicable law.

4.5 Verizon will not accept an Application requesting Attachments to both Pole(s) and Conduit(s). A separate Application for each must be submitted.

**ARTICLE 5
COMPLEX MAKE-READY PROCESS
 PRE-CONSTRUCTION SURVEY AND MAKE-READY WORK**

**(for Pole Attachments)**

5.1 After the Application is reviewed by Verizon and determined to be complete, Verizon will complete a Pre-Construction Survey of the affected Pole(s). A Pre-Construction Survey is required for each Pole or Conduit for which a License is requested to determine its adequacy to accommodate Licensee’s proposed Attachments. Verizon will use commercially reasonable efforts to provide notice of the date, time and location of the Pre-Construction Survey, including the name of the Approved Contractor performing the Pre-Construction Survey to Licensee and any Existing Attacher not less than three (3) days prior to the Pre-Construction Survey. Licensee may be present for the field inspection portion of the Pre-Construction Survey. If Licensee fails to participate in a joint Pre-Construction Survey, it thereby waives any right to challenge the Pre-Construction Survey results.

5.2 Following its receipt of the required Pre-Construction Survey payment, Verizon will complete the Pre-Construction Survey within the timeframe required by applicable law. The Pre-Construction Survey results will contain one or more of the following:

5.2.1 If no Make-Ready Work is required, a License will be issued for the proposed Attachment(s). The issuance of a License will be conditional on Licensee having met all prerequisites of this Agreement, including insurance and surety requirements.

5.2.2 Verizon will provide Licensee with written notification of any Make-Ready Work required and an itemized bill for the Make-Ready Work within the timeframe required by applicable law. Verizon will perform the Make-Ready Work following its receipt of Licensee’s payment of the invoiced amount and will complete the Make-Ready Work in compliance with applicable law. Any work required to correct pre-existing non-compliance not caused by Licensee will not be charged to Licensee.

5.2.2.1 Make-Ready Estimate. Verizon will provide to Licensee an estimate, on a Pole by Pole basis when requested, of the Make-Ready Charges. If a Pole by Pole estimate is requested by Licensee and Verizon expects to incur fixed costs that are not reasonably calculable on a Pole by Pole basis, Verizon will present charges on a per-job basis rather than Pole by Pole for those fixed cost charges.

5.2.2.2 Final Cost. After Make-Ready is complete, if the final cost differs from the estimate, Verizon will provide Licensee with a final invoice of the actual Make-Ready Charges incurred on a Pole by Pole basis when requested, of the Make-Ready Charges. If a Pole by Pole invoice is requested by Licensee and Verizon incurs fixed costs that are not reasonably calculable on a Pole by Pole basis, Verizon will present charges on a per-job basis rather than Pole by Pole for those fixed cost charges.

5.2.3 If Verizon determines that Licensee’s proposed Attachments cannot reasonably be accommodated for reasons of capacity, safety, reliability or generally applicable engineering reasons, Verizon may refuse to grant a License. In such event, Verizon will provide the specific reason(s) for the refusal in writing to Licensee.

5.2.4 If Verizon determines that any of the Poles or Conduits in the Application are not owned or controlled by Verizon, Verizon will so notify Licensee and will remove those Poles or Conduits from the Application.

5.3 Make-Ready Work requiring Pole replacements will be completed within the timeframe required by applicable law, except when delayed for reasons beyond Verizon’s control.

5.4 Self-Help.

 5.4.1 Surveys. If Verizon does not complete the Pre-Construction Survey in the timeframe required by applicable law, then Licensee may conduct its own survey utilizing an Approved Contractor. In such event, Licensee will provide at least three (3) business days prior written notice to Verizon and Existing Attachers of the date and time of the survey, a description of the work involved and the name of the Approved Contractor. Verizon and Existing Attachers each have the right to be present during any field inspection.

 5.4.2 Make-ready. If Verizon does not complete the required Make-Ready Work in the timeframe required by applicable law, then Licensee may hire an Approved Contractor to complete such work. In such event, Licensee will provide at least five (5) business days prior written notice to Verizon and Existing Attachers of the date and time of the Make-Ready Work, a description of the work involved and the name of the Approved Contractor. Verizon and Existing Attachers each have the right to be present during any Make-Ready Work.

5.4.2.1 Licensee shall notify Verizon and, if applicable, Existing Attachers immediately if the Make-Ready Work damages any equipment on the Pole(a) or damages a Pole(s) or causes an Outage. Upon receipt of such notice from Licensee, Verizon or, if applicable, Existing Attachers, may either (a) perform any remedial work and charge Licensee for all reasonable costs associated with such work or (b) require Licensee to immediately fix the damage or Outage at Licensee’s sole expense following receipt of Licensee’s notice.

5.4.2.2 Licensee shall notify Verizon and Existing Attachers no later than fifteen (15) days after the Make-Ready Work is complete and Licensee’s Attachments are attached. Verizon and Existing Attachers each have at least ninety (90) days from receipt of such notice to perform a Post-Construction Inspection. Verizon will notify Licensee of any damage or code violations caused by either the Make-Ready Work or Licensee’s Attachments in accordance with applicable law. If either Verizon or an Existing Attacher notifies Licensee of damage or a code violation, then either Verizon or an Existing Attacher may either (a) perform any remedial work and charge Licensee for all reasonable costs associated with such work or (b) require Licensee to fix the damage or code violations at Licensee’s sole expense within fourteen (14) days after receipt of notice from Verizon or Existing Attacher, as applicable.

 5.4.3 Self-help is not available for pole replacements.

**ARTICLE 6
ONE-TOUCH MAKE-READY PROCESS (“OTMR Process”)
 PRE-CONSTRUCTION SURVEY AND MAKE-READY WORK**

**(for Pole Attachments)**

6.1 If Licensee intends to elect the OTMR Process then:

 6.1.1 The OTMR Process may be elected by Licensee only for Attachments that require Simple Make-Ready in the Communications Space of a Pole. Licensee may only use either a Licensee Certified Contractor or an Approved Contractor for all work performed under an Application. Licensee shall remain fully and directly liable to Verizon for the performance of all work performed by all Licensee Certified Contractors and Approved Contractors utilized by Licensee to perform work under this Agreement.

6.1.2 Attachment Application. Licensee must explicitly state that it is electing the OTMR Process in its Application and identify the Licensee Certified Contractor(s) or Approved Contractor(s) that will perform work. It is the sole responsibility of the Licensee to ensure that the Licensee Certified Contractor, or Approved Contractor, as applicable, determines whether the necessary make-ready is simple and not complex.

6.1.2.1 Pre-Construction Survey. Licensee is solely responsible for all Pre-Construction Surveys required as part of the OTMR Process. Licensee shall provide at least three (3) business days advance written notice to Verizon and all Existing Attachers on the affected Pole(s) of the date, time and location of the Pre-Construction Survey and the name of the Licensee Certified Contractor, or Approved Contractor, as applicable, conducting the Pre-Construction Survey so that Verizon and Existing Attachers may be present for the Pre-Construction Survey. Licensee will use the form provided by Verizon to provide such notice.

6.1.2.2 As part of an OTMR Application, within five (5) days of completing the Pre-Construction Survey for those Pole(s) being applied for, Licensee shall record the results of its Pre-Construction Survey by completing and submitting the application forms required by Verizon.

6.1.2.3 Verizon has the right to veto any contractor chosen by the Licensee if, in Verizon’s sole determination, the contractor (i) does not meet all of the requirements set forth in 47 C.F.R. §1.1412 ¶(c) subpara (1),(2),(3),(4) and (5), (ii) does not meet any additional safety or reliability requirements specified by Verizon, or (iii) has a prior record of safety violations. In the event Verizon vetoes a contractor, Verizon will notify Licensee of its determination within either the three-business day notice period for Pre-Construction Survey or the 15-day notice period for Make-Ready Work. Furthermore, Verizon will identify at least one qualified contractor available to do the work.

6.1.2.4 The OTMR Process is not applicable for pole Attachments located above the Communications Space, Make-Ready Work requiring pole replacements or any Conduit application.

6.2 Once the Application is complete, Verizon shall review the complete Application. During its review, Verizon may, in good faith, object to the Licensee Certified Contractor, or Approved Contractor, as applicable, determination that the Make-Ready is Simple Make-Ready. If Verizon determinations that the Application requires Complex Make-Ready, Verizon will notify Licensee in writing with an explanation of its determination and Licensee will have to submit a new Application utilizing the Complex Make-Ready Process. The Complex Make-Ready Process as described above in Article 5 will apply to the Application.

 6.2.1 If the Licensee Certified Contractor, or Approved Contractor, as applicable, determines that the Make-Ready involves a mix of Simple Make-Ready and Complex Make-Ready (or involves work above the communications space on the Pole), then Licensee may decide to bifurcate the work and Licensee may perform the Simple Make-Ready and Verizon will perform the Complex Make-Ready in accordance with Article 5. If Licensee decides to bifurcate the work, then Licensee must submit separate applications for the Simple Make-Ready and Complex Make-Ready. Alternatively, the Licensee may decide to follow the Complex Make-Ready process for the entire project and submit a new Application.

6.3 Verizon will notify Licensee whether the Application is granted or denied. If Verizon denies the Application, Verizon will include the reason(s) for its denial in its notification to Licensee.

6.4 Make-Ready. If Verizon grants Licensee’s Application, then, upon fifteen (15) days prior written notice to Verizon and all Existing Attachers on the affected Pole(s), Licensee may proceed with the Simple Make-Ready as described in its Application. The prior written notice from Licensee shall include the date and time of the Simple Make-Ready, a description of the work involved, the name of the Licensee Certified Contractor, or Approved Contractor, as applicable, performing the work, and provide Verizon and Existing Attachers a reasonable opportunity to be present while the work is done. Licensee will use the form provided by Verizon to provide such notice.

 6.4.1 Licensee shall notify Verizon and, if applicable, Existing Attachers immediately if the Simple Make-Ready damages any equipment on the Pole(s) or causes an Outage. Upon receipt of such notice from Licensee, Verizon or, if applicable, Existing Attachers may either (a) perform any remedial work and charge Licensee for all reasonable costs associated with such work or (b) require Licensee to immediately fix the damage or Outage at Licensee’s sole expense following receipt of Licensee’s notice.

 6.4.2 If during the performance of the Simple Make-Ready, Verizon or Licensee determine that the Simple Make-Ready is Complex Make-Ready, then the work must be stopped immediately and notice of the determination with description of the Pole(s) impacted sent immediately to the other party by the determining party. In addition, the Make-Ready will be deemed to be Complex Make-Ready and the Complex Make-Ready Process as described above in Article 5 will apply and Licensee must submit a new Application.

 6.4.3 Licensee shall notify Verizon and Existing Attachers no later than fifteen (15) days after the Simple Make-Ready is complete and Licensee’s Attachments are attached. Verizon and Existing Attachers each have at least ninety (90) days from receipt of such notice to perform a Post-Construction Inspection to inspect the Simple Make-Ready and Licensee’s Attachments. Verizon will notify Licensee of any damage or code violations caused by either the Make-Ready or Licensee’s Attachments in accordance with applicable law. If either Verizon or an Existing Attacher notifies Licensee of damage or a code violation, then either Verizon or an Existing Attacher may either (a) perform any remedial work and charge Licensee for all reasonable costs associated with such work or (b) require Licensee to fix the damage or code violations at Licensee’s sole expense within fourteen (14) days after receipt of notice from Verizon or Existing Attacher, as applicable.

# ARTICLE 7 SPECIFICATIONS AND LEGAL REQUIREMENTS

7.1 Attachments will be placed, maintained, relocated and removed in accordance with the requirements and specifications of the latest editions of the “Blue Book - Manual of Construction Procedures” (Blue Book), published by Telcordia Technologies Inc.; the “National Electrical Code” (NEC), published by the National Fire Protection Association, Inc.; the “National Electrical Safety Code” (NESC), published by the Institute of Electrical and Electronics Engineers, Inc.; the rules and regulations of the U.S. Department of Labor issued pursuant to the “Federal Occupational Safety and Health Act of 1970”, as amended, (OSHA); Verizon Requirements and Specifications for Occupancy of Licensor's Conduit System (document posted on Verizon Partner Solutions website which may be updated from time-to-time at Verizon’s discretion); or any rules or orders now in effect or that hereafter may be issued by any regulatory agency or governing authority having jurisdiction over the subject matter. Where a difference in applicable specifications exists, the more stringent will apply. Licensee will place its Attachments so as to not create a hazardous or unsafe condition. Licensee’s Attachments will not physically, electronically or inductively interfere with Verizon’s facilities.

7.2 Subcontracting. Licensee may subcontract, including the use of a Licensee Certified Contractor or Approved Contractor, for operational and technical services it is obligated to perform or provide hereunder, but Licensee in any event shall remain fully and directly liable to Verizon for the performance of such services and obligations. Licensee, in performing any of its obligations hereunder, is acting solely as an independent contractor and not as an agent of any other party. Persons furnished by Licensee shall be solely the employees or agents of Licensee and shall be under the sole and exclusive direction and control of Licensee. They shall not be considered employees of Verizon for any purpose.

7.3 To the extent required by applicable law, Verizon will allow Licensee to use space-saving techniques, such as boxing and bracketing, on Poles where Verizon, a Joint Owner, or Joint User already employs such techniques. Where Verizon, a Joint Owner, or Joint User has adopted a more restrictive standard in its use of boxing, bracketing, or other attachment techniques, the more restrictive standards may apply to Licensee’s Attachments.

7.4 All Verizon Poles, Conduits, Manholes and other facilities are subject to various hazards and/or environmentally sensitive conditions, including, but not limited to, lack of oxygen, hazard substance intrusion, water intrusion, pest infestation (together with pest-related diseases), excessive vegetation, proximity to power lines and other sources of electrical energy, and confined space issues. It is Licensee’s responsibility to ensure that its employees, and any persons working on Licensee’s behalf, are properly trained and equipped to work under such conditions, inspect all such facilities for hazards before entry or usage, and properly address all potential hazards and/or environmentally sensitive conditions to the extent necessary for Licensee to carry out its work. This includes, but is not limited to, the proper characterization and removal of any water or sediment present, the aeration of Manholes and compliance with applicable Manhole entry and/or confined space entry requirements. The land on which Verizon’s facilities are located may be subject to one or more Activity and Use Limitations (AULs). It is Licensee’s responsibility to determine whether any AULs are applicable and, if so, for complying with such AULs when performing its work.

7.5 In the event Licensee’s Attachments pose an immediate threat to the safety of the public, employees of Verizon or Other Licensees, interfere with Verizon or Other Licensees meeting their service obligations, or pose an immediate threat to the physical integrity of Verizon's facilities or the facilities of Other Licensees, Verizon will have the right, but not the obligation, to take such action as it deems necessary to address the situation. Verizon will first attempt to provide notice to Licensee but where circumstances prevent such prior notice or Licensee fails to respond to such notice, Verizon may take such action without prior notice without subjecting itself to any liability to Licensee or Licensee’s customers, except to the extent of Verizon’s gross negligence or willful misconduct. In such cases, as soon as practicable, Verizon will notify Licensee in writing of the work performed or other action taken. Licensee will be responsible for paying the Actual Costs incurred for all work performed by Verizon pursuant to this subsection 7.5.

7.6 Except as provided otherwise in this Agreement, including Sections 5.4.2 (Self-Help) and 6.4 (OTMR Make-Ready), Licensee will correct all safety violations within ten (10) Days from receipt of written notice from Verizon or, where such violations cannot be corrected within ten (10) Days, within such other period as may be mutually agreed upon in writing. Licensee will correct all other non-standard conditions within thirty (30) Days from receipt of written notice from Verizon or where such violations cannot be corrected within thirty (30) Days, within such other period as may be mutually agreed upon in writing. If Licensee does not correct a violation or non-standard condition in a timely manner, Verizon may correct or have the violation or non-standard condition corrected at Licensee’s sole expense without subjecting itself to any liability to Licensee or Licensee’s customers, except to the extent of Verizon’s gross negligence or willful misconduct. Licensee will be responsible for paying the Actual Costs incurred for all such work performed by or for Verizon pursuant to this subsection 7.6.

7.7 Verizon’s failure to notify Licensee of violations or non-standard conditions will not relieve Licensee of its responsibility to place and maintain its Attachments in a safe manner and condition in accordance with the terms of this Agreement, and will not relieve Licensee of any liability imposed by this Agreement.

7.8 Licensee will be responsible for obtaining any authorization required to construct, operate and maintain its Attachments on public or private property. Upon Verizon’s request, Licensee will provide evidence of its authorization to construct, operate and maintain its Attachments at a given location.

7.9 Where Verizon has an existing Right of Way or easement over public or private property sufficiently broad under applicable state law to permit Licensee’s Attachments, then Licensee will not be required to obtain separate authorization to place its Attachments on the Pole. However, Licensee is required to obtain its own rights to access to the location. NOTWITHSTANDING THE FOREGOING, VERIZON DOES NOT WARRANT THE VALIDITY OR APPORTIONABILITY OF ANY RIGHTS IT MAY HOLD TO PLACE FACILITIES ON PUBLIC OR PRIVATE PROPERTY.

7.10 Verizon will, upon written request by Licensee, provide available information and copies of any documents in its files pertinent to the nature of the rights Verizon possesses over specified public or private property. The cost of providing such information and reproducing documents will be paid by Licensee. If requested, Verizon may, but will not be required to, assist Licensee in obtaining an authorization required to place its Attachments on public or private property. In the event Verizon does provide such assistance, the fully allocable cost of its efforts will be paid by Licensee in addition to any Make-Ready Work.

7.11 No License granted under this Agreement will extend to any Verizon Pole or Conduit where the placement of Attachments would result in a forfeiture of Verizon’s rights, or those of a Joint Owner or Joint User, to occupy the property on which the Pole or Conduit is located.

**ARTICLE 8
CONSTRUCTION AND MAINTENANCE OF ATTACHMENTS; CONDUIT;
WIRELESS ATTACHMENTS; OVERLASH;STRAND MOUNTED ATTACHMENTS**

8.1 General Provisions

8.1.1 Licensee will begin placing its Attachments within sixty (60) Days of being issued a License and will complete the placement of its Attachments within one hundred and eighty (180) Days of being issued a License.

8.1.2 Licensee shall notify Verizon no later than fifteen (15) Days after Licensee completes the placement of all Attachments covered by a License. Verizon will have at least ninety (90) Days from receipt of such notice to perform a Post-Construction Inspection. Licensee will use the form provided by Verizon to provide such notice.

8.1.3 Licensee’s failure to place its Attachments or submit the appropriate completion notice within the timeframes specified in subsections 8.1.1 and 8.1.2 may result in termination of the License. In such event, the space allocated under the terminated License will be made available to the next Licensee applying for such space. Billing for the Attachments will cease on the first day of the month following Licensee’s removal of its Attachment, and Licensee will remain liable for all fees invoiced.

8.1.4 Where applicable, Verizon will remove its retired cable from Poles or Conduits to allow for the efficient use of space.

8.1.5 Licensee may modify, replace, alter, enhance, or upgrade its Attachments, without obtaining the prior consent of Verizon, so long as it does not increase the amount of space occupied by its Attachments beyond that permitted by the applicable License. If Licensee requires additional space, it must submit a new Application.

8.1.6 Licensee will identify each of its Attachments with an Identification Marker, whether the Attachment is placed in new space, or by Overlash or a Rebuild project, or during routine maintenance or repair activity. Overlashed bundles require one Identification Marker per bundle. The specifications for Identification Markers are set forth in the latest edition of the “Blue Book – Manual of Construction Procedures” (Blue Book), published by Telcordia Technologies Inc.

8.2 Poles

8.2.1 Verizon will identify and/or approve the specific location on each Pole to be occupied by an Attachment. Where there will be multiple Attachments to the same Pole, Verizon will make a reasonable effort to designate the same relative position on each Pole for the respective Attachments.

8.2.2 Unless otherwise required by law, all tree trimming required by reason of Licensee’s proposed Attachments will be performed by contractors approved by and under the direction of Verizon, at the sole expense of Licensee.

8.2.3 Tree trimming required to clear Licensee’s cable drop or other facility located on the premises of Licensee’s customer will be performed by Licensee at its sole expense.

8.2.4 Tree trimming required as a result of adverse weather conditions such as wind, snow or ice storms, will be performed by Verizon or its approved contractors. Since such tree trimming benefits Verizon, Licensee and Other Licensees on Verizon’s Poles, Verizon will allocate the tree trimming costs to Licensee and Other Licensees for reimbursement to Verizon based on the amount of space occupied by each party on the affected Poles.

8.2.5 Licensee is responsible for making emergency repairs to its Attachments and for having plans and practices enabling it to make such repairs. Verizon will provide Licensee with as much advance warning as practical under the circumstances, but in any event, will notify Licensee within twenty-four (24) hours of any need for emergency repair work on any Pole upon which Licensee has an Attachment. When notice and coordination are practicable, Licensee and other affected parties will coordinate repair and other work operations in emergency situations involving service disruptions.

8.2.6 If Verizon replaces or relocates a Pole, for any reason other than pursuant to Section 8.2.8 below, on which Licensee has Attachments, Licensee must transfer its Attachments to the new Pole, at its sole expense, within fifteen (15) days from receiving notification from Verizon, unless such notice provides for a different time period. If the Parties utilize an electronic system for notifications, such as NJUNS, then Licensee must transfer its Attachments to the new Pole within fifteen (15) days of receiving the “next-to-go” notification. If Licensee fails to transfer its Attachments within the prescribed timeframe, Verizon may, but will not be obligated to, transfer Licensee’s Attachments at Licensee’s sole expense. If Verizon transfers Licensee’s Attachments, Verizon will invoice Licensee for Verizon’s cost to perform the work and Licensee will pay such invoice within thirty (30) days of receipt.

8.2.7 Emergency Pole Replacements.

 8.2.7.1 When emergency Pole replacements are required, Verizon shall promptly make a good faith effort to contact Licensee to notify Licensee of the emergency and to determine whether Licensee will respond to the emergency in a timely manner.

 8.2.7.2 If notified by Verizon that an emergency exists which will require the replacement of a Pole, Licensee shall transfer its Attachments immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to a Verizon replacement Pole, the transfer shall be in accordance with Verizon’s placement instruction.

 8.2.7.3 If Licensee is unable to respond to the emergency situation immediately, Licensee shall so advise Verizon and hereby authorizes Verizon (or any other Other Licensee) to perform such emergency transfers of Licensee’s Attachments at Licensee’s sole expense. If Verizon transfers Licensee’s Attachments, Verizon will invoice Licensee for Verizon’s cost to perform the work and Licensee will pay such invoice within thirty (30) days of receipt.

8.2.8 In the event that as part of Complex Make-Ready for an Other Licensee, Verizon requires Licensee to rearrange its Attachment on the same Pole or transfer its Attachments to a new Pole in order to accommodate additional facilities on Poles or in a Conduit, Licensee must either rearrange its Attachments or transfer its Attachments to the new Pole, at its sole expense, within fifteen (15) days from receiving notification from Verizon, unless such notice provides for a different time period. If the Parties utilize an electronic system for notifications, such as NJUNS, then Licensee must transfer its Attachments to the new Pole within fifteen (15) days of receiving the “next-to-go” notification. If Licensee fails to rearrange it Attachments or transfer its Attachments within the prescribed timeframe, Verizon may, but will not be obligated to, transfer Licensee’s Attachments. If Verizon rearranges or transfers Licensee’s Attachments, Verizon will invoice Licensee for Verizon’s cost to perform the work, unless the rearrangement or transfer is solely due to Verizon’s need for additional facilities, and Licensee will pay such invoice within thirty (30) days of receipt.

 8.2.8.1 Licensee will not be required to bear any of the costs of rearranging or transferring its Attachments if it is required solely to meet the additional facility needs of Verizon, a Joint Owner, Joint User, or Other Licensee. Licensee’s costs will be reimbursed by the party requiring the rearrangement or transfer, including Verizon, and Licensee will be solely responsible for collecting its costs from that party. Verizon will, upon written request, provide Licensee with any information in Verizon’s possession that may facilitate Licensee’s collection of costs from a third party.

8.2.9 Where multiple parties require additional space on a Pole, each party’s proportionate share of the total costs incurred by the parties not requiring additional space to rearrange or move their attachments will be based on a ratio of the amount of new space occupied by that party to the total amount of new space occupied by all parties requiring additional space. Verizon shall not be required to use revenue that may result from the use of any additional space to compensate any party for the rearrangement or move of its Attachments.

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## 8.3 Conduits; Conduit Record Search and Manhole Survey, Make-ready Work and Inspection Charges

##  8.3.1 Conduit Record Search and Manhole Survey charges and Make-Ready charges are based on Actual Costs incurred by Verizon. Upon written request by Licensee, Verizon will provide reasonable backup information supporting its Actual Costs.

##  8.3.2 After Licensee submits an Application, Verizon will notify Licensee of the estimated charges for Conduit Record Search and Manhole Survey and Make-Ready. Licensee shall make an advance payment of the applicable estimated charges prior to any performance by Verizon of any Conduit Record Search and Manhole Survey or Make-Ready Work. The Licensee shall be credited for any amount paid in excess of the Licensor's estimated charges as finally computed and shall be billed for any excess thereof.

8.3.3 A Conduit Record Search and Manhole Survey for each manhole for which an installation is requested is required to determine the adequacy of the Conduit to accommodate Licensee’s installations and facilities. The Licensee may accompany the Licensor when Licensor performs the Manhole Survey.

8.3.4 Licensor will process all requests for access to conduit on a non-discriminatory basis in the order such requests are received.

8.3.5 Within forty-five (45) days of receipt of a complete license Application and the correct Conduit Record Search and Manhole Survey and Make-Ready payment, Verizon shall perform a Conduit Record Search and Manhole Survey and present the results to the Licensee. The survey results will contain one of the following:

(a) If no Make-Ready Work is required, a license shall be issued for the Conduit.

(b) If Verizon determines that the Conduit which Licensee desires to occupy is inadequate or otherwise needs Make-Ready Work to accommodate Licensee’s facilities, in accordance with the specifications set forth in Article VI, Verizon will provide Licensee with an itemized invoice for such anticipated Make-Ready Work. Licensee must review the survey results and notify Verizon within fourteen (14) days of receipt what portions of Conduit and what Make-Ready Licensee agrees to proceed with and Licensee shall pay the estimated Make-Ready charges. The Make-Ready Work will be performed following receipt by Verizon of advance payment. Upon receipt of the advance payment, Verizon will provide the Licensee with the estimated start and estimated construction completion date of the Make-Ready Work.

(c) If Licensor determines that the conduit may not reasonably accommodate Licensee’s facilities for reasons of capacity, safety, reliability or engineering, Verizon may refuse to grant a license for conduit occupancy. Verizon shall provide the specific reason(s) for such denial. Verizon shall not unreasonably exercise the right reserved hereunder.

8.3.6 If, subsequent to the initial installation, service needs of Verizon or Licensee require modifications of the Conduit, the allocation of modification costs that are incurred for the specific benefit of the party requiring such modification shall be assumed by the party benefiting from the modification. Where multiple parties declare their intent to join in the modification, each party shall proportionately share in the total cost. Verizon shall not be required to use revenue that may result from the use of any additional space resulting from such modification to compensate parties that paid for the modification.

8.3.7 Verizon shall make every reasonable effort to complete Make-Ready Work within ninety (90) days of receipt of payment for Make-Ready Work from Licensee, except for reasons beyond Verizon’s control.

8.3.8 To the extent practicable, Verizon shall provide Licensee, no less than sixty (60) days prior to, written notice of any modification of facilities other than routine maintenance, or modifications in response to emergencies, or to a request from a governmental authority.

8.3.9 Manholes may be opened only as permitted by Verizon, which permission will not be unreasonably withheld. Licensee is responsible for securing necessary authorizations from appropriate authorities to open and work in Manholes. Unless otherwise agreed to by Verizon in writing, Licensee will be permitted to enter Manholes only when an authorized Verizon employee or agent is present, unless this requirement is waived in writing by Verizon. Verizon’s employee or agent will have the authority to suspend Licensee’s activities in or around the Manhole if Licensee is engaged in unsafe practices or hazardous conditions arise. Verizon will invoice Licensee and Licensee will pay Verizon the charges for having a Verizon employee or agent present, in accordance with Section 3.7. The presence of a Verizon employee or agent will not relieve Licensee of its obligation to conduct all of its work operations in a safe and workmanlike manner, in accordance with the terms of this Agreement.

(a) Where handholes are not required, upon reasonable request and where space is available, Verizon will provide Licensee with space in designated Manholes for racking and storage of its Attachments.

(b) Licensee, contracting with Verizon or a contractor approved by Verizon, will be permitted to add Conduit parts to Manholes or to add branches to Conduits when existing Conduits do not provide the connectivity required by Licensee, provided that Licensee maintains the structural integrity of the Manhole and Conduits, and exercises sound engineering judgment.

8.3.10 Whenever Licensee’s Attachments are to be placed in Verizon’s Conduits, Verizon will designate the particular Duct(s) to be occupied, the location and manner in which Licensee’s Attachments will enter and exit the Conduit System, and the specific location and manner in which any associated equipment permitted in the Conduit System will be installed.

8.3.11 No more than one full-sized Duct (or one full-sized Duct and one Innderduct if both fiber and copper cable are used in the Conduit) will be assigned as an emergency Duct in each Conduit Section. If Licensee utilizes the last unoccupied full-sized Duct in the applicable cross-section, Licensee will, at its expense, reestablish a clear, full-sized Duct for emergency restoration as soon as practicable or immediately in the event of an emergency requiring such space.

## 8.4 Wireless Attachments

8.4.1 Licensee is solely responsible for any radio frequency ("RF") emissions caused by its Attachments. Licensee represents and warrants that it will comply with all Federal Communications Commission (FCC) regulations regarding RF emissions limitations and will comply with all applicable governmental and industry standard safety codes. To the extent required by FCC rules or other applicable law, Licensee will install and maintain appropriate signage to notify workers and third parties of the potential for exposure to RF emissions. Signage will be placed so that it is clearly visible to workers who climb the Pole or ascend by mechanical means, or to third parties who may come within range of the RF emissions.  The signs will contain the information approved for such signs by the FCC, or in the absence of FCC approval, the information commonly used in the industry for such signs. Licensee agrees that based on the results of any RF analysis study, an RF Safety Plan may be required due to the need for access to the Facilities by Verizon workers and for any Other Licensee and the location of Facilities, often in residential or other populated areas.  If required, Licensee will provide Verizon an RF Safety Plan based on an RF analysis study. The Licensee must complete in writing and retain in Licensee’s records any evaluation or analysis required by applicable law for each type of equipment. Upon request, Licensee will provide Verizon with the results of its evaluations or analyses.

8.4.1.1 Along with each Application, Licensee must provide to Verizon written certification that the proposed equipment installation meets the standard for permissible RF emissions. If Licensee proposes to replace or modify any installed equipment, to the extent Licensee will deploy equipment that was not previously evaluated and approved, the installation of such equipment must be re-evaluated and re-certified using the same approval process as for an initial Attachment.

8.4.2 Upon written notice, Licensee will correct any interference to other networks created by its RF emissions promptly in accordance with applicable law.

8.4.3 Licensee will install a power cut-off switch on every Pole to which it has Attachments capable of RF emissions.  In ordinary circumstances, Verizon will notify Licensee’s designated point of contact, as provided pursuant to subsection 16.2, of the need for a temporary power shut-down.  Upon being notified, Licensee will power down its Attachments remotely, with at least 24 hours advance notice. In the event of an unplanned power outage or other unplanned cut-off of power, or an emergency, the power-down will be with such advance notice as may be practicable and, if circumstances warrant, employees and contractors of Verizon may accomplish the power-down by operation of the power disconnect switch without advance notice to Licensee, and thereafter will notify Licensee as soon as possible.  In all such instances, once the work has been completed and the worker(s) have departed the exposure area, the party who accomplished the power-down will restore power and inform the Licensee as soon as possible that power has been restored.

8.4.4 Licensee will provide emergency after hours contact information to Verizon to ensure proper notification in case of an emergency. Information will include 24/7 telephone, cell phone and/or pager information, a list of duty managers by district and escalation procedures. Licensee will include signage at the site of its Attachment which provides Verizon’s emergency contact information, Licensee’s emergency contact information, and National Electrical Safety Code (“NESC”) required information.

8.4.5 Licensee will inform, in writing and directly to, all Other Licensees and other third parties on the same Poles utilized by Licensee its designated point of contact for power shut-downs and its emergency after hours contact information, including, 24/7 telephone, cell phone and/or pager information, a list of duty managers by district and escalation procedures. Licensee will make a good faith effort to identity such Other Licensees and other third parties. Licensee may reach out to Verizon’s license administration group for assistance in identifying such Other Licensees and other third parties and Verizon will provide the information that it has on record. Thereafter, Licensee will provide any updates to the information referenced in this subsection 8.4.5 directly to such Other Licensees and other third parties within thirty (30) days of the effective date of those updates. If an update occurs more than 180 days after Licensee’s last communication to the Other Licensees and other third parties under this subsection 8.4.5, Licensee may request a current list of third parties from Verizon. Each communication required by this subsection 8.4.5 must include Verizon as a recipient. In addition, Licensee will complete the Company Profile Form located on the Verizon Partner Solutions website and submit it to Verizon. The Company Profile Form sets forth where written notices required under this Agreement between the Parties will be sent.

8.5 Maintenance Work, Overlash, Rebuild Work and Placement of Power Supplies

8.5.1 Licensee will work cooperatively with Verizon’s local representative when performing routine maintenance work on Licensee’s Attachments. Cooperative practices include a system of notification by phone, e-mail, facsimile, answering system, or otherwise for scheduling purposes. Any work that involves six or fewer adjacent Pole spans will be presumed to be routine maintenance work. Verizon may deem significant, simultaneous maintenance activity within a geographic area to be Rebuild activity.

8.5.2 Licensee will follow the procedures set forth in Article 7 in performing Rebuild or Overlash work and placing Power Supplies.

8.5.3 Licensee may overlash its Attachments as permitted by applicable law.

8.5.4 Strand Mounted Equipment Attachments. Strand Mounted Equipment must be installed and maintained in accordance with the requirements of all applicable Specifications set forth in Article 7 and Verizon’s requirements. Verizon reserves the right to notify Licensee if an Overlash has/will create a capacity, safety, reliability or engineering issue and Licensee must address any identified issues with Verizon (whether the Overlash is being done by Licensee or a third party). If Licensee desires to attach Strand Mounted Equipment Attachments, then:

(a) if the Strand Mounted Equipment Attachment will include attachment of any strand, equipment, cable or other facilities to a Pole, then Licensee must submit an application in accordance with Article 4,

(b) if the Strand Mounted Equipment Attachment will be attached as an Overlash (as a modification to an existing Attachment) and Licensee is able to install such Overlash in accordance with the Specifications, then Licensee shall follow the process set forth in Section 8.5.5 Overlashing (below), or

(c) if the Strand Mounted Equipment Attachment will be attached as an Overlash (as a modification to an existing Attachment), however, Licensee cannot install such Overlash in accordance with the Specifications due to either make-ready being required or other safety concerns, then before Licensee may install the Overlash, Licensee must first submit the information specified by Verizon utilizing Verizon’s forms for Overlash. After Licensee submits all required information to Verizon, the Parties shall follow the process set forth in Article 5 for any survey and/or Make-Ready Work required.

8.5.5 Overlashing

8.5.5.1(a) Advance Notice of OverLashing Required. Licensee must provide fifteen (15) days advance written notice, utilizing Verizon’s forms, to Verizon and all Existing Attachers on the affected Pole(s) prior to either (a) Overlashing on its own Attachments, (b) allowing a Third Party Overlash on Licensee’s Attachments or (c) Overlashing on a third party’s Attachments. Verizon will notify Licensee if the proposed Overlashing will create a capacity, safety, reliability or engineering issue and Licensee must address any identified issues with Verizon prior to continuing with the Overlash (whether the Overlash is being done by Licensee or a third party). If Verizon determines that Make-Ready Work is required prior to the Overlash, then Verizon will provide Licensee with written notification of any Make-Ready Work required and an itemized bill for the Make-Ready Work within the fifteen (15) day notice period. Verizon will perform the Make-Ready Work following its receipt of Licensee’s payment of the invoiced amount and will complete the Make-Ready Work in compliance with applicable law. Any work required to correct pre-existing non-compliance not caused by Licensee will not be charged to Licensee.

Final Cost. After Make-Ready is complete, if the final cost differs from the estimate, Verizon will provide Licensee with a final invoice of the actual Make-Ready Charges incurred.

(b) Licensee is solely responsible for its equipment and Attachments and shall ensure that all Overlashing, including all Third Party Overlashing, complies with Article 7. Licensee is solely liable for all damage to a Pole(s) or other existing attachment on a Pole(s) that is caused by the Overlashing, including all Third Party Overlashing, and any Overlashing, including all Third Party Overlashing, that causes a safety issue or violates Article 7 and Licensee shall be liable, at its sole expense, to make repairs.

(c) Post-Overlashing Review. Licensee shall notify Verizon within fifteen (15) days after completion of an Overlash that such Overlash is complete. If Licensee allowed a Third Party Overlash, then both Licensee and the third party must ensure that required notifications are sent to Verizon. Verizon shall have at least ninety (90) days after receipt of notice from Licensee to perform a Post-Construction Inspection. In the event that Verizon discovers any damage to the Pole(s) or equipment, safety violations or noncompliance with the Specifications caused by the Overlash, including a Third Party Overlash, Verizon will notify Licensee of the damage, safety issue and/or noncompliance. Verizon may either (a) complete any necessary remedial work and invoice Licensee for the associated costs, (b) require Licensee to fix the damage or noncompliance at its sole expense within fourteen (14) days of receipt of notice or (c) require Licensee to immediately remove the Overlash, or Third Party Overlash. It is Licensee’s responsibility to seek any reimbursement, if applicable, from a third party for any damage or noncompliance caused by a Third Party Overlash.

8.5.5.2 Third Party Overlash on Licensee’s Attachments. Licensee cannot allow a Third Party Overlash to its Attachments unless it verifies that such third party has an attachment agreement in effect with Verizon. In such event and if coordinated with Verizon, the third party may provide required notifications to Verizon (in place of Licensee) and Verizon may provide required notifications to such third party.

**ARTICLE 9** **INSPECTION OF LICENSEE’S FACILITIES**

9.1 Verizon reserves the right to make a Post-Construction Inspection, a Post-Construction Subsequent Inspection, and Periodic Inspections of any or all of Licensee’s Attachments, including any Overlash, to Poles and in Conduit. Licensee will reimburse Verizon for its Actual Costs to perform such inspections.

9.2 Verizon will provide Licensee with fourteen (14) Days advance notice of any planned Post-Construction Inspection to allow Licensee the opportunity to participate in the inspection.

9.3 Verizon will provide Licensee with a copy of any written report from a Post-Construction Inspection within fourteen (14) Days after the inspection is completed.

9.4 If a Post-Construction Inspection identifies non-compliant conditions, Verizon will notify Licensee. Verizon may either (a) perform any remedial work and charge Licensee for all reasonable costs associated with such work or (b) require Licensee to fix the non-compliant condition at Licensee’s sole expense within fourteen (14) days after receipt of notice from Verizon. Verizon will perform a Subsequent Inspection within fourteen (14) Days after the end of the correction period to confirm that all non-compliant conditions have been corrected. If the results of the Subsequent Inspection indicates that all Attachments meet the requirements of this Agreement, no further inspections will be required at that time.

9.5 If the Post-Construction Subsequent Inspection determines that Licensee has not corrected all non-compliant conditions, Verizon will provide Licensee with a copy of the written report of the Post-Construction Subsequent Inspection within fourteen (14) Days of completing the report. If the results identify any remaining non-compliant conditions, Verizon may perform, or have performed, corrective action at the sole expense of Licensee. If Verizon performs such work, Verizon will invoice Licensee for Verizon’s cost to perform the work and Licensee will pay such invoice within thirty (30) days of receipt. Alternatively, Verizon may terminate the License covering the non-compliant Attachment(s) pursuant to Article 11 and notify Licensee that no further Licenses will be issued to Licensee until all of Licensee’s Attachments have been brought into compliance and all associated costs incurred by Verizon have been paid in full.

9.6 Verizon reserves the right to make Periodic Inspections of any or all of Licensee’s Attachments to Poles and in Conduit at the expense of Licensee, upon sixty (60) Days prior written notice to Licensee. A Periodic Inspection may not be undertaken more often than once every five (5) years unless, in Verizon’s judgment, an inspection is required for reasons involving safety or because of an alleged violation by Licensee of the terms of this Agreement. Verizon will make a reasonable effort to coordinate its Periodic Inspections with Licensee.

9.7 Verizon’s conducting of any inspection or the failure to do so, will not relieve Licensee of any responsibility, obligation, or liability applicable under this Agreement.

**ARTICLE 10** **UNAUTHORIZED ATTACHMENTS**

10.1 If any of Licensee’s Attachments are not licensed under this Agreement, Verizon may recover fees as specified in subsections 10.3 and 10.4, without prejudice to its other rights and remedies under this Agreement, and require Licensee to submit an Application covering the unauthorized Attachments within thirty (30) Days after receipt of written notification from Verizon.

10.2 For purposes of this Article 10, an Unauthorized Attachment may include, but is not limited to:

1. an Attachment that is not identified in an approved License issued in accordance with this Agreement;
2. an Attachment that occupies more space than authorized under the applicable License;

3. an addition or modification to an Attachment that impairs the structural integrity of the Pole, Verizon’s Attachments or the Attachments of Other Licensees, or that otherwise fails to conform to the specifications or other requirements of this Agreement; or

1. facilities that are not Overlashed in compliance with this Agreement.

10.3 Licensee will pay a fee of five (5) times the then applicable annual rental fee per Unauthorized Attachment if the violation is self-reported or discovered through an inspection or survey in which Licensee participated. Licensee will pay an additional fee of $100 for each Pole or Manhole/handhole with an Unauthorized Attachment if the Unauthorized Attachment is found by Licensee, a Joint Owner or Joint User during an inspection or survey in which the Licensee declined to participate. Notwithstanding the foregoing, if Licensee can produce valid documentation showing installation of the Unauthorized Attachment on a specific date, Licensee will have the option of paying back rent from that date forward in lieu of an Unauthorized Attachment fee. In such event, Verizon may charge, and Licensee agrees to pay, interest on the past due rental payments at a rate of one and one-half percent (1.5%) per month or the maximum rate under applicable law.

10.4 If Verizon determines that an Unauthorized Attachment was made at a time when Licensee had no effective pole attachment agreement with Verizon, Verizon may, in addition to all the other amounts due, apply an additional fee of $500 for each Pole or Manhole/handhole to which an Unauthorized Attachment was made.

**ARTICLE 11** **TERMINATION**

## 11.1 Effective Date.

This Agreement shall be effective as of the Effective Date. Each Party acknowledges that Verizon may be required to amend this Agreement in the future to comport with new or modified regulations. In such event, Licensee agrees to negotiate such amendment in good faith.

## 11.2 Initial Term.

The Initial Term shall be for a period of one (1) year following the Effective Date, unless terminated sooner in accordance with this Agreement.

## 11.3 Automatic Renewal.

The Agreement will automatically renew on an annual basis (each such one year period referred to as a “Renewal Term”; the “Initial Term” and the “Renewal Term” are collectively referred to as the “Term”), unless Licensee provides prior written notice of non-renewal at least sixty (60) Days prior to the expiration of the then-current Term.

## 11.4 Elective Termination.

Either Party may terminate this Agreement or a License(s) by giving the other Party at least six (6) months prior written notice.

11.4.1 Elective Termination by Verizon. Licensee shall, within sixty (60) days after the effective date of the elective termination by Verizon, either initiate negotiations for continued access to Verizon Pole(s), ducts, conduits, and rights-of-way or remove its Attachments in accordance with the provisions of Section 11.6 below (Removal of Licensee’s Attachments) of this Agreement.

11.4.2 Effect Termination by Licensee. Elective termination of this Agreement, or a License(s), by Licensee shall not affect Licensee’s liabilities and obligations incurred under this Agreement prior to the effective date of termination and shall not entitle Licensee to the refund of any advance payment made to Verizon under this Agreement. Provided, however, that such termination will not become effective until the Licensee has removed all of its Attachments from Verizon’s Poles and/or Conduits

11.5 Termination for Cause.

11.5.1 Licensor may terminate either this Agreement or the affected Licensee(s) if any of the following events of default occur:

(a) Licensee maintains or uses its Attachments in violation of any law or in aid of an unlawful act or undertaking;

(b) Licensee places an Attachment without having first been issued a License and fails to cure as provided for in this Agreement;

(c) Licensee ceases to provide any services over its Attachments;

(d) Licensee claims to have transferred or assigned this Agreement without prior approval of Verizon;

(e) Licensee fails to maintain the insurance coverage required under this Agreement;

(f) Licensee fails to pay any sum due under this Agreement or to deposit any sum required under this Agreement, without having engaged in a good faith dispute as relates to the sum due, or fails to maintain satisfactory surety;

(g) Licensee otherwise fails to comply with any of the terms and conditions of this Agreement or defaults in any of its obligations hereunder; or

(h) Any authorization required by any governmental authority or private party for the construction, operation and maintenance of Licensee’s Attachments is denied, revoked or cancelled by a final, non-appealable order or decision.

11.5.2 Licensee will have sixty (60) Days after receipt of a notice of default from Verizon to cure such default. Licensee will take all corrective action necessary to cure the default and will confirm in writing to Verizon within sixty (60) Days following the notice of default that the default has been cured. If Licensee fails to cure the default within sixty (60) Days, or such other time as may be prescribed under this Agreement or allowed by Verizon, Verizon may either terminate this Agreement or terminate the License(s) applicable to the Attachments involved in the default.

11.5.3 Licensee may terminate this Agreement in the event of a material breach by Verizon or may exercise any other legal or equitable right that Licensee may have to enforce the provisions of this Agreement. Provided, however, that such termination will not become effective until the Licensee has removed all of its Attachments from Verizon’s Poles and/or Conduits

* 1. Removal of Licensee’s Attachments.

11.6.1 When Licensee no longer intends to occupy space on a Verizon Pole(s) or in a Verizon duct or conduit, Licensee will provide written notification to Verizon in accordance with Section 11.4 above that it wishes to terminate the License with respect to such space and will remove its Attachments/facilities from the space described in the notice. Upon removal of Licensee’s Attachments/facilities, the License shall terminate and the space shall be available for reassignment.

* + 1. Licensee shall be responsible for and shall bear all expenses arising out of or in connection with the removal of its facilities from Verizon Pole(s). Licensee shall be solely responsible for the removal of its own facilities from Verizon’s Pole(s)/conduit.
		2. In the event either Party terminates a License, Licensee will remove all of its Attachments covered by the License within sixty (60) Days of the effective date of the termination or on such other date as may be agreed upon in writing by the Parties; provided, however, that Licensee will be liable for and pay to Verizon all fees and charges required under this Agreement until Licensee’s Attachments are actually removed. If Licensee fails to remove its Attachments within the sixty (60) Day period or other agreed upon timeframe, Verizon will have the right to remove such Attachments at Licensee’s sole expense and without liability on the part of Verizon for damage or injury to such facilities or interruption of Licensee’s services. If Verizon determines in its sole discretion to remove any of Licensee’s Attachments, Verizon will invoice Licensee for Verizon’s cost to perform the work and Licensee will pay such invoice within thirty (30) days of receipt.
		3. Except as otherwise agreed upon in writing by the Parties, Licensee must, after removing its facilities, plug all previously occupied ducts at the entrances to Verizon’s manholes.
		4. At Verizon’s request, Licensee shall remove from Verizon’s Pole(s) any of Licensee’s Attachments/facilities which are no longer in active use. Upon request, the Licensee will provide proof satisfactory to Verizon that Licensee’s facility is in active service. Licensee shall not abandon any of its facilities by leaving such facilities on or in Verizon’s Pole(s) or conduit.

11.6.5.1 Removal following Replacement of Facilities. Licensee shall remove facilities no longer in service from Verizon’s Pole(s) within thirty (30) days after the date Licensee replaces existing facilities on a Pole or in a conduit with substitute facilities on the same Pole or conduit.

* + 1. Removal to Avoid Forfeiture. If the presence of Licensee’s facilities on or in Verizon’s Pole(s) or conduit would cause forfeiture of the rights of Verizon to occupy the property where such Pole is located, Verizon will promptly notify Licensee in writing and Licensee shall not, without due cause and justification, refuse to remove its facilities within such time as may be required to prevent such forfeiture. Verizon will give Licensee not less than thirty (30) days from the date of notice to remove Licensee’s facilities unless prior removal is required to prevent the forfeiture of Verizon’s rights. At Licensee’s request, the Parties will engage in good faith negotiations with each other, with Existing Attachers, and with third party property owners and cooperatively take such other steps as may be necessary to avoid the unnecessary removal of Licensee’s facilities.
		2. Removal of facilities by Verizon; Notice of Intent to Remove. If Licensee fails to remove its facilities from Verizon’s Pole(s) in accordance with this Section 11.6, Verizon may remove such facilities without being deemed guilt of trespass or conversion and without becoming liable to Licensee for any injury, loss or damage resulting from such actions. Verizon shall give Licensee not less than thirty (30) days prior written notice of its intent to remove Licensee’s facilities pursuant to this section.
		3. Removal of Facilities by Verizon. If Verizon removes any of Licensee’s facilities pursuant to this Section 11.6, Licensee shall reimburse Verizon for Verizon’s costs in connection with the removal, storage, delivery or other disposition of the removed facilities. Verizon will invoice Licensee for Verizon’s costs hereunder and Licensee will pay such invoice within thirty (30) days of receipt.

11.7 A License may not be used for any purpose after it is terminated. If Licensee wishes to place Attachments previously covered by a terminated License, it must first submit an Application for a new License and remit any outstanding charges due to Verizon for Attachments covered by the terminated License.

**ARTICLE 12
ASSIGNMENT OF RIGHTS**

12.1 Licensee may not assign or transfer any of its rights or obligations under this Agreement, including any License, without the prior written consent of Verizon, which consent will not be unreasonably withheld, conditioned, or delayed. In the event Verizon consents to an assignment, the provisions of this Agreement will apply to and bind the successors and assigns of Licensee.

12.2 Licensee may assign its rights under this Agreement without Verizon's consent, upon notice to Verizon, to:

a. an entity controlling, controlled by, or under common control with Licensee or to an entity acquiring fifty-one percent (51%) or more of Licensee's stock or assets, provided that any such assignee is capable of assuming all of the Licensee’s obligations hereunder; or

b. to an institutional mortgagee or lender providing financing to Licensee with respect to Licensee's Facilities in the event such institutional mortgagee or lender exercises its foreclosure right against Licensee and assumes operation of Licensee’s Attachments, provided such institutional mortgagee or lender is capable of assuming all of the obligations of Licensee hereunder.

 In neither case will the assignment impose any obligation on or be effective against Verizon, and Verizon will have no liability to any assignee, until Verizon has first received notice of the assignment.

12.3 Notwithstanding any assignment or transfer under this Article 12, Licensee will not be relieved of any of its obligations hereunder without Verizon's prior written consent.

12.4 Verizon may assign this Agreement, in whole or in part, to an affiliated entity, subsidiary, parent or to an entity that acquires any of its assets covered by this Agreement.

# ARTICLE 13 SURETY REQUIREMENTS

13.1 Licensee must furnish either a Surety Bond or irrevocable Letter of Credit satisfactory to Verizon, at Licensee's option, according to the following criteria:

|  |  |  |  |
| --- | --- | --- | --- |
| Poles | Security | Conduit Footage | Security |
| 1 – 50 | $10,000 | 1 – 2500 | $10,000 |
| 51 – 500 | $75,000 | 2501 – 25,000 | $80,000 |
| 501 – 2000 | $300,000 | 25,001 – 75,000 | $250,000 |
| 2001 – 3000 | $450,000 | 75,001 – 150,000 | $475,000 |
| 3001 – 4000 | $500,000 | 150,000+ | $500,000 |
| For each additional pole in excess of 4,000 an additional $50.00 per pole will be added to the required bond amount |  |  |

13.2 The Surety Bond or irrevocable Letter of Credit must be issued by a nationally recognized and rated surety company or bank, and will guarantee Licensee’s obligations under this Agreement. Licensee is obligated to maintain the security in the full amount for the Term of this Agreement.

13.3 The amount of the Surety Bond or irrevocable Letter of Credit will not operate as a limitation upon any of the obligations of Licensee under this Agreement.

**ARTICLE 14
LIABILITY AND DAMAGES**

14.1 Verizon reserves to itself, its successors and assigns, the right to locate and maintain its Poles and Conduits, and to operate its facilities in conjunction therewith, in such a manner as will best enable it to fulfill its own service requirements consistent with applicable law. Verizon will not be liable to Licensee for any interruption of or interference with the operation of Licensee’s services arising out of the use of Verizon’s Poles or Conduits, unless caused by Verizon’s gross negligence or willful misconduct.

14.2 Verizon will exercise reasonable care to avoid damaging Licensee’s Attachments and will immediately report to Licensee any damage to Licensee’s Facilities caused by Verizon’s employees, agents or contractors.

14.3 Licensee will exercise reasonable care to avoid damaging the facilities of Verizon and Other Licensees, and will immediately report to Verizon any damage to Verizon’s facilities caused by Licensee’s employees, agents or contractors.

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

14.5 Verizon and Licensee will promptly advise each other of all claims involving damage to property or injury to, or death of, persons, arising or alleged to have been caused by the erection, maintenance, repair, replacement, presence, use or removal of Attachments governed by this Agreement. Copies of all accident reports and statements made to Verizon’s or Licensee’s insurer by the other or by an affected entity will be furnished promptly to Verizon or Licensee.

14.6 NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, NEITHER VERIZON NOR LICENSEE WILL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, PUNITIVE OR OTHER INDIRECT DAMAGES ARISING UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS AND REVENUES, EVEN IF THE OTHER PARTY HAS ADVISED SUCH PARTY OF THE POSSIBILITY OF SUCH DAMAGES.

14.7 The provisions of this Article shall survive the expiration or termination of this Agreement or any License issued hereunder.

**ARTICLE 15** **INSURANCE**

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

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

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

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

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

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

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

**ARTICLE 16
GENERAL PROVISIONS**

16.1 Failure to Enforce

Failure of Verizon or Licensee to enforce or insist upon compliance with any term or condition of this Agreement, or to give notice or declare this Agreement or any authorization granted hereunder terminated, will not constitute a general waiver or relinquishment of any such term or condition of this Agreement.

16.2 Notices

The Company Profile Form, located on the Verizon Partner Solutions website, sets forth where written notices required under this Agreement between the Parties will be sent. Licensee will complete the Company Profile information and submit it to Verizon. Notice will be delivered by first class mail, or by email followed by first class mail or overnight mail with receipt.

Any legal notice to be given pursuant to this Agreement will be sent by certified return receipt mail or overnight delivery service with signature required upon receipt to:

**Licensee:**

Entity name

Mailing address

Mailing address

Email:

With a copy to:

Contact name, title

Entity name

Mailing address

Mailing address

Email:

**Verizon:**

Verizon License Administration

Contact name, title

Entity name

Mailing address

Mailing address

Email:

With a copy to:

Verizon Legal Department

ATTN: Network Legal Team

1300 I Street, NW

Washington, DC 20005

Any such notice will be effective upon receipt.

All other notices to Licensee under this Agreement may be sent by electronic mail to the contact indicated on the Company Profile Form. Such notices will be deemed effective as of the date the notice is sent.

16.3 Severability

In the event any provision of this Agreement is found to be invalid, illegal or unenforceable in any jurisdiction, as to such jurisdiction, it shall be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions; and such finding shall not invalidate such provision in any other jurisdiction. If the invalid, illegal or unenforceable provision is considered an essential element of this Agreement, the Parties will promptly attempt to negotiate a substitute to that provision.

16.4 Choice of Law

This Agreement will be governed by and construed in accordance with the laws of the State of Pennsylvania without regard to the principles of conflicts of law. Any legal action under this Agreement will be brought in a state or federal court of competent subject-matter jurisdiction or a regulatory agency with subject-matter jurisdiction, and both Parties agree to accept and submit to the personal jurisdiction of such court or regulatory agency.

16.5 Compliance with Laws

The Parties will at all times comply with all laws, ordinances, and regulations that, in any manner, affect the rights and obligations of the Parties under this Agreement, so long as such laws, ordinances, or regulations remain in effect.

16.6 Survival

All rights and obligations granted or incurred hereunder prior to and which, by their nature, would continue beyond the cancellation, termination, or expiration of this Agreement will survive such cancellation, termination, or expiration.

16.7 Confidential Information

Each Party may disclose to the other Party technical, customer, personnel and/or business information in written, graphic, oral or other tangible or intangible form including, but not limited to, specifications, records, and data ("Confidential Information"). Confidential Information may include proprietary material, as well as material subject to and protected by laws regarding secrecy of communications or trade secrets. Such Confidential Information disclosed will be used only by employees or contractors of the other Party who have responsibilities relating to the administration of, or work performed under, this Agreement and such employees or contractors will treat the information as confidential and protect the information with the same standard of care that such Party treats its own Confidential Information. Neither Party’s obligations hereunder will extend to any information that is available to the public or may become available by reason of acts or omissions not attributable to the receiving Party. Nothing contained in this section will be construed as precluding either Party from complying with any subpoena, civil or criminal investigative demand, or other order issued by a court or agency of competent jurisdiction; provided, however, that neither Party will disclose Confidential Information without first providing prompt and timely notice to the other Party so that the other Party may obtain or seek a protective order on its own behalf.

16.8 Access to Records

Upon receipt of a written request and payment of all Actual Costs, Verizon will provide reasonable access to Verizon’s available Pole or Conduit records in accordance with applicable law.

16.9 Dispute Resolution

In the event either Party disputes any action or inaction by the other Party under this Agreement, the Party raising the dispute may submit a written complaint to the Manager of the other Party’s License Administration Group, which will include all information relevant to its claims. If the contact information for the Manager is not available, the Party raising the dispute may direct the letter to the Notice address set forth herein and, in turn, the other Party will direct the letter to the appropriate Manager. The other Party will provide a written response to the Party raising the dispute within ten (10) Days after its receipt of the complaint. The response will specifically address all claims made by the Party raising the dispute. If the Party raising the dispute is not satisfied with the other Party’s response, it may request a meeting in writing with the Manager of the License Administration Group to discuss the matter. The meeting will be held within five (5) Days of the other Party’s receipt of the request. If the Party raising the dispute is not satisfied with the results of the meeting, it may file a complaint with the regulatory or judicial body of competent jurisdiction and nothing herein will be deemed to limit the information relied upon or arguments that may be raised by the Parties before such body.

16.10 Emergency Conditions

Verizon and Licensee will work cooperatively in the case of an emergency to restore service to their respective customers.

16.11 Waiver of Landlord’s Lien

Verizon hereby waives any and all lien rights it may have, statutory or otherwise, concerning Licensee’s Attachments, which are deemed personal property for purposes of this Agreement, whether or not the same is deemed real or personal property under applicable law, and Verizon gives Licensee and secured parties the right to remove all or any portion of the Attachments from time to time, whether before or after a default under this Agreement, in Licensee’s and/or such secured party’s sole discretion and without Verizon’s consent.

16.12 Force Majeure

Neither Party shall be responsible for any delay or failure in performance which results from causes beyond its reasonable control (“Force Majeure Events”), whether or not foreseeable by such Party.  Such Force Majeure Events include, but are not limited to, adverse weather conditions, flood, fire, explosion, earthquake, volcanic action, power failure, embargo, boycott, war, revolution, civil commotion, act of public enemies, labor unrest (including, but not limited to, strikes, work stoppages, slowdowns, picketing or boycotts), inability to obtain equipment, parts, software or repairs thereof, acts or omissions of the other party, and acts of God.

16.12.1 If a Force Majeure Event occurs, the non-performing Party shall give prompt notification of its inability to perform to the other Party.  During the period that the non-performing Party is unable to perform, the other Party shall also be excused from performance of its obligations to the extent such obligations are reciprocal to, or depend upon, the performance of the non-performing Party that has been prevented by the Force Majeure Event.  The non-performing Party shall use commercially reasonable efforts to avoid or remove the cause(s) of its non-performance and both Parties shall proceed to perform once the cause(s) are removed or cease. In no case shall a Force Majeure Event excuse either Party from an obligation to pay money as required by the Agreement.

## 16.13 Inconsistent Provisions

In the event any provision, term, or condition in the Appendices hereto is inconsistent with a term or condition of this Agreement, the provision, term or condition of this Agreement will control.

## 16.14 Signed Counterparts

This Agreement may be signed in multiple counterparts. Each counterpart shall be an original and, together, all counterparts shall form a single document.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their duly authorized representatives.

|  |  |
| --- | --- |
| **Verizon Pennsylvania LLC****Verizon North LLC** By Name Title Date  | **XXXXXXXXXXXXXXXXX**By Name Title Date  |

# APPENDIX I

[INSERT APPLICABLE APPENDIX I]