NETWORK NODE INSTALLATION LICENSING AGREEMENT FOR UTILITY POLES

This Network Node Installation Licensing Agreement ("Installation Agreement") is made by and between the City of Georgetown, a home-rule municipal corporation of the State of Texas ("City") and New Cingular Wireless PCS, LLC (hereinafter called "Licensee") on_____ (the "Effective Date").

RECITALS

A. Licensee is a Network Provider, that either (i) provides wireless services; or (ii) does not provide wireless services but builds or installs on behalf of a wireless service provider Network Nodes, as defined herein, and proposes to install, operate and maintain Network Nodes and associated equipment on Utility Poles owned and operated by City in the City of Georgetown.

B. City is a home-rule municipal corporation of the State of Texas and the municipal owner of the Georgetown Electric Utility ("Utility").

C. Texas Local Government Code, Chapter 284, enacted by the 85th Texas Legislature, effective September 1, 2017, provides in Subchapter E thereof that the governing body of a municipally owned utility shall allow collocation of Network Nodes on municipally-owned utility poles on nondiscriminatory terms and conditions and pursuant to a negotiated pole attachment agreement, including applicable permitting requirements of the utility. This Network Node Installation Agreement is entered into pursuant to this statutory provision.

D. The City of Georgetown, by Chapter 12.02 "Network Nodes in the Public Right-of-Way," of Title 12 "Streets, Sidewalks and Public Places," of the City of Georgetown Code of Ordinances, requires Network Providers seeking access to Utility Poles to enter into an agreement containing the terms and conditions whereby such access will be provided.

E. The City of Georgetown, by Chapter 12.02 "Network Nodes in the Public Right-of-Way," of Title 12 "Streets, Sidewalks and Public Places," of the City of Georgetown Code of Ordinances, also requires Network Providers seeking to install a micro network node, network node, a node support pole, or a transport facility in the right-of-way to apply for a permit prior to any work in the public right-of-way.

F. City is willing, when it may lawfully do so, to issue one or more Permits authorizing the placement or installation of Licensee's Network Nodes on Utility Poles, subject in all instances to considerations of Utility's service requirements, City's right-of-way

management ordinance, and the primary purpose of the poles, and subject to the provisions of this Licensing Agreement.

G. City may deny issuance of a Permit, on a nondiscriminatory basis, where there is insufficient Capacity; for reasons of safety, reliability and generally applicable engineering purposes, including the Applicable Standards; or to ensure the health, safety, and welfare of the public.

H. In accordance with Texas Local Government Code, Chapter 284, Licensee's activities under this Agreement are subject to all applicable codes, including applicable public right-of-way management ordinances, and nothing in this Agreement shall in any way constitute a waiver thereof.

I. In consideration of the mutual covenants, and the terms and the conditions contained in this Agreement, and the rights and obligations created under this Agreement, the parties agree as follows:

I. DEFINITIONS

For the purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given herein, unless more specifically defined within a specific Article or Paragraph of this Agreement. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

A. Antenna: means communications equipment that transmits or receives electromagnetic radio frequency signals in the provision of Wireless Services.

B. Antenna Area: means the area on a Pole where the Antenna(s) that are components of a Network Node are installed. For an installation that uses the top of a Utility Pole, the Antenna Area shall be the Pole Top Space.

C. Applicable Standards: means all applicable engineering and safety standards governing the installation, maintenance and operation of facilities and the performance of all work in or around electric Utility Facilities, and includes (i) the Pole Attachment and Network Node Standards adopted by City; (ii) the most current versions of the National Electric Safety Code ("NESC"), the National Electrical Code ("NEC"), the Texas Health and Safety Code, Chapter 752, and the rules and regulations of the Occupational Safety and Health Act ("OSHA"); and (iii) any applicable and lawful rules, requirements or orders now in effect or hereafter issued by City or other authority having jurisdiction.

D. Assigned Space: means space on Poles that can be used, as defined by the Applicable Standards, for the attachment or placement of wires, cables and associated equipment for the provision of communications service, electric service, or Network Nodes or Transport Facilities. The neutral zone or safety space is not considered Assigned Space.

E. Attaching Entity: means any public or private entity that attaches to Poles pursuant to a license agreement with City.

F. Attachment(s): means Licensee's Network Nodes that are placed on Poles.

G. Capacity: means the ability of a Pole to accommodate an additional Attachment based on Applicable Standards, including space and loading considerations.

H. Chapter 284: means Texas Local Government Code, Chapter 284, enacted by the 85th Texas Legislature, effective September 1, 2017.

I. City: means the City of Georgetown, Texas.

J. City Facilities: means all personal property and real property owned or controlled by City, including Utility Poles.

K. City Network Hardware: means City and Utility equipment used in the wireless transmission of data to networks that are necessary for the management and operation of critical infrastructure.

L. Days: means calendar days unless otherwise specified.

M. Electricity Network Interface Device: means the network interface enclosure, owned and controlled by City, where electricity is delivered to pole-mounted Network Node. The Electricity Network Interface Device shall be considered the Point of Delivery under Utility's electric service standards.

N. Joint User: means any entity which owns poles that are jointly used by City and to which City has extended, or in the future may extend, privileges to jointly use City's Poles.

O. Licensee: means New Cingular Wireless PCS, LLC, its authorized successors and assigns.

P. Licensee's Affiliate: means an entity that owns or controls Licensee, an entity that is owned by or controlled by Licensee, or an entity that is under common ownership or control with Licensee.

Q. Make-Ready Work: means all work City reasonably determines is required to accommodate the Licensee's Network Nodes and/or to comply with all Applicable Standards. Make-Ready Work includes, but is not limited to, rearrangement, relocation

and/or transfer of existing Attachments, inspections, engineering work, permitting work, tree-trimming to accommodate Licensee's Attachments, pole strengthening, pole replacement and construction, all in accordance with City's current construction and engineering standards.

R. Micro Network Node: means a Network Node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

S. Network Node: means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(1) Includes:
   a. Equipment associated with wireless communications;
   b. A radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
   c. Coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(2) Does not include:
   a. An electric generator;
   b. A pole; or
   c. A macro tower.

T. Network Node Equipment Area: means the space on a Pole comprised of the area where the Network Node equipment is located, including the Electricity Network Interface Device. For a Network Node installation utilizing the Pole Top Space, the Network Node Equipment Area will not include the Antenna Area.

U. Occupancy: means the use or specific reservation of Assigned Space for Attachments on the same Pole.

V. Other Licensee: means a Joint User or any entity, other than the Licensee, to which City has extended, or in the future extends, a license to attach facilities to Poles.

W. Overlash: means to place an additional wire onto an existing Attachment owned by Licensee.

X. Pedestals: means above ground housings, usually constructed of metal, which are used to enclose Network Node facilities and/or provide a service wire connection point.

Y. Permit: means City's written authorization for Licensee to make, or maintain, Attachments to specific Poles pursuant to the requirements of this Agreement.

Z. Permitted Network Node Installation Space: means locations for Network Node Installations specified by City in a Permit in accordance with the requirements of this Agreement.

AA. Pole: means a Utility Pole.

BB. Pole Top Space: means the top portion of a hollow composite Utility Pole available for the installation of Network Nodes, the bottom of which shall begin one inch (1") above the highest electrical supply conductor and continue for at least fifty-four inches (54"). The Pole Top Space shall be divided into two sections. The bottom section shall establish a two-foot (2') clearance between the highest electrical conductor on the Utility Pole (separated by one inch) and the location of the Network Node antenna. The top section shall establish the location of Network Node antenna installations and may not exceed thirty inches (30") in length. For Network Node installations that utilize the top of a Utility Pole, the Pole Top Space shall be considered the Antenna Area.

CC. Pre-Permit Survey: means all work or operations required by Applicable Standards or the City to determine the feasibility of installing Attachments and whether Make-Ready Work is necessary to accommodate Licensee's Attachments on a Pole. Such work includes, but is not limited to, field inspection, loading calculations and administrative processing.

DD. Post-Construction Inspection: means the inspection required by City to determine and verify that the Attachments have been made in accordance with Applicable Standards and the Permit.

EE. Public Right-of-Way: means, for purposes of this Agreement only, the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City has an interest. The term does not include: (i) a private easement; (ii) an easement with terms that do not allow its use for Wireless Service; or (iii) the airwaves above a Public Right-of-Way with regard to Wireless Service.

FF. Reserved Space: means designated space on a Utility Pole that the Utility has reserved, pursuant to the Utility's development plan, that reasonably and specifically projects a need for that space for the provision of core electric service, including moving the neutral as part of converting phases, space for the future attachment of internal communications lines owned by the City, or installation of transformer(s).

GG. Riser: means metallic or plastic encasement materials placed vertically on the Pole to guide and protect non-electric wires and cables.

HH. Service Drop: means a single wired drop installed by Utility to provide electric service to an individual customer(s).

II. Tag: means to place distinct markers on facilities or equipment, coded by color or other means specified by City that will readily identify the type of Attachment and its owner.

JJ. Utility Pole: means a pole owned by City that provides electric distribution with a voltage rating of not more than 34.5 kilovolts, and located in the Public Right-of-Way. Utility Pole does not include: (i) poles used by City solely for its own radio communications purposes; or (ii) poles to support Service Drops.

KK. Wireless Interference: means the material adverse effect of unwanted energy due to one or a combination of emissions, radiations, or inductions upon reception in a pre-existing radio communications system, manifested by any material performance degradation, misinterpretation, or loss of information that could be extracted in the absence of such unwanted energy.

LL. Wireless Service: means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a Network Node.

II. SCOPE OF AGREEMENT

A. Subject to the terms of this Agreement, City hereby grants Licensee a revocable, non-assignable, and nonexclusive license authorizing Licensee to install and maintain Attachments to Utility Poles, all as further identified herein.

B. Licensee and City agree to be bound by all provisions of this Agreement and the Permit(s) issued pursuant to this Agreement and applicable law.

C. City will issue a Permit(s) to Licensee on a nondiscriminatory basis only when City reasonably determines, in its sole judgment, that (i) City has sufficient Capacity to accommodate a requested Attachment, (ii) Licensee meets all requirements set forth in this Agreement, and (iii) such Permit(s) comply with all Applicable Standards.

D. Access to Assigned Space on Utility Poles will be made available to Licensee pursuant to this Agreement. No access shall be permitted by City to Reserved Space on Utility Poles.

E. No use, however lengthy, of any Poles, and no payment of any fees or charges required under this Agreement, shall create or vest in Licensee any easement or other ownership or property right of any nature in any portion of the Pole. After issuance of any Permit, Licensee shall be and remain a mere licensee. Neither this Agreement, nor any Permit granted under this Agreement, shall constitute an assignment of any of City's rights to the Pole.

F. Nothing in this Agreement shall be construed as granting Licensee any right to attach Licensee's Attachments to any specific Pole, or to compel City to grant Licensee the right

to attach to any specific Pole. City specifically reserves the right to deny access to Poles on which City Network Hardware is attached to the extent allowed by law.

G. This Agreement does not in any way limit City's right to locate, operate, maintain or remove Poles in the manner that will best enable Utility to fulfill its service requirements, or City to meet its obligations to protect the public health, safety, and welfare.

H. Licensee is obligated to obtain all necessary certification, permitting, and franchising from federal, state, and local authorities prior to making any Attachments, including any necessary additional easements, right-of-way permits, or other legal rights to utilize private property.

I. Nothing in this Agreement shall be construed to require City to install, retain, extend or maintain any Pole for use by the Licensee when such Pole is not needed for City's own service requirements.

J. Nothing in this Agreement shall limit, restrict, or prohibit City from fulfilling any agreement or arrangement regarding Poles into which City has previously entered, or may enter in the future, with Joint Users and Others Licensees not parties to this Agreement, including, but not limited to, agreements or arrangements for the removal of lines or relocating overhead facilities to underground.

K. This Agreement is limited to the uses specifically authorized in this Agreement and any other use shall be considered a material breach of this Agreement. Nothing in this Agreement shall be construed to require City to allow Licensee to use City's Facilities or Poles after the termination of this Agreement.

L. This Agreement shall only apply to Utility Poles.

III. FEES AND CHARGES

A. Licensee shall pay City the fees and charges specified in Appendix A, as applicable. City may change the fees and charges set forth in Appendix A annually, provided charges do not conflict with statutory obligations regarding such charges, including obligations under Chapter 284, in which case the charges shall be pursuant to the applicable statute. City shall provide Licensee with at least ninety (90) days prior written notice of a change of fees and charges.

B. By executing this Agreement, Licensee acknowledges that the amount of actual damages incurred by City for Licensee's Unauthorized Attachment and/or Failure to Transfer/Rearrange/Relocate/Remove Attachments will be difficult or impossible to ascertain, and that the amount of the fees specified on Appendix A is a reasonable approximation of actual damages intended to compensate City for such damages. The assessment of fees for Licensee's Unauthorized Attachment or Failure to

Transfer/Remove Attachments is intended to be separate and apart from any other rights or remedies City may have at law or in equity.

C. Irrespective of the date on which an Attachment is actually made, all applicable fees and charges shall be calculated and payable for the entire year in which a Permit for such Attachment is issued under this Agreement. Once paid the fees and charges are not refundable.

D. City shall invoice Licensee for the Pole Attachment Fee annually. City will submit an invoice to Licensee for the annual rental period by September 1 of each year. The initial annual rental period shall commence on the Effective Date of this Agreement and end on September 30. Each subsequent annual rental period shall commence on the following October 1 and conclude on September 30 of the subsequent year. The invoice shall include the total number of Utility Poles on which Licensee was issued and/or holds a Permit for Attachment during such annual rental period, including any previously authorized Attachments.

E. Licensee shall pay invoices no later than forty-five (45) days after Licensee's receipt of an invoice. Payments received by City later than said forty-five (45) day period shall be charged interest in accordance with Chapter 2251, Texas Government Code. If Licensee shall in good faith dispute any portion of an invoice, then Licensee shall provide City written notice of the dispute within forty-five (45) days after Licensee's receipt of the invoice. Payment disputes shall be resolved in compliance with the provisions of Chapter 2251, Texas Government Code.

F. Licensee shall submit an inventory no more than once annually to City upon City's written request, which lists the latitudes and longitudes of each Utility Pole to which Licensee currently has Attachments ("Attachment Inventory"). City shall provide the Attachment Inventory form to Licensee. City reserves the right to compare the information contained on the Attachment Inventory to any actual field inspection or survey conducted mutually. Licensee shall be charged the Unauthorized Attachment Fee specified in Appendix A for Attachments that are not properly identified in the Attachment Inventory. In the event that Licensee fails to submit an Attachment Inventory after receiving City's written request, Licensee shall pay City, in addition to the Annual Pole Attachment Fee, all actual costs associated with City's performance of an Attachment Inventory of Licensee's Attachments.

G. When this Agreement requires Licensee to pay for work done or contracted by City, the charge for such work shall include all reasonable material, labor, engineering and administrative costs and applicable overheads. City shall bill its services based upon actual costs or nondiscriminatory fees approved by the City.

H. City requires Licensee to pay any and all costs, expenses, fees, and charges in advance. If actual costs exceed estimated costs by 100% or more, City will invoice Licensee for the

overage, and Licensee shall pay such additional invoiced amount within forty-five (45) days, as provided herein.

I. Nonpayment of any undisputed amount due under this Agreement shall constitute a material default of this Agreement.

IV. SPECIFICATIONS

A. When a Permit is issued pursuant to this Agreement, Licensee's Attachments shall be installed and maintained in accordance with the City's requirements and specifications, including any installation and maintenance requirements of the Applicable Standards. All of Licensee's Attachments must comply with all Applicable Standards.

B. Network Nodes must conform to the size and location conditions set forth in Chapter 284, Section 284.003, and in applicable City ordinances.

C. Licensee shall be responsible for the installation and maintenance of its Attachments. Licensee shall, at its own expense, make and maintain its Attachments in safe condition and good repair, in compliance with all Applicable Standards. Notwithstanding the foregoing, Licensee shall not be required to incur any cost or expense attributable to the correction of a violation of the Applicable Standards by any other party, including City.

D. Licensee shall Tag all of its Attachments in accordance with the City's requirements and specifications and/or applicable federal, state, and local regulations upon installation. Failure to Tag will be considered a violation of the Applicable Standards. Licensee shall immediately replace any Tags that are missing, improper or incorrect, at any time such Attachments are encountered. City is not liable for any injuries or damages caused by or in connection with missing Tags or otherwise improperly labeled Poles.

E. Licensee's Attachments shall not interfere with the use of Poles by City or with the authorized use of such Poles by any Joint User or Other Licensee who held a Permit, license or any other right before the date of this Agreement. Licensee's Attachments shall not interfere with the operation of any City Facilities. City's facilities and other licensees' facilities shall not interfere with the authorized use of Poles by Licensee.

F. All installations of Network Nodes and associated equipment shall be operated in such a manner that will not cause Wireless Interference with any existing or future City Facilities, City communications systems or operations, or governmental public safety facilities or operations. In the event of Wireless Interference with public safety-related communications or City operations, City may take reasonable steps to resolve the Wireless Interference by shutting off power to the Network Node using the power cut-off switch, without liability to Licensee. If the City reasonably determines that the Wireless Interference is affecting City communications systems or operations but is not adversely affecting public safety so as to require immediate remediation, City shall contact

Licensee's Network Operations Center at 1-800-638-2822, and Licensee shall thereafter shut down the Network Node causing such Wireless Interference within a reasonable time, not to exceed 8 hours. In situations where City has had to cut off power to Licensee's Network Node without prior notice to Licensee, City will thereafter contact Licensee's Network Operations Center within 4 hours of cutting off power at 1(800) 638-2822 to notify Licensee that electricity to the Network Node has been cut off. Thereafter, following receipt of notice of the incident, Licensee will take all commercially reasonable steps necessary to permanently eliminate such Wireless Interference, including but not limited to, recalibration or replacement of the Network Node or equipment, and the subsequent powering down of such equipment for intermittent testing pursuant to the requirements of this Section. In the event the Wireless Interference cannot be eliminated through equipment recalibration or replacement, the Network Node installation shall be removed and the Network Node may be installed at an alternative location that does not cause such Wireless Interference, following the Application procedures set forth herein. These activities shall be carried out by the Licensee at its own risk and expense.

G. Licensee's failure to timely and permanently correct the condition causing Wireless Interference as described above, and the reactivation of the Network Node to the same effect, will result in City, at its option, taking all reasonably necessary steps to eliminate the reoccurrence of Wireless Interference at Licensee's expense. Licensee shall also be subject to enforcement action, including but not limited to:

1. Interruption of Utility-supplied power to the identified Network Node;

2. Suspension of the processing of any further Permit Applications of the Licensee pending resolution of such interference; or

3. Other remedies under this Agreement or City ordinance.

H. Radio Frequency Interference Studies & Testing. In the Application process, City requires the documentation and analysis of testing for potential and possible Wireless Interference with City Facilities, City communications systems or operations, or governmental public safety facilities or operations. City reserves the right to hire consultants and industry experts to perform Wireless Interference testing, investigations, and/or analysis at its sole expense.

1. Initial Installation – In the Application process for the initial installation of the Network Node, a Radio Frequency ("RF") Safety Compliance Certification report will be provided by the Licensee.

2. Equipment Upgrades or Replacements – In the Application process for an upgrade, or non-like for like replacement of the initial Network Node, a RF Safety Compliance Certification report will be provided by the Licensee.

3. RF Interference Studies & Testing Report – The RF Compliance Certification report will certify that Licensee's Attachments will be operated in accordance with FCC requirements. The report must also show that the potential RF exposure in areas accessible by the general public is below the applicable FCC limits. Licensee's RF interference study shall be undertaken and approved by an engineer trained and certified in radio frequency engineering.

4. A Licensee may intermittently, temporarily, or permanently shut off power using the power cut-off switch to remedy and/or troubleshoot Wireless Interference issues. Electrical service shall not be reinstated without City's written approval following a request to reestablish electrical service from the Licensee. City reserves the right to determine if all Wireless Interference issues are remedied prior to granting approval to reinstate electrical power.

I. Requirement to De-Energize Upon Request. In order to safely maintain the Public Right-of-Way and City Facilities, and to protect the health and safety of individuals needing access to Poles on which Network Nodes are installed, and whenever trimming of vegetation near the Poles is planned, Licensee shall, upon written or oral notice from City, de-energize the Network Node for a reasonable period of time to allow such access and work. Licensee shall not thereafter re-energize the Network Node until it has received notice from City that access is no longer required or that the trimming work has been completed.

V. PRIVATE AND REGULATORY COMPLIANCE

A. Licensee shall be responsible for obtaining from the appropriate public and/or private authority or other appropriate persons any required authorization to construct, operate, and/or maintain its Attachments on public and/or private property before it occupies any Pole. City retains the right to require evidence that appropriate authorization has been obtained before any Permit is issued to Licensee. Licensee's obligations under this Article include, but are not limited to, the obligation to obtain all necessary approvals to occupy public/private rights-of-way and to pay all actual associated costs.

B. LICENSEE SHALL DEFEND, INDEMNIFY AND REIMBURSE CITY FOR ALL LOSS AND EXPENSE, INCLUDING ATTORNEYS' FEES, THAT CITY MAY INCUR AS A RESULT OF CLAIMS BY GOVERNMENTAL BODIES, OWNERS OF PRIVATE PROPERTY, OR OTHER PERSONS, THAT LICENSEE DOES NOT HAVE SUFFICIENT RIGHTS OR AUTHORITY TO ATTACH LICENSEE'S ATTACHMENTS ON POLES. CITY SHALL GIVE LICENSEE PROMPT WRITTEN NOTICE OF THE MAKING OF ANY SUCH CLAIM, AND/OR THE COMMENCEMENT OF ANY LITIGATION OR OTHER PROCEEDING INCLUDING SUCH CLAIM.

C. No Permit granted under this Agreement shall extend to any Pole on which the attachment of Licensee's Network Nodes and associated equipment would result in a forfeiture of City's rights. Any Permit which covers Attachments that would result in forfeiture of City's rights is invalid. If any of Licensee's Attachments, whether installed pursuant to a valid Permit or not, would cause such forfeiture, Licensee shall promptly remove its Attachments upon receipt of written notice from the City. City will perform such removal at Licensee's expense after the expiration of sixty (60) days from Licensee's receipt of the written notice. Notwithstanding the foregoing, in the event Licensee is challenging the removal of its facilities and has received a court order that allows Licensee to remain on the Poles during such challenge, Licensee shall defend, indemnity and reimburse City for all loss and expense, including attorneys' fees, that City may incur as a result of Licensee remaining on the poles during such challenge.

D. Consent by City to Licensee's construction or maintenance of any Attachments shall not be deemed consent, authorization, or acknowledgment that Licensee has the necessary authority to construct or maintain any such Attachments.

VI. PERMITS AND MAKE-READY WORK

A. In order for Permits to be issued authorizing Attachments, the following events must occur. These requirements are set forth in greater detail in Appendix B, Pole Attachment Pre-Permit Survey Requirements and Process:

1. Licensee must sign and deliver to City this Network Node Installation and Licensing Agreement for Utility Poles.

2. Licensee must submit an Application for specific Poles(s) on which Licensee requests authority to place Attachment(s).

i. The Application must be accompanied by: (a) a completed Pre-Permit Survey, and (b) an Application Fee as set forth on Appendix A.

ii. If the Licensee performs the Pole Loading Analysis as required in the Pre-Permit Survey, Licensee shall submit a review fee as set forth on Appendix A. If City performs the Pole Loading Analysis, Licensee shall pay an additional fee, as set forth on Appendix A for the performance of that analysis and review. The Pole Loading Analysis will be used by City to determine if any Make-Ready Work will be repaired prior to the installation of the Attachment.

3. If the Pole Loading Analysis from the Pre-Permit Survey indicates that no Make-Ready Work is required prior to installation of an Attachment, City will so notify Licensee, and will issue the Permit for the requested Attachment.

4. If the Pole Loading Analysis from the Pre-Permit Survey indicates that Make-Ready Work will be required prior to installation of the Attachment, then upon receipt from Licensee of the non-refundable Make Ready Engineering Fee, as set forth on Appendix A, City will undertake the Make-Ready Work Engineering to develop the engineering design and construction cost estimate for the construction of the Make-Ready Work.

5. Upon completion of the Make-Ready Work Engineering, City will provide Licensee with the engineer's design and construction cost estimate for the construction for undertaking the Make-Ready Work ("Make-Ready Work Estimate").

6. Upon the complete payment by Licensee of the Make-Ready Work Estimate, City will undertake such Make-Ready Work. The ordering of the construction materials is undertaken only after the Make-Ready Work Estimate is paid in full.

7. Upon completion of Make-Ready Work, City will issue the Permit to Licensee.

8. Licensee shall obtain all necessary certification, permitting, and franchising from federal, state, and local authorities prior to making any Attachments, including any necessary additional easements, right-of-way permits, or other legal rights to utilize private property.

9. Licensee shall notify City of completion of Attachment installation and submit Post-Construction Inspection Fee to Utility, as provided in Appendix A.

B. Licensee shall not install any Attachments on any Pole, or materially modify the Attachments on any Pole, without first applying for and obtaining a Permit as provided herein. When submitting an application for a Permit, Licensee must specify on the application it is for Network Nodes and associated equipment. The commingling of wire attachments and Network Node attachments in one application is prohibited. The Permit Application must also include detailed information for each proposed Attachment.

C. The Pre-Permit Survey/Pole Loading Analysis shall be conducted by a qualified and experienced professional engineer in accordance with City's requirements and shall certify that Licensee's Attachments can be installed on the identified Poles in compliance with the Applicable Standards and identified in the Pre-Permit Survey requirements set forth in Appendix B. The professional engineer's qualifications must include experience performing work on wireless service equipment and attachments to Utility Poles with electric service attached.

D. As soon as practicable, but no later than sixty (60) days after the receipt by City of a complete Permit Application, including the completed Pole Loading Analysis/Pre-Permit Survey, City will complete its review of the Permit Application and make a preliminary

determination to grant or deny Licensee's Permit Application subject to completion of any necessary Make-Ready Work.

E. City will provide Licensee the Make-Ready Work Estimate within forty-five (45) days after receipt of the Make Ready Engineering Fee from Licensee. Make-Ready Work Estimates will include costs related to the modification or replacement of the Pole and any costs associated with the transfer or rearrangement of any other Attaching Entity's facilities. Licensee shall be responsible for reaching an agreement with each other Attaching Entity concerning the allocation of costs for the relocation or rearrangement of the existing Attachments. City shall not be obligated in any way to enforce or administer Licensee's agreements with other Attaching Entities regarding responsibility for the costs associated with the transfer or rearrangement of another Attaching Entity's facilities, but is entitled to look solely to Licensee for payment of such all costs hereunder. Each Attaching Entity shall cooperate with Licensee in determining the cost, and process, of rearrangement, relocation and/or removal of their respective facilities.

F. City is under no obligation to modify or replace a Pole to accommodate Licensee's request for Attachment. If Make-Ready Work is done to accommodate Licensee's Attachment, the work will commence after Licensee has accepted the proposed Make-Ready Work and paid the Make-Ready Work Estimate. In the event Licensee requests that the Make-Ready Work be performed on a priority basis or outside of City's normal work hours, and City agrees to accommodate the request, Licensee agrees to pay any resulting increased costs. Under no circumstances shall City be required to perform Make-Ready Work or other work for Licensee before other scheduled City work or service restoration.

G. Within three (3) business days after completion of the Make-Ready Work, City will issue the Permit which shall serve as authorization for Licensee to make the Attachment(s).

H. Licensee shall make the Attachments authorized by the Permit within ninety (90) days from the issuance of a Permit, unless City and Licensee mutually agree to extend this period or a delay is caused by make-ready work or by the lack of commercial power or fiber availability at the Pole. If Licensee does not make the Attachments within the ninety (90) days, and there is no evidence of ongoing construction to make the Attachments or a mutually agreed upon extension of time, City reserves the right to cancel the Permit upon thirty (30) days' written notice to Licensee.

I. Licensee shall provide written notice to City when the Attachments authorized by the Permit are complete, and shall remit payment of City's Post-Construction Inspection Fee, as shown on Appendix A Post-Construction Inspection. If such inspection identifies any deficiencies with Applicable Standards, City shall notify Licensee of same. The provisions of Section XIII.D. shall apply to the correction of the deficiencies.

VII. TERMINATION OF PERMITS

A. Any Permit issued pursuant to this Agreement shall automatically terminate when Licensee ceases to have authority to construct and operate its Attachments on public or private property at the location of the particular Pole covered by the Permit. Licensee shall, at its sole expense, remove the Attachments from the affected Pole(s) within sixty (60) days after such termination. If Licensee fails to remove the Attachments from the affected Pole(s) within sixty (60) days, City shall have the right to remove the Attachments at Licensee's expense. Any facilities that Licensee does not remove within sixty (60) days shall constitute an unauthorized Attachment subject to the Unauthorized Attachment Fee and Failure to Remove Facilities Fee included in Appendix A.

B. Licensee may at any time surrender any Permit. Licensee shall, at its sole expense, remove the Attachments from the affected Pole(s) within sixty (60) days of Licensee's notice of surrender of a Permit. If Licensee fails to remove the Attachments from the affected Pole(s) within sixty (60) days, City shall have the right to remove the Attachments at Licensee's expense. Any facilities that Licensee does not remove within sixty (60) days shall constitute an unauthorized Attachment subject to the Unauthorized Attachment Fee and Failure to Remove Facilities Fee included in Appendix A.

VIII. TRANSFER OF ATTACHMENTS

A. If City reasonably determines that a transfer of Licensee's Attachments is necessary, Licensee shall complete the transfer within sixty (60) days after receiving written notice from City, provided City or another Attaching Entity has not prevented Licensee from completing such transfer work.

B. During the sixty-day notice period, the City and Licensee shall work together in good faith to seek to identify mutually-agreeable alternate locations for the Attachments. However, the inability to identify mutually-agreeable alternate locations does not relieve Licensee of the obligation to transfer the Attachments by the end of the sixty-day period. Licensee shall notify City in writing within ten (10) days after the transfer of Licensee's Attachments has been completed.

C. If Licensee fails to transfer its Attachments within sixty (60) days after receiving written notice from City, City shall have the right to transfer, or to have Licensee's Attachments transferred, at Licensee's expense. In addition, Licensee shall be subject to the Failure to Transfer Facilities Fee included in Appendix A. If the failure to transfer continues for an additional thirty (30) days (meaning 90 days after receiving written notice from City), City may thereafter impose an Unauthorized Attachment Fee, at its discretion.

D. City shall not be responsible or liable for damage to Licensee's Attachments except to the extent provided in this Agreement.

IX. FACILITIES MODIFICATIONS AND/OR REPLACEMENTS

A. The costs for any rearrangement, relocation, transfer and removal of Licensee's Attachments or the replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location) shall be allocated to City, Licensee, or other Attaching Entity on the following basis:

1. If City intends to modify or replace a Pole solely for its own requirements City shall be responsible for the costs related to the modification or replacement of the Pole. Licensee, however, shall be responsible for all costs associated with the rearrangement or transfer of Licensee's Attachments, except when City's modification is to correct a violation of the Applicable Standards caused by City. In such case, City shall pay for any Licensee rearrangement or transfer of Licensee's Facilities. City shall provide Licensee with ninety (90) days written notice prior to making the proposed modification or alteration in order to provide Licensee a reasonable opportunity to modify or add to its Attachments. This notice requirement shall not apply to routine maintenance or emergency situations. If Licensee elects to add to or modify its Attachments after such notice, with City's written permission, the Licensee shall bear the total incremental costs incurred by City, as reasonably determined by City, in making the space on the Poles accessible to Licensee for such additions or modifications.

2. If the modification or the replacement of a Pole is the result of an additional Attachment or the modification of an existing Attachment requested by an Attaching Entity other than City or Licensee, the Attaching Entity requesting the additional or modified Attachment shall bear the entire cost of the modification or Pole replacement, as well as the costs for rearranging or transferring Licensee's Attachments. Licensee shall cooperate with the Attaching Entity to determine the costs of rearranging or transferring Licensee's Attachments.

3. If the modification of Attachments or replacement of a Pole is necessary for reasons unrelated to the use of the Pole by Attaching Entities (such as storm, accident, deterioration) each Attaching Entity shall pay the associated costs and expenses of rearranging or transferring its own Attachments.

B. If City receives Permit Applications for the same Pole from two or more prospective licensees within sixty (60) days of one another, and accommodating their respective requests would require replacement or modification of the Pole or rearrangements of existing Attachments (which replacement or modification has been determined to be appropriate by City), City will allocate the applicable costs associated with such modification or replacement among the prospective licensees.

C. Any strengthening, reinforcing or stabilizing of Poles, including the use of guying, to accommodate Licensee's Attachments shall be provided by and at the expense of Licensee and to the satisfaction of the City.

D. No provision of this Agreement shall be construed to require City to relocate its Attachments or modify/replace its Poles for the benefit of Licensee, provided that any denial by City for modification of the Pole is based on nondiscriminatory standards of general applicability.

E. Subsequent to the original Attachment approved by Licensor, Licensee may, without submitting a new Permit Application, modify or replace all or a portion of the Attachment so long as such modification or replacement (a) results in the installation of equipment within the spaces designated or depicted in Permit Application and (b) the resulting installation does not increase the load on the applicable Pole or the utilization of the City Facilities beyond the loading or utilization, if any, that was established in the original Permit Application. Prior to undertaking such modification or replacement, Licensee shall notify City in writing (email is acceptable) of its intention, and shall provide information to City supporting the modification or replacement under the conditions imposed by this paragraph. Such information shall include: (i) weight and dimensions of existing Attachment; (ii) weight and dimensions of proposed modified or replacement Attachment; and (iii) whether there will be a change in the radio frequency used by the proposed modified or replacement Attachment and if so, what frequency will be used. The information provided by Licensee shall also demonstrate the compliance of such proposed modification or replacement with Applicable Standards. If City does not object to such proposed modification or replacement within ten (10) days after receipt of such supporting information from Licensee, Licensee will be authorized to continue with the replacement or modification as proposed, and such replacement or modification shall be in compliance with Applicable Standards.

X. ABANDONMENT OR REMOVAL OF POLES

A. If City desires at any time to abandon or remove any Poles on which Licensee's Attachments are located, City shall give Licensee notice in writing at least sixty (60) days prior to the date on which City intends to abandon or remove such Poles. If, following the expiration of the sixty (60) day period, Licensee has not removed and/or transferred all of Licensee's Attachments, City shall have the right to remove and/or transfer Licensee's Attachments at Licensee's expense.

B. If any City Facilities must be removed by reason of any Federal, State, County, Municipal, or other governmental requirement, including, but not limited, to underground conversion, or the requirement of a property owner, Licensee shall remove its Attachments from the affected Poles, at Licensee's expense, within sixty (60) days of receipt of written notice from City. If Licensee does not remove its Attachments within

the sixty (60) day period, City shall have the right to remove and/or transfer Attachments at Licensee's expense.

XI. REMOVAL OF LICENSEE ATTACHMENTS

A. If City determines that removal of Licensee's Attachments from Poles is necessary in accordance with the terms of this Agreement, Licensee shall remove the Attachments at its own expense within sixty (60) days. Licensee shall notify City in writing within ten (10) days after the removal of Licensee's Attachments has been completed. No Permit is required for removal, but Licensee shall notify and coordinate removal activity with City, and Licensee shall obtain all necessary permitting from federal, state, and local authorities prior to removing any Attachments, including any necessary additional easements, right-of-way permits, or other legal rights to utilize private property. It is Licensee's obligation to adjust the Pole Attachment count for removed Attachments. No refund of any fees or charges will be made upon removal.

B. If Licensee fails to remove its Attachments within sixty (60) days as required in the applicable section of this Agreement, City shall have the right to remove, or have Licensee's Attachments removed, at Licensee's expense. In addition, Licensee shall be subject to the Failure to Remove Facilities Fee included in Appendix A. If the failure to transfer continues for an additional thirty (30) days (meaning 90 days after receiving written notice from City), City may thereafter impose an Unauthorized Attachment Fee, at its discretion.

C. City shall not be responsible or liable for damage to Licensee's Attachments except to the extent provided in this Agreement.

XII. INSPECTION OF LICENSEE'S ATTACHMENTS

A. Licensee shall reimburse City for a Post Construction Inspection in the amount shown in Appendix A.

B. City reserves the right to inspect Licensee's Attachments at any time at City's expense, except as provided herein. Licensee shall reimburse City for additional Post Construction Inspections in the amount shown in Appendix A for any inspection performed for the purpose of determining if a violation of the City's Applicable Standards of which City has provided written notice to Licensee has been corrected by Licensee. In no event shall Licensee be responsible for the cost of inspecting or inventorying any other party's facilities, including City's.

C. City shall give Licensee at least ninety (90) days advance written notice of an inspection, except in those instances where safety considerations justify the need for inspection without delay. Licensee shall have the right to be present at and observe any such inspections, at Licensee's sole expense.

D. City's inspections, or the failure to do so, shall not operate to impose upon City any liability of any kind whatsoever or relieve Licensee of any responsibility, obligations or liability for Licensee's Attachments, whether assumed under this Agreement or otherwise existing.

E. City shall provide written notice to Licensee if an inspection reveals that all, or any part, of Licensee's Attachments are installed, used or maintained in violation of this Agreement. Licensee agrees to either provide an explanation refuting responsibility for or bring its Attachments into full compliance with this Agreement within thirty (30) days of receipt of notice from City, or within such other period of time that may be mutually agreed. If Licensee does not refute responsibility for or correct the violation(s) within thirty (30) days (or other mutually agreed period of time) as required, City may correct the conditions at Licensee's expense. When City reasonably believes that the violation(s) poses an immediate threat to the safety of any person, interferes with the performance of City's service obligations, or poses an immediate threat to the physical integrity of City's Facilities, City may perform work and/or take action as reasonably necessary to eliminate such immediate threat without first giving written notice to Licensee. City will advise Licensee in writing of the work performed or the action taken, including photographic evidence substantiating the violation and its cause. Licensee shall pay City for all costs City incurs in performing the work or taking the action, if (i) Licensee does not refute responsibility for or correct the violation(s) within thirty (30) days (or other mutually agreed period of time) as required; or (ii) if the evidence provided proves conclusively that Licensee's Attachments or workmanship caused the violation; or if (iii) it is finally determined that Licensee's Attachments or workmanship caused the violation.

XIII. UNAUTHORIZED OCCUPANCY OR ACCESS

A. If any of Licensee's Attachments are found occupying any portion of any Pole for which no Permit has been issued and is in effect, City shall notify Licensee of City's findings and allow Licensee a reasonable period of time to verify City's findings. Thereafter, City, without prejudice to its other rights or remedies, may assess an Unauthorized Attachment Fee (as specified in Appendix A) from the end of the granted verification period until a complete Permit application and all required fees (as per Attachment A) have been submitted for the unauthorized attachments or until the Unauthorized Attachment is removed in the event the Permit is not granted. Notwithstanding the foregoing, at City's discretion, City may notify Licensee that the immediate removal of the unauthorized attachment is required, in which event Unauthorized Attachment Fees will accrue and be payable by Licensee until the unauthorized attachment is removed. If Licensee persists in not removing the Unauthorized Attachment for a period of thirty (30) days after notification by City, or after denial of the Permit application, whichever is appropriate, then City may remove the Unauthorized Attachment, without liability to Licensee for any damage caused to such Unauthorized Attachment during the removal.

B. If Licensee attaches its facilities to a Pole after submittal of a Permit application but prior to City's final determination on the Permit, such premature attachment shall be deemed to be unauthorized, and the Unauthorized Attachment Fee shall apply from the date of notice by City to Licensee until the Permit is issued by City. If the City determines to deny the Permit application for such premature attachment, the Unauthorized Attachment Fee shall continue to apply until the attachment is removed by Licensee or City.

C. No act or failure to act by City with regard to unauthorized Occupancy or access shall be deemed as ratification of the unauthorized Occupancy or access. If any Permit should be subsequently issued, said Permit shall not operate retroactively or constitute a waiver by City of any of its rights or remedies. Licensee shall be subject to all liabilities, obligations and responsibilities for the unauthorized Occupancy or access from inception.

XIV. LIABILITY AND INDEMNIFICATION

A. City reserves the right to maintain and operate its Poles in such manner as will best enable City to fulfill its own service requirements and to promote and preserve public health, safety, and welfare. Licensee agrees to use Poles at Licensee's sole risk, except as provided in Section XIV.B. City shall exercise reasonable care to avoid damaging Licensee's Attachments and City shall report to Licensee of the occurrence of any such damage caused by City's employees, agents or contractors.

B. Licensee, and any agent, contractor or subcontractor of Licensee, shall defend, indemnify and hold harmless City and its officials, officers, departments, agencies, board members, council members, commissioners, representatives, employees, agents, contractors and attorneys against any and all liability, claims, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments made by City under any Workers' Compensation Laws or under any plan for employees' disability and death benefits), costs and expenses (including reasonable attorney fees of counsel selected by Licensee with notice of counsel provided to City and all other costs and expenses of litigation) ("Covered Claims") arising in any way, including any act, omission, failure, negligence or willful misconduct, in connection with the construction, maintenance, repair, presence, use, relocation, transfer, removal or operation by Licensee, or by Licensee's officers, directors, employees, agents or contractors, of Licensee's Attachments, except to the extent of City's negligence or willful misconduct giving rise to such Covered Claims. Such Covered Claims include, but are not limited to, the following:

1. intellectual property infringement, libel and slander, trespass, unauthorized use of television or radio broadcast programs and other program material, and infringement of patents; and/or

2. liabilities incurred as a result of Licensee's violation of any law, rule, or regulation of the United States, State of Texas or any other governmental entity or administrative agency.

C. No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by City of governmental immunity or other provisions of Texas law limiting municipal liability. No indemnification provision contained in this Agreement under which Licensee indemnifies City shall be construed in any way to limit any other indemnification provision contained in this Agreement or Texas law.

D. City shall give Licensee prompt written notice of the making of any claim or the commencement of any litigation or other proceeding covered by this Article. City's failure to give notice will not relieve Licensee from its obligation to indemnify City unless Licensee is materially prejudiced by the failure of notice.

E. In a legal action to enforce this Agreement, the prevailing Party shall recover its reasonable attorney fees, reasonable expert and consultant fees, and all other associated costs and expenses from the non-prevailing Party.

F. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES SUFFERED BY THE OTHER PARTY OR BY ANY SUBSCRIBER, CUSTOMER OR PURCHASER OF THE OTHER PARTY FOR LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BY VIRTUE OF ANY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY PROVISION OF INDEMNITY, OR OTHERWISE, REGARDLESS OF THE THEORY OF LIABILITY UPON WHICH ANY SUCH CLAIM MAY BE BASED.

XV. DUTIES, RESPONSIBILITIES AND EXCULPATION

A. Licensee acknowledges and agrees that City does not warrant the condition or safety of City's Facilities, or the premises surrounding the Facilities. Licensee further acknowledges and agrees that it has an obligation to inspect Poles and/or premises surrounding the Poles, prior to commencing any work on any Pole or entering the premises surrounding such Poles. **LICENSEE HEREBY ACKNOWLEDGES THE RISK OF WORKING NEAR OR AROUND ENERGIZED UTILITY FACILITIES AND ASSUMES ALL RISKS OF ANY DAMAGE, INJURY OR LOSS OF ANY NATURE WHATSOEVER CAUSED BY OR IN CONNECTION WITH THE USE OF THE POLES AND ASSOCIATED FACILITIES AND EQUIPMENT ON, WITHIN, OR SURROUNDING THE POLES**.

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

C. **CITY MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO CITY FACILITIES OR POLES, ALL OF WHICH WARRANTIES ARE HEREBY DISCLAIMED. CITY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

D. The parties further understand and agree that in the performance of work under this Agreement, Licensee and its agents, employees, contractors and subcontractors will work near electrically energized lines, transformers, or other City Facilities, and it is the intention that energy therein will not be interrupted during the continuance of this Agreement, except in an emergency endangering life, grave personal injury, or property. Licensee shall ensure that its employees, agents, contractors and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of City, and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, Licensee shall furnish its employees, agents, contractors and subcontractors with competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner, and shall require its contractors and other agents to comply with all applicable federal, state and local laws, rules and regulations. Licensee, and its employees and contractors, shall utilize and install adequate protective equipment to ensure the safety of people and facilities. Licensee agrees that in emergency situations in which it may be necessary to de-energize any part of City's equipment, Licensee shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.

E. In the event City de-energizes any equipment or line at Licensee's request and for Licensee's benefit and convenience in performing a particular segment of any work, Licensee shall reimburse City in full for all actual costs and expenses incurred to comply with Licensee's request for de-energization of any equipment or line.

F. In the event that Licensee shall cause an interruption of service by damaging or interfering with any equipment of City, Licensee at its expense shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting from the interruption and shall notify City immediately. To the extent permitted by Texas law, Licensee shall be liable for all direct actual costs resulting from such damage and any necessary repairs.

G. Licensee further warrants that it is apprised of, conscious of, and understands the imminent dangers (INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION) inherent in the work necessary to make installations on Poles by Licensee's employees, agents, contractors or subcontractors, and accepts it as its duty and sole responsibility to notify and inform Licensee's employees, agents, contractors or subcontractors of such dangers, and to keep them informed regarding same.

XVI. INSURANCE

A. At all times during the term of this Agreement, Licensee shall keep in force and effect the following described insurance coverage:

1. Worker's Compensation and Employers' Liability Insurance. Statutory worker's compensation benefits and employers' liability insurance with a limit of liability required by Texas law for each accident at the time of the application of this provision. This policy shall include a waiver of subrogation in favor of City. Licensee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.

2. Commercial General Liability Insurance. Provide coverage per ISO form CG 00 01 or equivalent for, but not limited to: premises and operations, products and completed operations, personal injury, contractual coverage (only in respects to an Insured contract), broad form property damage, independent contractor's coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities (commonly known as XCU coverage). Limits of liability of $2,000,000 general *aggregate*, $2,000,000 products/completed operations aggregate, $2,000,000 personal injury, $2,000,000 each occurrence.

3. Automobile Liability Insurance. Business automobile coverage for all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability of $1,000,000 each accident.

4. Umbrella Excess Liability Insurance. Additional coverage in excess of other required insurance. Limits of liability of $4,000,000 each occurrence, $4,000,000 aggregate. Licensee may use any combination of primary and excess to meet required total limits.

5. Property Insurance. Each party will be responsible for maintaining its own facilities, buildings and other improvements, including all equipment, fixtures, and utility structures, fencing or support systems that may be placed on, within or around City Facilities to fully protect against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as "extended coverage" insurance or self-insure such exposures.

B. Each insurer must be authorized to do business under the laws of the State of Texas. Licensee's required insurance will be primary. Licensee may self-insure the obligations contained herein. Transferees or assignees of Licensee may only self-insure if approved by City unless the transferee or assignee is a parent or subsidiary, or is Licensee's Affiliate. Approval to self-insure shall not be unreasonably withheld, conditioned, or delayed.

C. Prior to the execution of this Agreement and upon renewal of each insurance policy during the term of this Agreement, Licensee will furnish City with a Certificate of Insurance or Licensee's form of self-insurance evidencing the insurance coverage required by this Agreement. The Certificate of Insurance shall reference this Agreement and workers' compensation and property insurance waivers of subrogation required by this Agreement. Licensee self-insures its property insurance and in satisfaction of the waiver of subrogation requirement will include City as joint loss payee to the extent its insurable interest which would have been covered had Licensee purchased property insurance. City, its council members, board members, commissioners, agencies, officers, employees and representatives (collectively, "Additional Insureds") shall be included as Additional Insureds by endorsement as respects this Agreement under each required insurance policy, except worker's compensation and Licensee's self-insured property coverage, which shall be so stated on the Certificate of Insurance. Each policy, other than worker's compensation, shall be written on an occurrence and not on a claims-made basis. Licensee shall defend, indemnify and hold harmless Additional Insureds from and against payment of any deductible and payment of any premium on any insurance policy required by this Agreement. City shall be given thirty (30) calendar days advance notice of cancellation or nonrenewal of any required insurance that is not replaced during the term of this Agreement.

D. The limits of liability may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences which could materially increase or decrease City's or Licensee's exposure to risk, not more than once every three (3) years. Notwithstanding the foregoing, prior to Licensee's assignment or transfer of this Agreement or the rights and privileges granted hereunder pursuant to Section XVIII, Licensee shall provide City with evidence of assignee's or transferee's ability to insure or self-insure at the levels required by this Agreement, and City, in its reasonable discretion, may require assignee or transferee to obtain alternate insurance coverage.

E. No insurance coverage required to be obtained and maintained by Licensee or its contractors or subcontractors shall contain provisions: (1) that exclude coverage of liability arising from excavating, collapse, or underground work, (2) that exclude coverage for injuries to City's employees or agents, and (3) that exclude coverage of liability for injuries or damages caused by Licensee's contractors or contractor's employees, or agents. This list of prohibited provisions shall not be interpreted as exclusive.

F. Licensee shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program and for any deficiencies in the amounts of insurance maintained.

G. Licensee shall require reasonable and prudent insurance coverage and limits from any of its subcontractors while performing work hereunder. To the extent that the insurance coverage Licensee is required to provide does not cover subcontractors, and the work of subcontractors, Licensee shall require subcontractors to obtain and maintain insurance coverage of the type that Licensee is required to obtain pursuant to this Agreement.

XVII. AUTHORIZATION NOT EXCLUSIVE

City shall have the right to grant, renew and extend rights and privileges to others not party to this Agreement, by contract or otherwise, to use City Facilities covered by this Agreement. Such rights shall not interfere with the rights granted to Licensee by the specific Permits issued pursuant to this Agreement.

XVIII. NON-ASSIGNMENTS OF RIGHTS

A. This License Agreement and associated Permits may not be assigned, transferred, sold, or disposed of by Licensee without the prior written consent of City expressed by action of the City Council of the City of Georgetown. Notwithstanding the foregoing, Licensee may assign or transfer this Agreement or the rights and privileges granted hereunder to any parent or subsidiary, or to Licensee's Affiliate, or in connection with the sale or other transfer of substantially all of Licensee's assets in the FCC market area where the Poles are located, upon written notice to City, so long as the assignee assumes, recognizes and also agrees to become responsible to City for the performance of all terms and conditions of this Agreement to the extent of such assignment. This Agreement shall extend to and bind the successors, assigns, and transferees of the parties hereto.

B. No assignment or transfer shall be allowed unless and until the assignee or transferee assumes in writing all obligations of Licensee arising under this Agreement, and such written assumption is provided to City. The assignee or transferee shall inform the City if it seeks the City's consent to self-insure in order to meet the insurance obligations set forth in Article XVI, if applicable, and shall provide its contact information as required in Article XXIII. Notwithstanding any assignment or transfer, Licensee shall remain fully liable under this Agreement and shall not be released from performing any of the terms, covenants or conditions of this Agreement without the written consent to the release of Licensee by City.

C. Licensee shall not sub-license or lease its rights under this Agreement to an unaffiliated third party, including but not limited to allowing third parties to place Attachments on Poles, or by placing Attachments on Poles for the benefit of such third parties, without City's prior written consent. Any such action shall constitute a material breach of this Agreement.

XIX. FAILURE TO ENFORCE

Failure of City or Licensee to take action to enforce compliance with any of the terms or conditions of this Agreement, or to give notice, or to declare this Agreement or any authorization granted under this Agreement terminated, shall not constitute a waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect until terminated, in accordance with this Agreement.

XX. TERMINATION OF AGREEMENT AND/OR PERMITS

A. Licensee shall be in default:

1. When Licensee fails to comply with any term or condition of this Agreement, including but not limited to the following circumstances:

   a. Construction, operation or maintenance of Licensee's Attachments in violation of law or in aid of any unlawful act or undertaking; or

   b. Construction, operation or maintenance of Licensee's Attachments after any authorization required of Licensee has lawfully been denied or revoked by any governmental or private authority; or

   c. Construction, operation or maintenance of Licensee's Attachments without the required insurance coverage; or

   d. Licensee's Attachments are found occupying any portion of any Poles for which no Permit has been issued and is in effect; or

   e. Failure of the Licensee to timely cure a violation of any Applicable Standard or provision of this Agreement; or

   f. Nonpayment of any undisputed amount due under this Agreement.

B. City will notify Licensee in writing of any default condition(s) pursuant to Section XX(A) above. Licensee shall take immediate corrective action to eliminate any such condition(s) within thirty (30) days of receipt of notice and shall confirm in writing to City that the noticed condition(s) has ceased or been corrected. If Licensee fails to discontinue or correct such condition(s) and/or fails to give the required confirmation within thirty (30) days as required, City may take any remedy available under this Agreement, including immediately terminating this Agreement if such default pertains to all or substantially all of Licensee's Attachments or the Permit related to such default. However, no default will be deemed to exist if Licensee has commenced to cure the alleged default condition(s) within such thirty (30) day period, and thereafter such efforts are prosecuted to completion within reasonable diligence. Delay in curing an alleged

default condition(s) will be excused if due to causes beyond the reasonable control of Licensee.

C. Licensee may terminate this Agreement or any Permit for any reason or no reason by giving City thirty (30) days written notice of its election to terminate this Agreement; provided, however, that Licensee is current in all payments required hereunder. Termination by Licensee does not extinguish its continuing obligations to remove its Attachments as provided herein. Licensee shall continue to be obligated to pay rental fees to City for each Attachment until removed.

D. Upon termination of this Agreement pursuant to Section XXI(B) above, Licensee shall remove its Attachments within sixty (60) days after termination, at Licensee's sole expense. If Licensee fails to remove the Attachments within sixty (60) days of termination, City shall have the right to remove the Attachments at Licensee's expense.

E. Licensee shall be liable for and pay all fees and charges pursuant to terms of this Agreement to City until Licensee's Attachments are actually removed.

F. After the termination of this Agreement, the parties' responsibility and indemnity obligations shall continue with respect to any claims or demands related to this Agreement or applicable law, subject to any applicable statute of limitations.

XXI. TERM OF AGREEMENT AND INDIVIDUAL PERMITS

A. This Agreement shall have an Initial Term of ten (10) years from and after the Effective Date hereof. Unless written notice is given by either party hereto to the other, not less than one year prior to the expiration of the Initial Term, that the notifying party chooses to not renew the Agreement beyond the Initial Term, the Agreement shall automatically renew for an additional period of five (5) years from such expiration date. Thereafter the Agreement shall automatically renew for successive five-year periods unless either party gives written notice of termination not less than one year before the expiration of any renewal period.

B. Each individual Permit issued hereunder shall remain in effect so long as this Agreement remains in effect, except that any individual Permit issued hereunder shall have a minimum term of five (5) years, and shall remain in effect notwithstanding the expiration or termination of this Agreement. If any such Permits remain in effect after the expiration or termination of this Agreement, all such Permits shall continue to be governed by the terms and conditions of the Agreement.

C. Notwithstanding the provisions of Section XXI.B., if this Agreement is terminated following Licensee's uncured default, then similarly all Permits issued hereunder shall also terminate and be of no further force or effect. In such event, Licensee must remove its Attachments within sixty (60) days after termination, at Licensee's sole expense. If

Licensee fails to remove the Attachments within sixty (60) days of termination, City shall have the right to remove the Attachments at Licensee's expense.

XXII. AMENDING AGREEMENT

The terms and conditions of this Agreement shall not be amended, changed or altered except in writing and with approval by authorized representatives of City and Licensee.

XXIII. NOTICE

A. When notice is required to be given by either party to the other, such notice shall be in writing and shall be effective when mailed by certified mail, return receipt requested, with postage prepaid and properly addressed as follows:

If to City, at:
City Manager
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627

With a copy to:
City Attorney
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627

If to Licensee, at:
New Cingular Wireless PCS, LLC
Attn: Tower Asset Group – Lease Administration
Re: Wireless Installation on Structures
(Georgetown, Texas)
FA No.:_____
1025 Lenox Park Blvd NE
3rd Floor
Atlanta, GA 30319

With a copy to:
New Cingular Wireless PCS, LLC
Attn: AT&T Legal Dept. – Network Operations
Re: Wireless Installation on Structures
(Georgetown, Texas)
FA No.:_____
208 S. Akard Street
Dallas, TX 75202-4206

or to such other address as either party may give the other party in writing.

B. Licensee shall maintain a staffed 24-hour emergency telephone number, not available to the general public, where City can contact Licensee to report damage to Licensee's facilities or other situations requiring immediate communications between the parties. Such contact person shall be qualified and able to respond to City's concerns and requests. Failure to maintain an emergency contact as required shall eliminate City's liability to Licensee for any actions that City deems reasonably necessary given the specific circumstances so long as the City exercises reasonable care to avoid damaging Licensee's Attachments pursuant to Section XIV(A) of this Agreement. Licensee will post the telephone number on each one of Licensee's Attachments as required by the FCC.

XXIV. ENTIRE AGREEMENT

This Agreement supersedes all previous agreements, whether written or oral, between City and Licensee for placement and maintenance of Licensee's Attachments on Poles within the geographical operating area covered by this Agreement; and there are no other provisions, terms or conditions to this Agreement except as expressed in this Agreement.

XXV. SEVERABILITY

If any provision or portion of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of the Agreement to either party, such provision shall not render unenforceable this entire Agreement but rather it is the intent of the parties that the Agreement be administered as if not containing the invalid provision.

XXVI. GOVERNING LAW; VENUE

The validity, performance and all matters relating to the effect of this Agreement and any amendment of this Agreement shall be governed by the laws (without reference to choice of law) of the State of Texas. Venue for all actions pertaining to this Agreement shall be in Williamson County, Texas or in the federal court having jurisdiction in Williamson County, Texas.

XXVII. INCORPORATION OF RECITALS AND APPENDICES

The Recitals stated above and Appendices A and B to this Agreement are incorporated into and constitute part of this Agreement.

XXVIII. FORCE MAJEURE

In the event that either City or Licensee is prevented or delayed from complying with this Agreement by reason of acts of nature (i.e. fire, flood, earthquake), wars, civil commotion, acts of terrorism or vandalism, strikes, embargo, acts of the government in its sovereign capacity, material changes of law or regulations, unavailability of equipment or material, or any other such cause not attributable to the negligence or fault of the party delayed or prevented in performing

as required by this Agreement, then performance of such acts shall be excused for the period of the unavoidable delay, and the party shall remove or overcome such inability as soon as reasonably possible under the circumstances. City shall not impose any charges on Licensee stemming solely from Licensee's inability to perform required acts during a period of unavoidable delay provided that Licensee presents City with written notice of the *force majeure* within a reasonable time after occurrence of the event or cause relied on. This provision shall not operate to excuse Licensee from the timely payment of any fees or charges due City under this Agreement.

XXIX. CHANGE OF LAW

The terms, conditions, and rates of this Agreement were composed in order to effectuate the legal requirements and/or parameters in effect at the time the Agreement was produced. In the event that any of the terms, conditions, and/or rates herein, or any of the laws or regulations that were the basis or rationale for such terms, conditions, and/or rates in this Agreement are invalidated, modified, or stayed by any state or federal regulatory or legislative bodies or courts of competent jurisdiction, the parties shall meet in good faith to jointly determine whether this Agreement should be modified. All terms in the existing Agreement shall remain in effect while the parties meet in good faith to jointly determine whether the Agreement should be modified and during any such modification process.

XXX. DISPUTE RESOLUTION PROCESS

Except for any uncured default pertaining to alleged Wireless Interference caused by City or Licensee, the parties agree prior to commencing any action at law or in equity, to first make good faith efforts to meet and confer to attempt to settle any dispute arising out of or relating to this Agreement through upper management escalation. Either party may seek to have the dispute escalated to upper management of each party upon notice initiated by either party and thereafter, the upper management shall each exchange relevant information in good faith and attempt to resolve the dispute for a period not to exceed forty-five (45) days from the date that either party first initiated the upper management escalation process. After the expiration of the forty-five (45) day escalation period, any remaining dispute (except for alleged Wireless Interference caused by City or Licensee) shall be resolved in a mediation process at a mutually agreeable location in the venue where Licensee's Attachments are located. In the event that such dispute is not resolved within ninety (90) calendar days following the first day of mediation or such later date as mutually agreed to, either party may initiate litigation. The foregoing obligations to escalate to upper management and mediate are an essential and material part of this Agreement and ones that are legally binding upon them; in case of a failure of either party to follow the foregoing dispute resolution process, the other may seek specific enforcement of such obligation in any courts having jurisdiction of this Agreement. Each party waives its right to a trial by jury on disputes arising from this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate.

ATTEST:

BY: _____

NAME: _____

CITY OF GEORGETOWN

BY: _____

NAME: _____

TITLE: _____

Approved as to Form:

BY: _____

NAME: _____

TITLE: _____

ATTEST:

BY: _____

NAME: _____

NEW CINGULAR WIRELESS PCS, LLC

BY: _____

NAME: _____

TITLE: _____

STATE OF TEXAS §
§ ACKNOWLEDGMENT
COUNTY OF WILLIAMSON §

This instrument was acknowledged before me on this the _____ day of _____, _____ by _____, a person known to me in ___ capacity as _____ of the City of Georgetown, on behalf of the City of Georgetown.

_____
Notary Public – State of Texas

STATE OF_____ §
§ ACKNOWLEDGMENT
COUNTY OF _____ §

This instrument was acknowledged before me on this the _____ day of _____, _201_____ by __ _____, a person known to me in his capacity as __ _____ of _____ on behalf of _____.

_____
Notary Public – State of _____