

POLE ATTACHMENT AGREEMENT

BETWEEN

SOUTHERN NEW ENGLAND TELEPHONE COMPANY

AND

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**POLE ATTACHMENT AGREEMENT
BETWEEN
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY
AND**

THIS AGREEMENT, made as of the ____st day of _____, 2015, ("Effective Date") by and between The Southern New England Telephone Company, dba Frontier Communications of Connecticut, a Connecticut corporation with an office at 3 High Ridge Park, Stamford, CT 06905 ("Frontier"), and _____, a Connecticut municipality ("Municipality"). Collectively, Frontier and Municipality are referred to as the "Parties" or singularly as a "Party".

WITNESSETH:

WHEREAS, Connecticut General Statutes Section 16-247a has encouraged the shared use of existing facilities where possible; and

WHEREAS, Connecticut General Statutes Section 16-233 and the May 17, 2000 decision by the Connecticut Public Utilities Regulatory Authority ("PURA") (formerly known as Department of Public Utility Control) in Docket No. 99-03-25RE01 provide each Connecticut municipality with the legal right to occupy and use "one gain upon each public utility pole" within its Municipal limits; and

WHEREAS, this Agreement governs the terms and conditions under which Frontier agrees to allow Municipality to attach certain Facilities to Frontier's utility poles located in the Municipality; and

WHEREAS, Frontier is conforming to Conn. Gen. Stat §16-233 regarding municipal gain rights for the Municipality, under applicable federal, state and local law and the terms of this Agreement, to attach its Facilities to poles.

WHEREAS, this Agreement governs the Municipality's use of its municipal gain to develop, construct and otherwise maintain a private wire-based telecommunications network for the Municipality's internal use under applicable federal, state and local law and the terms of this Agreement; and

WHEREAS, PURA's June 30, 2010 decision in Docket No. 09-12-05 stated that the Municipality is not responsible for fees and charges for pre-Effective Date unauthorized pole attachments and pre-Effective Date non-conforming construction activities in accordance with the terms and conditions in Sections 13.7 and 13.10; and

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

1. Scope.

- 1.1. Subject to the provisions in this Agreement, Frontier will provide Municipality space for the attachment of Municipality's equipment and Facilities to Poles within the public right-of-way area included in Municipality's application.
- 1.2. Municipality understands that Frontier and Other Owners jointly own certain Poles, and with respect to such Poles, Municipality must comply with this Agreement and the terms, conditions, policies, procedures and agreements of the Other Owners.
- 1.3. Municipality's right to occupy and use space on a Pole is limited to the signal wires constructed for Municipality's internal purposes and must be a Private Telecommunications Service.

2. Definitions.

- 2.1. Capitalized terms used in this Agreement have the meaning assigned to the terms in this Article 2.
- 2.2. **Anchor.** A facility consisting of an assembly of a rod secured to a fixed object or plate designed to resist the pull of a guy strand or strands.
- 2.3. **Appurtenance.** Any article of equipment attached to a point on a Pole not normally occupied by a strand attachment (i.e., equipment cabinets, terminals, power supplies, etc.).
- 2.4. **Approved Overlashing Techniques.** A technique in Overlashing that complies with the requirements of Exhibit G, is consistent with the Overlashing techniques shown in Exhibit G, and the resulting tension of any Overlashed bundles do not exceed 60% of the usable heavy load in accord with NESC Rule 251.
- 2.5. **Attachment or Pole Attachment.**
 - 2.5.1. An Attachment will consist of the bolts, lags, screws, extension arms (only with specific approval of Frontier on an individual-case basis), or other hardware necessary to attach one (1) Suspension Strand or Cable to a Pole, which has been approved by Frontier under this Agreement or authorized by PURA. For illustrative purposes, the construction techniques shown in Exhibit F, Diagram 3 constitutes one Attachment.
 - 2.5.2. Two (2) or more Suspension Strands attached using the same bolts, lags, screws, extension arms, or other hardware will be considered two (2) or more Attachments, as applicable. For illustrative purposes, the construction techniques shown in Exhibit F, Diagram 1 and Exhibit F, Diagram 2 constitute two Attachments.
 - 2.5.3. Hardware and brackets utilized to attach an amplifier, power supply, or other Appurtenance attachment will be considered one (1) Attachment per each twelve (12) inches (30.48 cm) of linear Pole space occupancy.

- 2.6. **Cable.** Copper conductors or fiber optic filaments encased in any suitable jacketing or sheath.
- 2.7. **Custodian.** For each Pole that is jointly owned by Frontier and an electric distribution company (e.g., CL&P or UI), either Frontier or the electric distribution company is designated as the “custodian” for that jointly owned pole.
- 2.8. **Electronic Notification System (ENS).** The electronic system NOTIFY, or if NOTIFY is not available, another mutually agreed electronic system or combination of electronic systems, or the forms attached to this Agreement as Exhibits A, B, or C, as applicable.
- 2.9. **Facilities or Municipality’s Facilities.** The Cables and all associated equipment, hardware, Attachments, Overlashings and Appurtenances of Municipality which (a) Frontier is providing space to be attached to one or more Poles under this Agreement and (b) are installed for the sole use of Municipality for any lawful purpose.
- 2.10. **Guy Strand.** A metal cable (Facility) which is attached to a Pole and Anchor (or another Pole) for the purpose of reducing Pole stress.
- 2.11. **Law.** Any and all applicable federal, state and local laws, rules and regulations, orders, ordinances of a governmental authority, including Connecticut General Statute Section 16-233, including but not limited to orders, rules, tariffs, policies, procedures and regulations of the Connecticut Public Utilities Regulatory Authority (“PURA”) or its predecessor (the Connecticut Department of Public Utility Control or DPUC), including the Make-Ready Decision concerning the pole attachment make-ready process, September 29, 2004 decision in Docket No. 03-03-07.
- 2.12. **Make-Ready Decision.** Decision of the Department of Public Utility Control (nka PURA) on April 30, 2008 in Docket No. 07-02-13: DPUC Review of the State’s Public Service Company Pole Make-Ready Procedures – Phase I.
- 2.13. **Make-Ready Work (initial and additional).** All work performed by Frontier, the Other Owners or Other Licensees permitted to attach to Poles, including but not limited to, rearrangements or transfers of existing facilities, replacement of a Pole (installation of new pole and removal and disposal of old pole) or any other work required to accommodate the attachment of Municipality’s Facilities to a Pole. Similar work required after Municipality’s initial attachment to a Pole solely because of the existence of Municipality’s Facilities will be referred to as “additional Make-Ready Work.”
- 2.14. **Municipal Gain.** A single position within the communications gain on a Pole reserved for municipal use in accordance with the terms of Connecticut General Statutes Section 16-233 and the conditions detailed in Law.
- 2.15. **Municipality.** The person, corporation or other legal entity authorized by Frontier under this Agreement to attach its Facilities to Poles and the party responsible for compliance with Law and Frontier’s rules, tariffs, policies, procedures and regulations regarding the Facilities. The term “Municipality” includes the Department of

Transportation or a municipal Board of Education, public school department, or regional school district which provides education for the Municipality.

- 2.16. **Non-Conforming Charge.** Has the meaning in Section 13.10.
- 2.17. **Other Licensees.** Any person, corporation, or other legal entity, other than Municipality to whom Frontier or Other Owners has or will extend an authorization to attach facilities to a Pole.
- 2.18. **Other Owners.** Electric companies that have joint ownership of Poles with Frontier or those electric companies that have authorized Frontier to license attachment of Facilities and Appurtenances on the electric companies' Poles or jointly owned Poles.
- 2.19. **Overlashing.** A construction method that allows Municipality to utilize existing Suspension Strand and Cable to place an additional Cable for its own use. Lashing of cables performed to respond to emergencies will not be deemed to constitute Overlashing governed by this Agreement.
- 2.20. **Periodic Inspections.** Inspections conducted by Frontier on portions of Municipality's Facilities, to determine that Attachments, Overlashings and Facilities are authorized and that Attachments, Overlashings and Facilities are maintained in conformance with this Agreement.
- 2.21. **Pole(s).** A pole solely owned or jointly owned by Frontier or by an Other Owner and used to support Frontier's facilities and possibly the facilities of an Other Owner, Municipality or Other Licensee.
- 2.22. **Post-Construction Inspection.** The work operations and functions performed by Frontier on portions of Municipality's Attachments, Overlashings or Facilities to determine that all Attachments, Overlashings or Facilities are maintained in conformance with this Agreement.
- 2.23. **Pre-Construction Survey.** The work operations and functions performed by Frontier to process Municipality's application for Attachments to the point just before performing any necessary Make-Ready Work. There are two elements of the Pre-Construction Survey: (1) field inspection of the existing facilities, and (2) administrative and engineering efforts required to process Municipality's application and prepare the Make-Ready Work estimate.
- 2.24. **Private Telecommunications Service.** As defined in Conn. Gen. Stat. Sec. 16-247a(b)(5), any telecommunications service which is not provided for public hire as a common carrier service and is utilized solely for the telecommunications needs of the person that controls such service and any subsidiary or affiliate thereof, except for telecommunications service which enables two entities other than such person, subsidiary or affiliate to communicate with each other.
- 2.25. **Single Pole Administrator ("SPA").** The entity determined by the Connecticut Public Utilities Regulatory Authority ("PURA") to be responsible for the processing of applications for pole attachment licenses. Under a PURA decision dated October 8,

2014 in Docket No. 11-03-07 (the “Single Pole Administrator Decision”), The Connecticut Light and Power Company (“CL&P”) and The United Illuminating Company (“UI”) will be the SPA in their respective service territories. If no SPA is designated by PURA, then Frontier will be the default SPA.

- 2.26. **Suspension Strand (messenger cable).** A metal cable attached to a Pole and used to support facilities.
- 2.27. **Unit Cost.** A dollar amount subject to periodic revision, applicable to specified work operations and functions, including materials and labor costs.
- 2.28. **Unauthorized Attachment Charge(s).** Has the meaning in Section 13.7.
- 2.29. **Working Group.** A group of pole administrators and attachers established in the Make-Ready Decision to resolve common issues relating to the utility pole make-ready process.

3. Permits, Consents and Frontier’s Use of Poles.

- 3.1. **Permits and Consents.** The Poles covered by this Agreement will be only the Poles within the public right-of-way area defined by Municipality's applications, as may be amended. Connecticut General Statute Section 16-233 and the May 17, 2000 PURA decision in Docket No. 99-03-25RE01 provide Municipality with the legal right to occupy and use “one gain upon each public utility pole” within its Municipal limits. Municipality must obtain from Other Owners, private or public authority any necessary easement, right of way, license, permit, permission, certification or franchise, if any is required by Law, to construct, operate or maintain its facilities on private or public property at the location of the Pole to which Municipality seeks to attach its Facilities. Frontier does not warrant the validity or apportionability of any rights it may hold to place Facilities in the public right-of-way or on private property. This Agreement is made on an “AS IS” basis, subject to Law and existing and future rights of third parties. Frontier makes no representation, covenant or warranty as to the quality of, scope of, and title to, the rights granted to Municipality under this Agreement.
- 3.2. **Pole Use.** Poles are used and will continue to be used primarily for the utility-related purposes of Frontier and Other Owners. Additionally, any licenses or Pole use for Municipality’s Attachments, Overlashings or Facilities under this Agreement are personal to Municipality and are not for use by any entity other than Municipality for its own business purposes unless otherwise agreed to in writing by Frontier.
- 3.3. **No Requirement to Construct and Maintain a Pole and Anchor.** Nothing in this Agreement will be construed to compel Frontier or Other Owners to construct, reconstruct, retain, extend, repair, place, replace or maintain any Pole or Anchor or other facility not needed for Frontier’s or Other Owner’s own service requirements. If Frontier abandons any Pole to which Municipality’s Facilities are attached, Frontier must provide Municipality notice of the abandonment.

4. Application for Authorized Use of Pole.

- 4.1. **In General.** Frontier will provide Municipality space on an “AS IS” basis to attach its Facilities to any Poles within Municipality’s limits and for which Frontier has the power and privilege of granting licenses within Frontier’s operating territory in the State of Connecticut in accordance with Law and the terms of this Agreement.
- 4.2. **Application.** Whenever Municipality wants to attach its Facilities to any Pole, it must submit an application to the SPA using Electronic Notification System (or Exhibit A). (The notice process for Overlapping is governed by Section 5.1.) Municipality must specify the exact Pole location(s) involved and must specify what Facilities it wants to attach to each Pole. Municipality must receive authorization from Frontier and the SPA before commencing any attachment work. Municipality must furnish the SPA or Frontier with any requested engineering data including the type of signal being carried. Each application must include the Application Fee specified in Section 13.4. When Municipality submits an application to attach its Facilities to any Pole, Frontier will cooperate by responding to Municipality’s questions concerning which attachment options and techniques are feasible to facilitate the Municipality’s application to attach Facilities to Poles.
- 4.3. **Pole Limit.** Municipality must submit applications for Attachment authorizations in blocks of 400 Poles or fewer. If multiple applications are submitted at one time, Municipality must designate a desired priority.
- 4.4. **Make-Ready.** Frontier must process applications, perform any required engineering and surveys, perform its own Make-Ready Work, and perform any other required functions on a first-come, first-served basis and in accordance with the Make-Ready Decision and Law. Frontier will be under no obligation to grant any authorization to attach Facilities, or if an authorization has already been granted, Frontier may cancel the authorization on sixty (60) days’ notice via ENS, if in Frontier’s judgment reasonably exercised the grant (a) would be or is in non-compliance with Law or the requirements and specifications in Section 6.1.
- 4.5. **Overdue Payments.** Subject to the good faith dispute provision in Section 12.3, Frontier will be under no obligation to grant or continue any authorization for an Attachment, Overlapping or Facility if Municipality has any outstanding and overdue payments owing to Frontier under this Agreement or any other agreement with Frontier for the provision of Pole Attachments or installation of other facilities.
- 4.6. **Make-Ready Estimate.** In accordance with the Make-Ready Decision, the SPA will have forty-five (45) days from (a) the SPA’s receipt of a completed Pole Attachment application and all required fees from Municipality and (b) Municipality’s satisfaction of applicable provisions in this Agreement to send Municipality an estimate of the Make-Ready Work that is necessary to process Municipality’s Pole Attachment application. Frontier will prepare the estimate of the Make-Ready Work using a form similar to Exhibit B.

5. Overlashing.

- 5.1. **Notice and Techniques.** Municipality is entitled to Overlash if it provides at least fourteen (14) days prior notice via ENS to the SPA and complies with Approved Overlashing Techniques. If before the expiration of the 14-day notice, the SPA has identified a safety, engineering or pole loading concern with Municipality's proposal, the proposed Overlash will be placed on hold until (a) all of the SPA's concerns are addressed, or (b) a decision or order is issued on the concerns in a dispute resolution process under Article 12. Municipality must perform (at Municipality's expense) its own pre-survey of all routes where it proposes to Overlash new cable to its existing licensed Attachment(s) and provide written or electronic results of that survey (in a format reasonably acceptable to Frontier) to Frontier at least five (5) days prior to the installation of the proposed Overlashing. Each notice from Municipality seeking to Overlash must identify (a) the specific Pole impacted by the proposed Overlashing, including the identification number that appears on each Pole, (b) a diagram or drawing of the Overlashing technique to be utilized and a signed certification from Municipality that the Overlashing technique is an Approved Overlashing Technique, (c) the weight and dimensions of each cable sought to be Overlashed onto existing Attachments, and (d) other technical information as Frontier or the SPA may reasonably request after receipt and review of Municipality's notice of proposed Overlashing. If Make-Ready Work is required to accommodate any proposed Overlashing, the Parties will use the make-ready process in Article 4.
- 5.2. **Unauthorized.** Overlashing performed (a) without prior notice to the SPA, or (b) after the Effective Date without complying with the requirements of this Agreement, including but not limited to compliance with Approved Overlashing Techniques, will be considered an unauthorized Attachment and will be subject to the Unauthorized Attachment Charge described in Section 13.7.

6. Standards and Specifications For Municipality's Attachments, Overlashings and Facilities.

- 6.1. **Technical Standards.** Municipality's Attachments, Overlashings and Facilities must be placed, maintained, relocated or removed in accordance with the requirements and specifications of Law, the current editions of the Telcordia Blue Book – Manual of Construction Procedures, the National Electrical Code (NEC), the National Electrical Safety Code (NESC), the rules and regulations of the Occupational Safety and Health Act (OSHA), the Environmental Protection Agency (EPA), PURA and the Department of Energy and Environmental Protection (DEEP), any town ordinances, and the rules and regulations of any other governing authority having jurisdiction. Municipality's activities and Municipality's Attachments, Overlashings and Facilities must also comply with Frontier's standards, policies, practices and procedures governing pole attachments, including Frontier's safety, reliability, construction and engineering requirements, as may be updated from time-to-time which are included by reference in this Section 6.1 and which will be applied on a non-discriminatory basis. Where a difference in specifications may exist, the more stringent will apply. Municipality's Attachments, Overlashings and Facilities must not physically, electronically, inductively, or otherwise interfere with the facilities of Frontier, Other Owners and Other Licensees. Municipality must always maintain a twelve (12) inch (30.48 cm)

separation from any existing communications facilities, except for Overlashing performed in accordance with the terms of this Agreement.

6.2. Additional Standards.

- 6.2.1. **Damage to Facilities.** Municipality must exercise all necessary precautions to avoid damage to facilities of Frontier, Other Owner, Other Licensees and of others occupying space on the Poles, and assumes all responsibility for any and all loss from damage caused by Municipality. Municipality must make an immediate report to Frontier of the occurrence of any damage and, within 60 days of Municipality's receipt of a request for reimbursement, Municipality must reimburse Frontier, Other Owners or Other Licensees, as applicable, for any damage caused by Municipality.
- 6.2.2. **Attachment Changes or Additions.** Except in an emergency, Municipality must not at any time make any additions to, or changes in, the location of its Attachments, Overlashings or Facilities covered by this Agreement without prior written or ENS consent from the SPA and Frontier. Where additions or changes are made without prior written or ENS consent and consent is required by this Agreement, permission must be subsequently requested and confirmed via writing or ENS.
- 6.2.3. **Labels.** Municipality must place a color coded (as determined by Frontier) label designating its ownership of any Facilities at each Pole. Such label must be recognizable by Frontier from ground level. For all Facilities attached or installed by Municipality after the Effective Date, Municipality must place the labels at the time each attachment or installation is made. For any facilities installed by Municipality before the Effective Date under a former agreement with Frontier or any Other Owner, Municipality must place the labels in Municipality's ordinary course of work on Poles containing installations.

6.3. Pre-Construction Surveys and Make-Ready Work.

- 6.3.1. **Pre-Construction Survey.** A Pre-Construction Survey will be required for each Pole for which attachment is requested to determine the adequacy of the Pole to accommodate Municipality's Facilities, except that a Pre-Construction Survey is not required for Overlashing that complies with Approved Overlashing Techniques. A field inspection will be performed by the SPA and Frontier representatives with optional participation by Other Owner(s), Other Licensees and Municipality. Frontier will use commercially reasonable efforts to provide advance notice to allow the optional participation.
- 6.3.2. **Make-Ready.** If Frontier determines that a Pole to which Municipality desires to make attachments likely cannot accommodate or needs rearrangement of the existing facilities to accommodate Municipality's proposed Attachment, Overlashing or Facility, the SPA will notify Municipality via ENS of the cost of the required Make-Ready Work. Charges for Make-Ready Work are specified in Section 13.8. Any costs directly related to the construction and installation of the new Pole and the removal and disposal of the prior Pole will be considered Make-Ready Work charges. However, if Pole replacement is necessary to

accommodate Municipality's proposed Attachment, Overlashing or Facilities to a Pole, Municipality must not be charged for the Make-Ready cost associated with such Pole replacement if each of the following three conditions exist: (a) Frontier owns the Pole or is Custodian of the Pole, (b) the Pole onto which Municipality wants to attach its Attachment, Overlashing or Facilities was installed by Frontier after October 1, 1994 (which is the effective date of an amendment to Conn. Gen. Stat. Section 16-233 that provided Municipality with access to one 12-inch gain on a Pole), and (c) when such Pole was installed by Frontier after October 1, 1994 one 12-inch gain space on the Pole was not reserved for Municipality.

- 6.3.3. **Attachment Point.** Frontier must specify the point of attachment on each Pole to be occupied by Municipality's Attachments and Facilities and the SPA will communicate that attachment point to Municipality. Where Municipality and any other third party seek multiple Attachments and Facilities, Frontier will attempt, to the extent practical, to designate the same relative position on each Pole for each of Municipality's Attachments and Facilities.
- 6.3.4. **Municipality Acceptance and Payment.** Municipality will have forty-five (45) days from the receipt of notice via ENS from the SPA of the costs of Make-Ready Work to accept and pay all Make-Ready Work costs. However, if the SPA receives a request from an Other Licensees for an authorization to attach to a Pole for which notice via ENS of Make-Ready Work costs has been sent to Municipality, then Municipality must accept the Make-Ready Work cost within fifteen (15) days (a) after receipt of notification from the SPA of the other attachment request, or (b) by the end of the forty-five (45) day period, whichever is shorter.
- 6.3.5. **Completing Make-Ready Work.** In accordance with the Make-Ready Decision, Frontier will have forty-five (45) days from (a) the SPA's receipt of full payment of the charges for Make-Ready Work, and (b) Municipality's satisfaction of the applicable provisions in this Agreement to complete Frontier's Make-Ready Work. If any Other Owner or any third party must perform Make-Ready Work to accommodate Municipality's proposed Pole Attachment, the SPA will use commercially reasonable efforts to coordinate Frontier's Make-Ready Work with the Make-Ready Work of the other entities so that those entities have sufficient time within the 45-day period to perform their respective Make-Ready Work. Frontier will not be responsible for any delays in the performance of Frontier's Make-Ready Work if the delays are attributable to the failure of any Other Owner or any third party to timely perform shift or perform Make-Ready Work on the facilities of the Other Owner or third party. The Make-Ready Decision extends the 45-day period by an additional thirty-five (35) days if any Pole replacement is required for Municipality's proposed Pole Attachment. The Make-Ready Decision also extends the total 90-day time interval (or 125 days with pole replacement) for "special situations" (e.g., inclement weather and emergency situations).
- 6.3.6. **Modifications.** If Frontier or Other Owner requires modifications to its facilities including but not limited to the replacement of a Pole, and if the modifications are necessary or appropriate for Frontier's or Other Owner's utility-related purposes, and if the modifications would not be necessary except for Municipality's Attachment or Facilities, the modifications will be additional Make-Ready Work,

and Municipality must pay the costs for such additional Make-Ready Work as specified in Section 13.8. However, Municipality must not be charged for the additional Make-Ready cost associated with a Pole replacement if the three conditions in Section 6.3.2 exist.

- 6.3.7. **Other Licensees Attachments.** Upon notice from the SPA, Municipality must promptly perform (within the time period specified by the SPA) any make-ready work necessary on Municipality's Attachments, Overlashings or Facilities to Accommodate an Other Licensee's attachment to a Pole. Municipality may send an invoice to and collect from each Other Licensee payment for the costs incurred by Municipality to perform the make-ready work. If Municipality fails to perform the make-ready work within the time period specified by the SPA, Frontier will have (a) the right to assess the Non-Conforming Charge in accordance with Section 13.10, or (b) the right, but not the obligation, to perform the make-ready work and charge Other Licensee the cost of performing the work. Municipality is entitled to enter into separate agreements in which Municipality may authorize the Other Owners, Owner, Other Licensees or third parties to perform the make-ready work on Municipality's behalf.
- 6.3.8. **Traffic Control.** Municipality must reimburse Frontier for all traffic control costs incurred by Frontier to accommodate Municipality's Facilities, Overlashing or Make-Ready Work to Poles. When traffic control is necessary for Municipality to perform its make-ready work to accommodate attachments from Other Licensees to Poles, Municipality must arrange for the traffic control and is entitled to send an invoice to and collect from the Other Licensees payment for the costs.
- 6.3.9. **Modification Notice.** Municipality must notify the SPA via ENS (or Exhibit C) before adding to, relocating, adjusting or otherwise modifying its Attachments, Overlashings or Facilities on a Pole. The notice process for Overlashing is governed by Section 5.1.
- 6.3.10. **Tree Trimming.** All tree trimming and vegetation management made necessary by Municipality's proposed Attachments, Overlashings or Facilities will be performed by Municipality or its contractors at Municipality's sole cost and expense. All tree trimming and vegetation management done on a maintenance basis will be the Custodian's responsibility. Cost incurred by the Custodian for tree trimming and vegetation management associated with emergency and storm conditions will be shared fully among all parties on a Pole, including Municipality.
- 6.3.11. **Reimbursable Costs.** All costs incurred by Frontier to accommodate Municipality's proposed Attachments, Overlashings or Facilities to Poles must be reimbursed by Municipality to the SPA within 45 days of request. Such costs will include but are not limited to (a) costs directly related to the purchase, construction, removal or environmental disposal of Poles, and (b) costs incurred in complying with Law or town ordinances, decisions, directions, permitting requirements or ordinances of the EPA, DEEP, PURA or other governmental body having jurisdiction. However, Municipality must not be charged for costs associated with a Pole replacement if the three conditions in Section 6.3.2 exist.

6.4. **Inspections of Municipality's Facilities.** Municipality must notify the SPA via ENS within five (5) days of the date of attachment of Municipality's Attachments or Facilities to Poles. Frontier and Municipality reserve the right to make Post-Construction and Periodic Inspections of any part or all of Municipality's Facilities, Overlashings or Attachments attached to a Pole. The making of Post-Construction or Periodic Inspections or the failure to do so must not operate to relieve Municipality of any responsibility, obligation or liability specified in this Agreement.

6.4.1. **Costs.** The costs of inspection made during construction and the initial Post-Construction Inspection are included in the Make-Ready Work charges. Municipality is responsible for the costs of any inspection found necessary due to the existence of substandard construction, non-conforming conditions or unauthorized Attachments, Overlashings or Facilities (including the cost of any Periodic Inspection during which substandard construction, non-conforming conditions or unauthorized Attachments are discovered). Costs attributable to such inspections will be charged to the entity responsible for the substandard construction, unauthorized Attachments, Overlashings or Facilities, or non-conforming condition in addition to Unauthorized Attachment Charges or Non-Conforming Charges. If a Periodic Inspection does not discover any substandard construction, non-conforming or unauthorized Attachments by Municipality, Municipality will not be responsible for the cost of such Periodic Inspection..

6.5. Non-Conforming Conditions.

6.5.1. **Non-Conforming.** Any Attachment, Overlashing or Facility of Municipality that does not comply with the requirements of Section 6.1 (Technical Standards) and any Overlashing that does not meet the requirements of Section 5.1 (Overlashing) will be deemed "non-conforming." Subject to the good faith dispute provision in Section 12.3, Municipality must correct any non-conforming condition within thirty (30) days of the date of notice from Frontier via ENS. Municipality must perform correction itself or designate an Other Licensees or agent designated by Municipality to perform the correction, but any such designation must not relieve Municipality of its obligations under this Section 6.5.1.

6.5.2. **Material.** If Frontier determines (in its discretion) that the non-conforming condition (a) constitutes a material threat to the public safety or the safety of Frontier's employees, Other Owner's employees or Other Licensees, (b) interferes with the performance of Frontier's or Other Owner's service obligations, (c) poses an immediate threat to the physical integrity of the Pole plant, or (d) must be corrected sooner than thirty (30) days per Law, including the Make-Ready Decision, then

6.5.2.1. Municipality must remedy each non-conforming condition within any accelerated time period specified by Frontier, or

6.5.2.2. Frontier may perform the work or take any action that Frontier deems necessary upon notice when practicable to Municipality and without any liability to Municipality or its customers, other than for Frontier's willful misconduct or gross negligence. If prior notice is not practicable,

Frontier must notify Municipality as soon as reasonably practicable after taking any action. Municipality must bear the cost of the work or action.

- 6.5.3. **Non-Material.** If any non-conforming condition is deemed by Frontier (in its discretion) not to be “material,” Municipality will have a total of 180 days to correct the non-conformance.
- 6.5.4. **Failure to Correct.** Subject to the good faith dispute provision in Section 12.3, if Municipality fails to correct any non-conforming condition within the applicable time period, (a) Municipality’s authorization to attach its Attachment, Overlashing or Facility to the Poles in question will be immediately revoked, regardless of whether Municipality has activated those Attachments, Overlashings or Facilities, and Municipality must remove those Attachments, Overlashings or Facilities from the Poles in accordance with Article 11, (Revocation of Authorizations), or (b) Frontier will have the right, but not the obligation, to correct the condition and Municipality must pay Frontier the cost of performing the work.
- 6.5.5. **Charge.** Subject to the good faith dispute provision in Section 12.3, Municipality must pay to Frontier the Non-Conforming Charge in Section 13.10 for each Attachment, Overlashing and Facility for each day beyond the applicable time period described in Sections 6.5.1, 6.5.2, or 6.5.3 that the non-conforming condition remains uncorrected subject to the then-current cap established by PURA. However, Municipality must not be charged for a Non-Conforming Charge if the three conditions in Section 6.3.2 exist.

7. Unauthorized Attachments.

- 7.1. **Unauthorized.** The following will be considered an unauthorized Attachment, Overlash or Facility:
 - 7.1.1. Attachment of any Appurtenance, Attachment or Facility to a Pole without prior written or ENS authorization from the SPA and Frontier;
 - 7.1.2. Overlashing performed without fourteen (14) days prior notice to the SPA;
 - 7.1.3. Overlashing performed after the Effective Date without complying with the requirements of this Agreement, including but not limited to compliance with Approved Overlashing Techniques or the vertical space or footprint reserved for Municipality’s original Attachment;
 - 7.1.4. Overlashing of a third party to Municipality’s Attachment;
 - 7.1.5. Assigning or transferring any authorization granted under this Agreement without Frontier’s prior consent; or
 - 7.1.6. Any Attachment or Overlashing on a Pole that is not limited to the signal wires constructed for Municipality’s internal purposes or is not a Private Telecommunications Service.

- 7.2. **Charge.** Without prejudice to its other rights or remedies under this Agreement (including revocation of authorizations or otherwise), Frontier is entitled to charge an Unauthorized Attachment Charge per Pole for each unauthorized Attachment, Overlash or Facility. Frontier will send Municipality notice via ENS of any unauthorized Attachment, Overlashing or Facility. Municipality must submit to Frontier via ENS a Pole Attachment application for all unauthorized Attachments, Overlashings or Facilities. If an application is not received by Frontier within forty five (45) days after Municipality's receipt of notice of the unauthorized Attachment, Overlash or Facility, Frontier is entitled to remove each unauthorized Attachment, Overlashing or Facility unless removal will cause an immediate and bona fide risk to public safety.
- 7.3. **No Waiver.** Any act or failure to act by Frontier with regard to any unauthorized Attachment, Overlash or Facility must not be deemed as the authorization of the unauthorized Attachment, Overlash or Facility. If any authorization is subsequently issued, that authorization will not operate retroactively or constitute a waiver by Frontier of any of its rights or privileges under this Agreement or otherwise. Municipality will be subject to all liabilities, obligations and responsibilities of this Agreement for the unauthorized Attachment, Overlash or Facility.

8. Rearrangements and Shifting.

- 8.1. **Frontier Work.** Frontier may perform all rearrangements and shifting of Municipality's Attachments, Overlashings or Facilities in emergency or storm restoration conditions, vehicular accidents, threats to general public, acts of God or any similar events, public work projects, to comply with Law, to accommodate Frontier, Other Owners, or Other Licensees, and during normal Pole moves, maintenance, and replacements. For any damage to Municipality's Attachments, Overlashings or Facilities caused by Frontier during or arising out of any of the situations identified in this Section 8.1, Frontier will not be liable for the damage unless it was caused by Frontier's gross negligence.
- 8.2. **Municipality Work.** Subject to the good faith dispute provision in Section 12.3, Frontier is entitled, but not obligated, to rearrange and reattach Municipality's Attachments, Overlashings or Facilities as needed under emergency conditions. If Frontier, in its sole determination, is unable to perform the rearrangement or shifting, in non-emergency conditions for reasons including but not limited to technical concerns or risk of damage or interference with Municipality's Attachments, Overlashings or Facilities, Frontier will notify Municipality via ENS. Municipality must (a) perform any rearrangement or shifting within the time period specified by Frontier and notify Frontier of completion of the rearrangement or shifting, or (b) authorize an Other Licensee or agent designated by Municipality to perform the rearrangement or shifting (but any designation of an Other Licensee or such agent to perform the work must not relieve Municipality of its obligations under this Section 8.2). If Municipality fails to (a) perform the rearrangement or shifting, and (b) notify Frontier of completion within the time specified by Frontier, the Non-Conforming Charge will apply on a per day and per Pole basis for each rearrangement or shift location until Municipality notifies Frontier via ENS that the work has been completed.
- 8.3. **Costs.** For rearrangements and shifting performed by Frontier on behalf of Municipality, Municipality must bear the costs specified in Sections 6.3.8 and 13.8, except that Municipality must not be charged for rearrangement or shifting costs if the

three conditions in Section 6.3.2 exist. For rearrangements and shifting performed by Municipality, Municipality must pay the costs, including the cost of traffic control.

9. Insurance.

- 9.1. Municipality must carry insurance policies issued by an insurance carrier licensed to operate in the State of Connecticut or an interlocal risk management agency, from and against any and all claims, demands, actions, judgments, costs, and expenses, including attorney's fees, and liabilities which may arise or result, directly or indirectly, from or by reason of any loss, injury or damage for the amounts specified as follows:
 - 9.1.1. Against liability due to injury or to death of persons must be not less than \$2,000,000.00 as to any one person and \$2,000,000.00 as to any one occurrence, and
 - 9.1.2. Against liability due to damage to property must be not less than \$2,000,000.00 as to any once occurrence.
- 9.2. Municipality must carry Commercial Automobile Liability covering all owned, non-owned and hired vehicles with limits of at least \$2,000,000 combined single limit each accident for bodily injury and property damage, Excess Liability with limits of at least \$5,000,000, and Employer's Liability Insurance with limits of not less than \$1,000,000 each employee/disease/policy limit. Any of the limits in this Section 9.2, may be satisfied through a combination of primary liability and umbrella or excess liabilities policies.
- 9.3. Municipality must carry insurance to protect Municipality from all claims under any applicable Worker's Compensation Law.
- 9.4. Frontier, its corporate parent and each of its officers, directors, employees and attorneys must be named as additional insureds on all policies of insurance, except for Workmen's Compensation insurance.
- 9.5. All insurance must be effective before Frontier will issue authorizations for attachment of Municipality's Attachments, Overlashings and Facilities to any Pole, and must remain in force as long as Municipality's Attachments, Overlashings and Facilities remain attached to any Pole. If Municipality fails to maintain the required insurance coverage, Frontier may pay any premiums falling due, and Municipality must reimburse Frontier for these payments.
- 9.6. When Municipality submits its payment to Frontier for annual rental charges, or if no annual rent applies when annual rent payment would have been made, Municipality must submit to Frontier certificate(s) by each company insuring Municipality for all liabilities of Municipality under this Agreement. Municipality's insurance policies must provide that the insurer will endeavor to provide Frontier and Other Owner with ten (10) days prior written notice of the cancellation or amendment of the insurance policy. Also, Municipality must provide (10) days prior written notice of the cancellation or amendment of the insurance policy.

- 9.7. Municipality must promptly advise Frontier of all claims relating to damage to property or injury to or death of person, arising or alleged to have arisen in any manner, directly or indirectly, by the erection, maintenance, repair, replacement, presence, use or removal of Municipality's Facilities on Poles by Municipality or its assigns, agents or employees. Municipality must promptly sent to Frontier a copy of all accident reports and statements related to any claims made to the insurer by Municipality or others.
- 9.8. Municipality is entitled to satisfy all or any portion of the insurance requirements in this Article 9 through a valid self-insurance program, as long as Municipality provides Frontier with written proof of the self-insurance and the self-insurance complies with the requirements of this Article 9.

10. Liability and Damages.

- 10.1. Any and all claims, demands, causes of action and costs of one Party, for any damages to property or persons which arise out of (i) the other Party's default or breach of this Agreement, (ii) the other Party's use of one or more Poles, or (iii) the acts or omissions of the other Party, its agents, contractors, or employees stemming from or otherwise caused by the use of the one or more Poles, will be resolved in accordance with Connecticut law.
- 10.2. Municipality must not assert any defense based on sovereign immunity or governmental immunity to any claim by Frontier to enforce or interpret any of Municipality's contractual obligations in this Agreement. This Section 10.2 must not be construed to afford Frontier with any remedies not otherwise contemplated expressly in this Article 10 such as indemnity or contribution with respect to claims brought against Frontier by third parties. This Section 10.2 must not constitute a waiver of any municipality's right to invoke sovereign or governmental immunity with regard to claims by any third party plaintiff against a municipality for a municipality's failure to correct material safety concerns.
- 10.3. If Frontier removes Municipality's Facilities from a Pole under Article 11 (Revocation of Authorizations), Frontier will deliver to Municipality the Facilities so removed upon Municipality's payment of the cost of removal, storage and delivery, and all other amounts due Frontier.

11. Revocation of Authorizations and Termination of Agreement.

- 11.1. **Revocation Situations.** Subject to the good faith dispute provision in Section 12.3, Frontier is entitled to revoke one or more specific authorizations for the attachment of Attachment, Overlashing or Facility previously granted to Municipality (but is not entitled to terminate this Agreement) where:
 - 11.1.1. Municipality's Attachment, Overlashing or Facility is maintained or used in violation of any Law, regulation or in aid of any unlawful act or undertaking; or
 - 11.1.2. Municipality ceases to have authority to construct and operate its Attachment, Overlashing or Facility on public or private property at the location of the particular Pole covered by the authorization; or

- 11.1.3. Municipality fails to comply with any of the terms and conditions of this Agreement or defaults in any of its obligations under this Agreement and the applicable cure period, if any, has expired; or
 - 11.1.4. Municipality attaches to a Pole without having first been issued authorization or Overlashes without providing the required notice; or
 - 11.1.5. Municipality, subject to the provisions specified in Section 14.5 (Assignment of Rights), ceases to provide its services; or
 - 11.1.6. Municipality's Attachment, Overlashing or Facility are used by a non-municipal entity that is not a party to this Agreement and has not been authorized by Frontier as specified in Section 14.5 (Assignment of Rights); or
 - 11.1.7. Municipality sublicenses or apportions part of an Attachment, Overlashing, or Facility to a non-municipal entity that is not a party to this Agreement or permits another non-municipal entity to Overlash to Municipality's Attachment, Overlashing or Facility.
- 11.2. **Correction.** The Custodian will promptly notify Municipality via ENS of any instance cited in Section 11.1 (Revocation Situations), upon the Custodian's determination of any instance. Municipality must take corrective action as necessary to eliminate the non-compliance identified in Section 11.1 and must confirm via ENS to Frontier within thirty (30) days following the notice that the non-compliance has ceased or been corrected. If Municipality fails to discontinue or correct the non-compliance and fails to give the required ENS confirmation to Frontier within the thirty (30) days, in addition to any other rights of Frontier under this Agreement, Frontier may either (a) revoke the authorization granted under this Agreement for Poles as to which the non-compliance continues to occur, or (b) cure Municipality's non-compliance. If Frontier cures Municipality's non-compliance, Municipality must reimburse Frontier (within 45 days of Frontier's request for reimbursement) for all costs incurred by Frontier to cure Municipality's non-compliance, and Municipality will indemnify Frontier from any damage caused to Municipality's Attachment, Overlashing or Facility or other property resulting from Frontier's curative actions except that this indemnification will not extend to any damage directly resulting from Frontier's willful misconduct or gross negligence.
- 11.3. **Termination.** Subject to the good faith dispute provision in Section 12.3, Frontier may terminate this entire Agreement and all authorizations and rights granted under this Agreement if:
- 11.3.1. Municipality's insurance carrier at any time notifies Frontier that an insurance policy required in Article 9 (Insurance) will be or has been canceled or amended so that those requirements will no longer be satisfied, and Municipality fails to correct this non-compliance within thirty (30) days of its receipt of notice from Frontier.
 - 11.3.2. Municipality fails to pay any sum due or to deposit any sum required under this Agreement, and Municipality fails to correct this non-compliance within thirty (30) days of its receipt of notice from Frontier.

11.3.3. Any authorization required by any Law, governmental or private authority for the construction, operation and maintenance of Municipality's Attachment, Overlashing or Facility on a Pole is denied, revoked, or canceled, and Municipality fails to remedy this non-compliance (or Municipality fails to file an appeal, request for reconsideration or request for another appropriate remedy with the appropriate governmental entity within forty-five (45) days of its receipt of notice from Frontier).

11.3.4. Upon notice from Frontier to Municipality that the use of any Pole is forbidden by Law or federal or state authorities, permission to attach to the Pole will be immediately revoked and Municipality must remove its Attachment, Overlashing or Facility at once from any affected Pole.

11.4. **Exception.** Any termination of this entire Agreement or all authorizations and rights granted under this Agreement by Frontier will not waive, release or impair Municipality's rights under Connecticut General Statute Section 16-233.

11.5. **Removal.** Municipality may at any time remove its Attachment, Overlashing or Facility from a Pole after first giving Frontier notice via ENS (or Exhibit C) of Municipality's intention to so remove and identifying each Pole affected by Municipality's removal request.

11.6. **Removal After Termination.** If Municipality fails to timely remove its Attachment, Overlashing or Facility in accordance with this Agreement, and if that matter is not the subject of a then-pending dispute resolution process, Frontier is entitled to but not obligated, to remove the Attachment, Overlashing or Facility at Municipality's expense.

11.7. **New Attachments.** When Municipality's Attachment, Overlashing or Facility is removed from a Pole, a new Attachment or Overlashing to the same Pole must not be made until Municipality has first complied with all of the provisions of this Agreement as though no prior Attachment or Overlashing had been previously made.

12. **Dispute Resolution.**

12.1. **Executive Negotiations.** The Parties will attempt in good faith to promptly resolve any dispute arising out of or relating to this Agreement, with negotiation between executives who have authority to settle the dispute and are at a higher level of management than the persons with direct responsibility to administer this Agreement. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business. The notice will include: (a) a statement of that Party's position and a summary of arguments supporting that position; and (b) the name and title of the executive who will represent that Party and of any other person who will accompany the executive. Within fifteen (15) days after delivery of the notice, the receiving Party will respond with: (i) a statement of that Party's position and a summary of arguments supporting that position; and (ii) the name and title of the executive who will represent that Party and of any other person who will accompany the executive. Within thirty (30) days after delivery of the initial notice, both Parties' executives will meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one Party to the other will be honored except when prohibited

by Law. All negotiations under this paragraph are confidential and will be treated as compromise and settlement negotiations for purposes of Law and rules of evidence.

12.2. **PURA/Other.** If the dispute is not resolved by negotiation within forty-five (45) days after the disputing Party's notice, the Parties failed to meet within thirty (30) days, or the Parties reach impasse, the Parties may, subject to mutual agreement, either (a) submit the dispute for resolution by the PURA mediation process, or (b) seek other non-binding mediation and / or arbitration. If the parties are not able to agree on such process for further resolution efforts within ninety (90) days, , either Party may seek relief from a court of competent jurisdiction.

12.3. **Good Faith Disputes.** Frontier must not revoke any authorization to Municipality for any existing Attachment, Overlashing or Facility which is the subject of an ongoing good faith dispute under the dispute resolution process in Sections 12.1 or 12.2. Despite any pending dispute under Sections 12.1 or 12.2, Municipality must timely shift its Facilities or perform Make-Ready Work when such shifting or Make-Ready Work is necessary to (a) facilitate the attachment to one or more Poles by a third party pole attacher in accordance with Law, including the Make Ready Decision, or (b) allow maintenance, construction or other work to be performed by Frontier, Other Owners or Other Licensees.

13. Rates and Charges.

13.1. **General.** Municipality must pay all rates and charges specified in this Agreement and as set forth below. Municipality must pay the Application Fee and all charges for Make-Ready Work, in advance for work performed or expenses incurred by Frontier regardless of whether Municipality subsequently withdraws its application for Attachment authorizations for the Poles on which the work was performed.

13.2. **Interest.** If Municipality fails to pay an amount due and payable within the period of time set forth for payment in this Agreement, interest will accrue on the unpaid balance at the lesser of: (a) the rate of 1 ½% per month for each month from the expiration of such period until Frontier receives payment, or (b) the maximum interest rate permitted by Law.

13.3. **Agreement Establishment Fee.** Municipality must pay the Agreement Establishment Fee specified in Exhibit E upon the execution of this Agreement. The SPA will be under no obligation to process Pole attachment applications before receipt of this fee.

13.4. **Application Fee.** Municipality must include the Application Fee with each application submitted to the SPA. The Application Fee includes Frontier's provision of engineering and Pre-Construction Survey. The Application Fee is comprised of two rate elements: a non-recurring charge per application and a per Pole charge. Frontier will be under no obligation to accept any application without the Application Fee specified in Exhibit E.

13.5. **Pole Attachment License Fee.** Municipality is entitled to occupy and use "one gain upon each public utility pole" within its Municipal limits with no license fee (\$0 for an Attachment and \$0 for any Overlash within that Attachment). PURA's Decision on May 17, 2000 in Docket No. 99-03-25RE01 determined that the municipal gain is the space designated for multiple wires within an attachment on a utility pole positioned in

accordance with applicable safety standards in the communications gain, typically positioned at the top of communication lines. In that Decision, PURA stated that “limiting the gain to multiple wires within an attachment through overlashing should adequately accommodate the municipalities’ needs while minimizing the burden of the utility pole spaces.” For any additional occupancy or use of a Pole by Municipality because of the need to adhere to applicable safety standards or otherwise, Municipality must pay Frontier the:

13.5.1. **Pole Attachment License Fee** specified in Exhibit E for each additional Attachment,

13.5.2. **Overlash Fee** specified in Exhibit E for each Overlash to that additional Attachment, and

13.5.3. **Overlash Fee** specified in Exhibit E for each Overlash to an Attachment owned, leased, or controlled by any entity which is not a Connecticut municipality.

13.6. **License Fee Billing.** The Pole Attachment License Fee and Overlash Fee will apply until Municipality submits a notice of removal of the additional occupancy or use. Any Pole Attachment License Fee Municipality must pay under Section 13.5 will be billed annually in advance on a calendar-year basis (January 1 to the succeeding December 31) for the number of such Poles as of December 31 of the preceding calendar year. Frontier will prorate on a monthly basis for removals or new Attachments made on additional occupancy or use with rent starting at the license release date and stopping at removal notice.

13.7. **Unauthorized Attachment Charge.** The Unauthorized Attachment Charge specified in Exhibit E will be charged on a per Pole basis for any unauthorized Attachment, Overlashing or Facility specified in Section 7.1. Municipality’s total Unauthorized Attachment Charge for an individual Attachment, Overlashing or Facility attached to a Pole must not exceed any cap established by PURA or under Law.

13.8. **Charges for Make-Ready Work, Rearrangement, Shifting, Post-Construction Inspection and Periodic Inspection.** Frontier will bill Make-Ready Work charges specified in Exhibit E. Municipality must pay Make-Ready Work charges before the commencement of work on individual Poles. Make-Ready Work Charges for proposed Attachments will include Frontier’s cost for Post-Construction Inspections. Frontier will separately invoice Municipality for Frontier’s incurred costs for Post-Construction Inspections for Overlashing, Rearrangement, Shifting, and for Periodic Inspections according to Exhibit E.

13.9. **Bill Detail.** Bills must include sufficient detail of the fees and charges.

13.10. **Non-Conforming Charge.** The Non-Conforming Charge specified in Exhibit E will be charged on a per day and per Pole basis for (a) any Attachment, Overlashing or Facility of Municipality with a non-conforming condition under Sections 6.5.1, 6.5.2, or 6.5.3 not brought into conformance within the applicable time period identified in those Sections, (b) any failure by Municipality to timely perform rearrangements or shifting specified in Section 8.2., or (c) any failure by Municipality to timely shift or perform

Make-Ready Work specified in Section 6.3.7 to accommodate a request to attach to a Pole by any third party in accordance with the Make-Ready Work and pole shifting time periods in Law, including in the Make-Ready Decision. Municipality's total Non-Conforming Charge for an individual Attachment or Overlashing to a Pole must not exceed any then-current cap established by PURA or Law.

- 13.11. **Payment of Rates and Charges.** Unless otherwise provided in this Agreement, Municipality must pay all rates and charges specified in this Agreement, within forty-five (45) days from the billing date. If Municipality disputes any amount invoiced by Frontier, Municipality must pay the invoice in full. Within ninety (90) days after making that payment, Municipality must notify Frontier in writing of the disputed amount and must include any documentation supporting its position. The Parties will work together to resolve the dispute in an expeditious manner. If the dispute is resolved in one Party's favor, the other Party will pay interest calculated at the rate in Section 13.2.
- 13.12. **Amounts Due Other Owners.** Any references in this Agreement to payment, compensation, or reimbursement due to an Other Owner are separate from the rates and charges in this Article 13 and Exhibit E, and will remain payable by Municipality regardless of the rates and charges in this Agreement.
- 13.13. **Other Charges.** Except as otherwise provided in this Agreement, Municipality will pay, as additional charges under this Agreement, all the costs incurred by Frontier (a) in connection with any work performed by Frontier to provide or maintain space on any Pole for Municipality's Attachment, Overlashing or Facility, and (b) any other costs incurred by Frontier arising out of this Agreement.
- 13.14. **Amendment of Rates and Charges.** Frontier is entitled to amend the rates and charges in this Agreement, including but not limited to those rates and charges in this Article 13 and in Exhibit E, using either of two approaches:
- 13.14.1. If Frontier determines that it is unnecessary to obtain approval from any governmental authority, including PURA, to amend the rates or charges, Frontier is entitled to amend the rates or charges with thirty (30) days prior written notice to Municipality, and each amended rate or charge will automatically take effect upon the 30th day after Municipality receives such notice; or
- 13.14.2. If Frontier determines that it is necessary to obtain approval from any governmental authority, including PURA, to amend the rates or charges, the rates or charges will take effect on the date that the appropriate governmental authority has approved Frontier's request to amend the rates or charges. For any conflict between the terms of this Section 13.14.2 and the other Sections or Exhibits in this Agreement, the terms of this Section 13.14.2 will control.

14. General Terms and Conditions.

14.1. Compliance with Law.

- 14.1.1. Municipality and Frontier will comply with this Agreement and Law which in any manner affects the rights and obligations of the Parties. Any Law will

automatically supersede any conflicting provision in this Agreement. For any conflict between the terms of this Agreement and Connecticut General Statute 16-233, the latter will control. Municipality's execution of this Agreement will not constitute a waiver or release of Municipality's rights under Connecticut General Statute 16-233. If any term of this Agreement is determined by a court or other entity with competent jurisdiction to be unenforceable, all other terms of this Agreement will remain in full force and effect.

- 14.1.2. Each Party will comply with the Fair Labor Standards Act of 1938, as amended, and the Federal Occupational Safety and Health Act of 1970, as amended, and with any rules and regulation under these Acts as well as other Law.
- 14.1.3. Municipality must obtain from the appropriate authority any required authorizations to operate or maintain its Attachment, Overlashing or Facility on public or private property before it attaches, rearranges, or removes any Attachment, Overlashing or Facility to any Pole. Municipality must supply to such authorities any information pertaining to their installation as is legally required.
- 14.2. **Rights in Poles.** Any use of a Pole or payment of any fee or charge required under this Agreement will not create or vest in Municipality any ownership or property right in that Pole. Frontier acknowledges that Connecticut General Statute Section 16-233 and the May 17, 2000 PURA decision in Docket No. 99-03-25RE01 provide Municipality with the right to attach Facilities to "one gain upon each public utility pole" within its Municipal limits. Frontier and Other Owners, as applicable, are and will remain the owners of all Poles, Anchors and Guy Strands covered by this Agreement.
- 14.3. **Other Agreements.** Nothing in this Agreement will be construed as a limitation, restriction, or prohibition against Frontier with respect to any agreement or arrangement which Frontier has entered into, or may in the future enter into, with others not covered by this Agreement, except that authorizations for Attachments existing at the time of these future agreements or arrangements must not be diminished.
- 14.4. **Grant Not Exclusive.** Nothing in this Agreement will be construed as a grant of any exclusive agreement to Municipality. Frontier is entitled to grant, renew and extend rights and privileges to others not parties to this Agreement, by contract or otherwise, to use any Poles covered by this Agreement.
- 14.5. **Assignment of Rights.** Municipality must not assign or transfer any authorization granted under this Agreement without the prior written consent of Frontier and any such attempted assignment or transfer will not inure to the benefit of Municipality's successors or assigns. If Frontier grants consent, this Agreement will apply to and bind the Municipality's successors and assigns. Municipality must not sub-license any of its rights under this Agreement to any third party.
- 14.6. **Waiver.** Failure to (a) enforce or insist on compliance with any term or condition of this Agreement, (b) give notice or declare this Agreement to be in breach, to be in default, or to be terminated, or (c) declare any authorization granted under this Agreement to

be revoked will not constitute a waiver or relinquishment of any such term, condition or act but the same will be and remain at all times in full force and effect.

14.7. **Termination Notice.** Unless previously terminated under its terms, this Agreement will continue in effect until six (6) months after written notice of termination for convenience is given by either Party to the other Party. Termination of this Agreement by either Party will not waive, release or impair (a) the contractual obligations of each Party that arose or accrued under this Agreement before the termination, or (b) Municipality's rights under Connecticut General Statute Sec. 16-233.

14.8. **Entire Agreement.** This Agreement supersedes all previous agreements between the Parties for maintenance and placement of Attachment, Overlashing or Facility by Municipality and constitutes the entire agreement between the Parties with respect to its specific subject matter. This Agreement may not be modified or amended nor may any obligation of either Party be changed or discharged except in writing signed by the duly authorized officer or agent of the Party to be charged, except to the extent that this Agreement is automatically amended by Law as described in Section 14.1.1. Effective licenses, if any, issued under previous agreements with Frontier will remain in effect.

14.9. **Counterparts and Copies.** This Agreement may be executed in counterparts. A photocopy or facsimile copy of the signature page will be deemed to be an original.

14.10. **Notices.** Any notice to be given to either Party under this Agreement will be sent by (a) certified mail, return receipt requested and this notice will be effective immediately upon being deposited in the United States mail, (b) overnight mail via a nationally recognized courier service (i.e. UPS or Federal Express) and this notice will be effective upon delivery by the overnight courier, or (c) facsimile with a confirmation and this notice shall be effective upon facsimile confirmation. All notices must be addressed to:

Municipality: _____

with a copy to:

Frontier: Eric Clark
Frontier Communications
1441 N. Colony Road
Meriden, CT 06450
Fax: 1-203-237-8902

with copy to:

Centralized Joint Use Team
Frontier Communications
8001 West Jefferson Blvd.
Fort Wayne, IN 46804
Fax: 1-260-461-8900

14.11. **Taxes.** If Frontier is assessed or charged any state or municipal tax (including any real property tax or personal property tax) attributable to the presence of Municipality's Attachment, Overlashing or Facilities on Poles, Municipality must promptly cause the applicable taxing authority to (a) exempt Frontier from the tax, or (b) re-issue an invoice for the tax directly to Municipality. Municipality is not responsible for any federal or state income tax imposed on Frontier resulting from the fees and charges paid by Municipality to Frontier under this Agreement.

14.12. **Governing Law.** This Agreement will be governed by, and interpreted according to, the law of the State of Connecticut.

14.13. **List of Exhibits.**

- Exhibit A: Application
- Exhibit B: Blank
- Exhibit C: Notification of Removal of Pole Attachment By Municipality
- Exhibit D: Blank
- Exhibit E: Rates and Charges
- Exhibit F: Diagrams of Certain Attachments
- Exhibit G: Overlashing Details

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

LICENSEE: _____

By: _____

Print Name: _____

Title: _____

Date: _____

FRONTIER: THE SOUTHERN NEW ENGLAND AND TELEPHONE COMPANY

By: _____

Print Name: _____

Title: _____

Date: _____