

COPY

MASTER POLE JOINT USE AGREEMENT

BETWEEN

CARIBBEAN UTILITIES COMPANY, LTD.

AND

INFINITY BROADBAND, LTD.

November 22, 2005

MASTER POLE JOINT USE AGREEMENT

This Master Pole Joint Use Agreement (the "Agreement") dated this 22 day of November, 2005 is made by and between Caribbean Utilities Company, Ltd. (hereinafter referred to as "Electric Utility"), and Infinity Broadband, Ltd. (hereinafter referred to as "Communications Utility").

Purpose

Both parties to the Agreement recognize that there are a number of advantages to sharing the distribution supporting structure for the attachment of each party's aerial cables and associated equipment. These advantages include a reduction in the burden placed upon public and private right-of-ways, lower costs for real property development and highway alterations, and a more favorable aesthetic impact. Additionally, both parties agree that, wherever possible, there is an overall cost saving to both parties by eliminating the placement, maintenance and operation costs due to the addition of a second pole line.

Nothing in this agreement is intended to reduce the rights that each party would retain if it maintained its own separate pole line.

MASTER AGREEMENT

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. Active Joint Use Pole: means a Pole that contains the Attachments of both parties as of the effective date of this Agreement.
- B. Affiliate: when used in relation to an Attaching Entity, means another entity that owns or controls, is owned or controlled by, or is under common ownership or control with such Attaching Entity.

- C. Annual Attachment Fee: means the annual amount charged by the Owner Utility to the Attaching Utility for each of the Attaching Utility's Attachments on the Owner Utility's Poles as set forth in Appendix A, Item 1. The Annual Attachment Fee may be updated annually in the manner described in Appendix A, Item 4.
- D. 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 the Electric Facilities and includes the most current versions of National Electric Safety Code ("NESC"), the National Electrical Code ("NEC"), each of which is incorporated by reference in this Agreement, and/or other reasonable safety and engineering requirements of a Utility or other authority with jurisdiction over the Facilities. In all instances of conflict between standards the stricter standard shall be applied unless specifically waived in writing by the Owner Utility.
- E. Assigned Space: either the Communications Space or the Electrical Space, which means space on Poles that, can be used, as defined by the Applicable Standards and the Agreement, for the attachment of Facilities for the provision of Communications Service or Electric Service, respectively. See drawings in Appendix C.
- F. Attaching Entity: means any public or private entity, including Attaching Utility that places an Attachment on Owner Utility's Pole, in accordance with a Joint Use Agreement, to provide Electric Service or Communications Service.
- G. Attaching Utility: means the party (either Communications Utility or Electric Utility) having the right under this Agreement to make Attachments to a Pole of which the other party is the Owner Utility. Each party is an Attaching Utility under this Agreement with respect to the Poles owned by the other party.
- H. Attachment(s): means Facilities that are utilized to provide Electric Service or Communications Service that are placed directly on Utility's Poles or Overlashed onto an existing Attachment, but do not include a Service Drop attached to a single Pole where the Attaching Utility has an existing Attachment on such Pole.

- I. Capacity: means the ability of a Pole to accommodate an additional Attachment based on Applicable Standards, including space and loading considerations.
- J. Climbing Space: means that portion of a Pole's surface and surrounding space that is free from encumbrances to enable Utility Owner's employees and contractors to safely climb, access and work on Utility Facilities and equipment.
- K. Common Space: means space on Utility's Owner's Poles that is not used for the placement of wires or cables but which jointly benefits all users of the Poles by supporting the underlying structure and/or providing safety clearance between attaching entities and Electric Utility Facilities.
- L. Communications Facilities: means wire, or cable facilities including but not limited to fiber optic, copper and/or coaxial cables or wires owned by either Utility and utilized to provide Communications Service including any and all associated equipment.
- M. Communications Service: means the delivery, transmission or receipt of voice, video, data, Internet or other forms of digital or analog signals over Communications Facilities, but does not include any such transmission or receipt by Electric Utility when utilized to provide internal, non-commercial communications related to the operation of the Electric Utility or non-commercial governmental communications.
- N. Communication Space: means the space on a Pole allotted for the attachment of Communications Facilities, which begins at the minimum distance above the ground specified under the Applicable Standards where Attachments can be made.
- O. Electric Facilities: means a transformer or electric wire owned by Electric Utility utilized to provide Electric Service, or such Communications Facilities that are designed for installation within the Electric Space, together with all associated equipment necessary to physically attach such Facilities to Poles.
- P. Electric Service: means the distribution or transmission of electricity over Electric Facilities.

- Q. Electrical Space: means the allocated space on a Pole allotted for the attachment of Electrical Facilities, which extends from the top of the pole to the upper limit of the Safety Space.
- R. Facilities: means either Communications Facilities or Electric Facilities or both.
- S. Make-Ready Work: means all work, as reasonably determined by Owner Utility after reasonable consultation with the Attaching Utility, required to accommodate Attaching Utility's Facilities and/or to comply with all Applicable Standards. Such work includes, but is not limited to, rearrangement and/or transfer of Owner Utility's Facilities or existing Attachments, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), pole replacement or construction as it relates to the express purpose of the Make-Ready Work.
- T. Occupancy: means the use of Assigned Space for Attachments on the same Utility Pole.
- U. Overlash: means to place an additional wire or cable Facility onto an existing Attachment.
- V. Owner Utility: means the party (either Communications Utility or Electric Utility) that holds ownership to the Pole on which the other party is making Attachments as an Attaching Utility.
- W. Pedestals/Vaults/Enclosures: means above- or below-ground housings that are used to enclose a cable/wire splice, power supplies, amplifiers, passive devices and/or provide a service connection point.
- X. Permit: means written or electronic authorization (see Appendix B) of Owner Utility for Attaching Utility to make or maintain Attachments, Overlash existing Attachments or perform Substantial Construction or Modification on specific Poles pursuant to the requirements of this Agreement.
- Y. Pole: means a pole owned by Owner Utility that may be used by Attaching Utility for Attachment, subject to this Agreement.
- Z. Pre-Permit Survey: means all work or operations required by Applicable Standards or reasonably required by Owner Utility to determine the

potential Make-Ready Work necessary to accommodate Attaching Utility's Facilities on a Pole. Such work includes, but is not limited to, field inspection and administrative processing.

- AA. Post-Installation Survey: means all work and inspections required by Utility to determine and verify that the Attachments have been made in accordance with Applicable Standards and the Permit.
- BB. Standard Utility Pole: means a forty (40) foot wood pole which is owned by either Utility for the distribution of Electric and/or Communications Service and is capable of supporting Attachments requested by Attaching Utility.
- CC. Substantial Construction or Modification: means construction activity on a Pole that will have an appreciable impact on loading and/or tension and does not include routine maintenance activities.
- DD. Riser: means metallic, fiberglass or plastic encasement materials placed vertically to guide and protect wires and cables.
- EE. Safety Space: means the clearance space between the Communications Space and the Electric Space, defined in the NESC. For any calculations requiring the allocation of space, this space is assumed to be forty (40) inches.
- FF. Service Drop: means the cable or wire that runs from the serving terminal located on a Pole to the network interface device located at a customer's premises.
- GG. Unauthorized Attachment: means any Attaching Utility Attachment on Owner Utility Pole not specified in a Permit approved by Owner Utility.
- HH. Utility: means either the Electric Utility or the Communications Utility.

II. SCOPE OF AGREEMENT

- A. Definition of Joint Use. Subject to the provisions of this Agreement, both parties agree to the joint use of Owner Utility's Poles for the purpose of maintaining or installing Attachments to the poles.

- B. Exclusion of Poles from Joint Use. Each party reserves the right to exclude from joint use (1) those poles which, in the judgment of the individual party, are necessary for its own sole use; and (2) poles which carry or are intended to carry circuits of such a character which, in the judgment of the individual party, the proper rendering of its service now or in the future makes joint use of such poles undesirable.
- C. Parties Bound by Agreement. Attaching Utility and Owner Utility agree to be bound by all provisions of this Agreement and the provisions of any Permit(s) issued by Owner Utility pursuant to this Agreement.
- D. Permit Issuance Conditions. Owner Utility will issue a Permit(s) to Attaching Utility only when Owner Utility determines, in its sole judgment, that (i) it has sufficient Capacity to accommodate the requested Attachment(s), (ii) Attaching Utility meets all requirements set forth in this Agreement, and (iii) such Permit(s) comply with all Applicable Standards.
- E. No Interest in Property. No use, however lengthy, of any of the Owner Utility's Facilities, and no payment of any fees or charges required under this Agreement, shall create or vest in Attaching Utility any easement or other ownership or property right of any nature in any portion of such Facilities. Neither this Agreement, nor any Permit granted under this Agreement, shall constitute an assignment of any of Owner Utility's rights to its Facilities.
- F. Attaching Utility's Right to Attach. Other than with respect to existing Attachments on Active Joint Use Poles, nothing in this Agreement, other than a Permit issued pursuant to Article VI, shall be construed as granting Attaching Utility any right to attach Attaching Utility's Facilities to any specific Pole or to compel Owner Utility to grant Attaching Utility the right to make an Attachment to any specific Pole.
- G. Necessity of Authorizations. Attaching Utility shall obtain all licenses, certification, permitting, and franchising from appropriate authorities necessary for the use of the Poles by the Attaching Utility prior to making any Attachments.
- H. Owner Utility's Rights over Poles. The parties agree that this Agreement does not in any way limit Owner Utility's right to locate, operate and maintain its Poles in the manner that will best enable it to fulfill its service requirements.

- I. Expansion of Capacity. Unless the subject Pole is excluded from joint use, Owner Utility will expand Pole Capacity within a reasonable time when necessary to accommodate Attaching Utility's request for Attachment, such that subject Pole meets the requirements of a Standard Utility Pole, such expansion or replacement shall be at the Attaching Utility's expense, as adjusted in accordance with Section IX A. At Owner Utility's discretion, Owner Utility may rearrange or reconfigure its Attachments on subject pole in lieu of pole replacement as long as the Attaching Utility's Assigned Space can be accommodated. Notwithstanding the foregoing sentence, nothing in this Agreement shall be construed to require Owner Utility to install, retain, extend, or maintain any Pole for use when such Pole is not needed for Owner Utility's service requirements.
- J. Other Agreements. Except for the provisions of this Agreement and the Permits issued in accordance with this Agreement, nothing in this Agreement shall limit, restrict, or prohibit Owner Utility from fulfilling any agreement or arrangement regarding Poles into which Owner Utility has previously entered, or may enter in the future, with others not party to this Agreement.
- K. Overlashing. The following provisions will apply to Overlashing:
1. Overlashing is subject to the permitting requirements of Article VI. Absent such authorization, Overlashing constitutes an unauthorized Attachment and is subject to the Unauthorized Attachment fee specified in Appendix A, Item 2.
 2. Overlashing performed by or on behalf of the Attaching Utility or its Affiliate shall not increase the Annual Attachment Fee paid by Attaching Utility set forth in Appendix A, Item 1. Attaching Utility or Attaching Utility's Affiliate, however, shall be responsible for all Make-Ready Work and other charges associated with the Overlashing but shall not be required to pay a separate Annual Attachment Fee for such Overlashed Attachment.
 3. If Overlashing is required to accommodate facilities of a third party that is not affiliated with Attaching Utility, such third party must enter into a separate Agreement with Owner Utility and obtain Permits and must pay a separate Attachment Fee (Appendix A, Item 1) as well as the costs of all necessary Make-Ready Work required to accommodate the Overlashing. No such Permits to

third parties may be granted by Owner Utility allowing Overlashing of Attaching Utility's Facilities unless Attaching Utility has consented in writing to such Overlashing. Overlashing performed under this Article II, Paragraph K (3) shall not increase the fees and charges paid by Attaching Utility pursuant to Appendix A, Item 1. Nothing in this Agreement shall prevent Attaching Utility from seeking a contribution from an Overlashing third party to defray fees and charges paid by Attaching Utility.

4. Make-Ready Work procedures set forth in Article VII shall apply, as necessary, to all Overlashing.
- L. Enclosures. Both parties agree to take reasonable steps to not place any above-ground pedestals, enclosures or cabinets within a two and half foot radius of the base of any Pole associated with such ground mounted facilities. Each Attaching Utility agrees to cooperate in resolving climbing safety issues identified by the Utility Owner related to the placement of ground mounted facilities at the base of specific Poles.

III. FEES AND CHARGES

- A. Payment of Fees and Charges. Attaching Utility shall pay to Owner Utility the fees and charges specified in Appendix A and shall comply with the terms and conditions specified herein.
- B. Payment Period. Irrespective of the date on which an Attachment is made, all fees shall be calculated and payable for the relevant quarter in which a Permit for such Attachment is issued under this Agreement.
- C. Billing. The Owner Utility shall invoice the Attaching Utility quarterly on or about the first day of October, January, April and July and billing shall be at the rates set forth in Appendix A. Attaching Utility shall pay each such invoice within thirty (30) calendar days after Attaching Utility's receipt thereof. Attachments specified in approved Permit(s) or inventory counts shall be used to establish invoices. Billing disputes shall be resolved as described in Article XXIII.
- D. Refunds. No fees and charges specified in Appendix A shall be refunded on account of any surrender of a Permit granted hereunder.
- E. Inventory. A joint inventory of all Attachments shall be made no less than once every five (5) years by the Owner Utility and Attaching Utility,

unless both parties agree to a new inventory schedule. The cost of the inventory shall be shared equally between the Owner Utility, the Attaching Utility, and any other participating Attaching Entities, subject to the terms of any agreement with said Attaching Entities. At the expiration of five (5) years from the completion of any inventory, Attaching Utility or Owner Utility may request an inventory of Attachments, in writing, at least six months prior to the end of the calendar year preceding the year the inventory is to commence. At the Owner Utility's expense, Owner Utility may perform an inventory during the interim or on a more frequent schedule and may use the results of such inventory for billing purposes. Attaching Utility will be required to provide documentation indicating the year of attachment for any Attachments of Attaching Utility's Facilities on Owner Utility's Poles not recorded at the time of the inventory.

- F. Late Charge. If Owner Utility does not receive payment for any fee or other amount owed within sixty (60) calendar days after it becomes due, Attaching Utility, upon receipt of fifteen (15) calendar days written notice, shall pay interest to Owner Utility, at the rate of one and a half (1.5%) per month, on the amount due from the date that it initially became due.
- G. Determination of Charges. Wherever this Agreement requires Attaching Utility to pay for work authorized by Attaching Utility and done or contracted by Owner Utility, the charge for such work shall include all reasonable material, labor, engineering and administrative costs and applicable overhead costs, excluding costs that are for the sole benefit of the Owner Utility. Owner Utility shall bill its services based upon actual costs, and such costs will be determined in accordance with Owner Utility's cost accounting systems.
- H. Work Performed by Owner Utility. Wherever this Agreement requires Owner Utility to perform any work, Attaching Utility acknowledges and agrees that Owner Utility, at its sole discretion, may utilize its own qualified employees, contractors approved by Owner Utility, or any combination of the two to perform such work.
- I. True Up. Wherever the actual cost of an Owner Utility sponsored activity exceeds the advance payment of estimated expenses, Attaching Utility agrees to pay Owner Utility for the difference in cost when that amount exceeds fifty dollars (CI \$50.00). To the extent that the actual cost of the activity is less than the estimated cost, Owner Utility agrees to refund to

Attaching Utility the difference in cost where that amount exceeds fifty dollars (CI \$50.00).

- J. Default for Nonpayment. Nonpayment of any amount due under this Agreement beyond ninety (90) days shall constitute a default of this Agreement.

IV. SPECIFICATIONS

- A. Installation/Maintenance of Facilities. Attaching Utility's Facilities shall be installed and maintained in accordance with the requirements and specifications of Appendix C. All of Attaching Utility's Facilities must comply with all Applicable Standards. Attaching Utility shall be responsible for the installation and maintenance of its Facilities. Attaching Utility shall, at its own expense, make and maintain its Attachments in safe condition and good repair, in accordance with all Applicable Standards.
- B. Interference. Attaching Utility shall not allow its Facilities to impair the ability of Owner Utility or any third party existing at the time of Attaching Utility's attachment to use Owner Utility's Poles, nor shall Attaching Utility allow its Facilities to interfere with the operation of any of the Owner's Utility Facilities.
- C. Protective Equipment. Attaching Utility, and its employees and contractors, shall utilize and install adequate protective equipment to ensure the safety of people and facilities. Attaching Utility shall at its own expense install protective devices designed to handle the voltage and current impressed on its Facilities in the event of a contact with the supply conductor. Except as provided in Article XVI, Paragraph A, Owner Utility shall not be liable for any actual or consequential damages to Attaching Utility's Facilities or Attaching Utility's customers' facilities.
- D. Violation of Specifications. If Attaching Utility's Facilities, or any part thereof, are installed, used, or maintained in violation of this Agreement, and Attaching Utility has not corrected the violation(s) within thirty (30) calendar days from receipt of written notice of the violation(s) from Owner Utility, Owner Utility at its option, may correct said conditions on giving three (3) calendar days notice. An exception to this requirement will apply only when Owner Utility believes that such violation(s) pose an immediate threat to the safety of any person, or pose an immediate threat to the physical integrity of Utility Facilities Owner Utility may perform

such work and/or take such action as it deems necessary without first giving written notice to Attaching Utility. As soon as practicable thereafter, Owner Utility will advise Attaching Utility of the work performed or the action taken. Attaching Utility shall be responsible for all reasonable costs incurred by the Owner Utility in taking action pursuant to this subsection.

- E. Restoration of Utility Service. Owner Utility and Attaching Utility agree to fully cooperate to ensure that service restoration requirements are met to the satisfaction of each party.
- F. Effect of Failure to Exercise Access Rights. If Attaching Utility does not exercise any access right granted pursuant to this Agreement and/or applicable Permit(s) within one hundred twenty (120) calendar days of the effective date of such right and any extension thereof, Owner Utility may use the space scheduled for Attaching Utility's Attachment(s), for its own needs and/or other Attaching Entities. In such instances, Owner Utility shall endeavor to make other space available to Attaching Utility, upon written application per Article VI, as soon as reasonably possible and subject to all requirements of this Agreement, including the Make-Ready Work provisions. This clause shall not apply if the Attaching Utility is unable to exercise its access rights due to circumstances that are beyond its control upon written notification to the Owner Utility.

V. PRIVATE AND REGULATORY COMPLIANCE

- A. Necessary Authorizations. In addition to the Permit required under this Agreement, Attaching Utility shall be responsible for obtaining from the appropriate public and/or private authority or other appropriate persons any required authorization to construct, operate or maintain its Facilities on public and/or private property before it occupies any portion of Owner Utility's Poles. Attaching Utility's obligations under this Article V include, but are not limited to, its obligation to obtain all necessary approvals to occupy public/private rights-of-way and to pay all costs associated therewith. Attaching Utility shall defend, indemnify, to the extent permitted by law, and reimburse Owner Utility for all loss and expense that Owner Utility may incur as a result of claims by governmental bodies, owners of private property, or other persons, that Attaching Utility does not have sufficient rights or authority to attach Attaching Utility's Facilities on Owner Utility's Poles.

- B. Lawful Purpose and Use. Attaching Utility's Facilities must at all times serve a lawful purpose, and the use of such Facilities must comply with all applicable laws of the Cayman Islands.
- C. Forfeiture of Owner Utility's Rights. No Permit granted under this Agreement shall extend to any Pole on which the Attachment of Attaching Utility's Facilities would result in a forfeiture of Owner Utility's rights. Any Permit, which on its face would cover Attachments that would result in forfeiture of Owner Utility's rights, is invalid. Further, if any of Attaching Utility's existing Facilities, whether installed pursuant to a valid Permit or not, would cause such forfeiture, Attaching Utility shall promptly remove its Facilities upon receipt of written notice from Owner Utility. Owner Utility will perform such removal at Attaching Utility's expense not sooner than the expiration of thirty (30) calendar days from Owner Utility's issuance of the written notice.
- D. Effect of Consent to Construction/Maintenance. Consent by Owner Utility to the construction or maintenance of any Attachments by Attaching Utility shall not be deemed consent, authorization or an acknowledgment that Attaching Utility has the authority to construct or maintain any other such Attachments. It is Attaching Utility's responsibility to obtain all necessary approvals for each Attachment from all appropriate parties or agencies.

VI. PERMIT APPLICATION PROCEDURES

- A. Permit Required. Attaching Utility shall not install any new Attachments, Overlash existing Attachments or perform Substantial Construction or Modification on any Pole without first applying for and obtaining a Permit pursuant to the applicable requirements of Appendix B. No Permit shall be required for prior existing authorized Attachments, Overlashing or Service Drops on Active Joint Use Poles or on Poles for which a Permit has already been granted to the Attaching Utility. No Permit shall be required for routine maintenance or installing Service Drops from existing Active Joint Use Poles. Attachments to or rights to occupy Owner Utility Facilities not covered by this Agreement, including ducts or conduits must be separately negotiated.
- B. Review of Permit Application. Upon receipt of a properly executed Application for Permit (Appendix B), including the Pre-Permit Survey, Owner Utility will review the Permit Application and discuss any issues with Attaching Utility, including engineering or Make-Ready Work

requirements associated with the Permit Application. Owner Utility acceptance of the submitted design documents does not relieve the Attaching Utility of full responsibility for any errors and/or omissions in the engineering analysis.

- C. Review Period. Owner Utility shall review and respond to "Minor" Permit Applications - less than ten (10) Attachments/Poles - within ten (10) days of receipt. Owner Utility shall review and respond to "Major" Permit Applications - ten (10) or more Attachments/Poles - within fifteen (15) days of receipt.
- D. Expedited Review. In instances where Attaching Utility notifies Owner Utility of an immediate need to make new Attachments, Overlash existing Attachments or perform Substantial Construction or Modification on a Pole, and provides information as to the need for an expedited review process, the Owner Utility shall make its best reasonable efforts to review and respond to Permit Applications within five (5) days of receipt. Owner Utility reserves the rights to charge Attaching Utility for any overtime or other applicable costs that it incurs in meeting a request for an expedited review.
- E. Performance of Make-Ready Work. If Make-Ready Work is required to accommodate Attaching Utility's Attachments, Owner Utility or its contractors shall perform such work pursuant to Article VII.
- F. Permit as Authorization to Attach. After receipt of payment for any necessary Make-Ready Work, Owner Utility will sign and return the Permit Application, which shall serve as authorization for Attaching Utility to make its Attachment(s).

VII. MAKE-READY WORK/INSTALLATION

- A. Estimate for Make-Ready Work. In the event Owner Utility determines that it can accommodate Attaching Utility's request for Attachment(s), including Overlashing of an existing Attachment, it will, upon request, advise Attaching Utility of any estimated Make-Ready Work charges necessary to accommodate the Attachment.
- B. Payment of Make-Ready Work. Unless otherwise agreed, Owner Utility may require payment in advance for all Make-Ready Work based upon the estimated cost of such work if the estimate exceeds CI \$1,000.00. Upon completion Attaching Utility shall pay Owner Utility's actual cost of

Make-Ready Work. Attaching Utility will be responsible for payment to Owner Utility for all Make-Ready work required to accommodate Attaching Utility's Facilities except as provided in Article II, Paragraph K (3) above regarding Overlashing by a third party.

- C. Who May Perform Make-Ready Work. Make-Ready Work shall be performed only by Owner Utility and/or a contractor authorized by Owner Utility to perform such work. If Owner Utility cannot perform the Make-Ready Work to accommodate Attaching Utility's Facilities within ten (10) calendar days of issuance of a Permit, or earlier by agreement, Attaching Utility may seek permission from Owner Utility for Attaching Utility to perform such work itself or employ a qualified contractor to perform such work.
- D. Scheduling of Make-Ready Work. In performing all Make-Ready Work to accommodate Attaching Utility's Facilities, Owner Utility will endeavor to include such work in its normal work schedule. In the event Attaching Utility requests that the Make-Ready Work be performed on a priority basis or outside of Owner Utility's normal work hours, Attaching Utility agrees to pay any resulting increased costs. Nothing herein shall be construed to require performance of Attaching Utility's work before other scheduled work or Owner Utility's own service restoration.
- E. Attaching Utility's Installation/Removal/Maintenance Work.
 - 1. All of Attaching Utility's installation, removal and maintenance work shall be performed at Attaching Utility's sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of Owner Utility's Poles or Facilities or any other Attaching Entity's facilities or equipment attached thereto.
 - 2. All of Attaching Utility's installation, removal and maintenance work performed on Owner Utility's Poles or in the vicinity of other Owner Utility Facilities, either by its employees or contractors, shall be in compliance with all applicable regulations specified in Article IV, Paragraph A. Attaching Utility shall assure that any person installing, maintaining, or removing its Facilities is fully qualified and familiar with all Applicable Standards, the provisions of Article XVII, and the Minimum Design Specifications contained in Appendix C.

VIII. TRANSFERS

Required Transfers of Attaching Utility's Facilities. Whenever it is reasonably necessary to replace and/or relocate a Joint Use Pole, Owner Utility shall send written notice to Attaching Utility informing Attaching Utility of Owner Utility's necessity for facilities transfer. Upon receipt of Owner Utility's request, Attaching Utility shall, within ninety (90) calendar days, transfer its Attachments, at Attaching Utility's sole risk and expense, and notify Owner Utility that its transfer work has been completed. In the event of Attaching Utility's failure to comply with any such notice, Owner Utility may perform the work directed thereby or cause the same to be performed and all cost and expenses incurred thereby shall be paid by the Attaching Utility to the Owner Utility upon demand.

IX. POLE MODIFICATIONS AND/OR REPLACEMENTS

- A. Attaching Utility's Action Requiring Modification/Replacement. In the event that any Pole to which Attaching Utility desires to make Attachment(s) is unable to support or accommodate the additional facilities in accordance with all Applicable Specifications, Owner Utility will notify Attaching Utility of the necessary Make-Ready Work, and associated costs. Attaching Utility shall be responsible for separately entering into an agreement with other Attaching Entities concerning the allocation of costs for the relocation or rearrangement of such entities' existing Attachments. If Attaching Utility elects to go forward with the necessary changes, Attaching Utility shall pay to Owner Utility the actual cost of the Make-Ready Work, performed by Owner Utility, per Article III, Paragraph I.
- B. Treatment of Multiple Requests for Same Pole. If Owner Utility receives Permit Applications for the same Pole from two or more prospective Attaching Utilities within sixty (60) calendar days of the initial request, and accommodating their respective requests would require modification or replacement of the Pole, Owner Utility will allocate among such Attaching Utilities the applicable costs associated with such necessary modification or replacement.
- C. Guying. The use of guying to accommodate Attaching Utility's Attachments shall be provided by Owner Utility and at the expense of Attaching Utility and to the satisfaction of Owner Utility as specified in Appendix C. Attaching Utility shall not attach any guy wires to Owner Utility's poles or anchors without prior written permission of the Owner Utility. Make-Ready charges will apply if permission is granted.

- D. Action Required for Emergency Modification/Replacement. The Owner Utility shall be responsible for initiating modification/replacement procedures following notification. The Attaching Utility shall reserve the right to perform the modification/replacement in the event that the Owner Utility does not meet the emergency modification/replacement performance time requirement. Emergency work shall begin as soon as possible in order not to impose unsafe conditions on its surroundings. Should the modification/ replacement work be performed by the Attaching Utility, the Attaching Utility shall submit an invoice to the Owner Utility for the actual cost of work performed within 30 calendar days.
- E. No provision of this Agreement shall be construed to require Owner Utility to relocate its Attachments or modify/replace its Poles for the benefit of Attaching Utility, provided, however, any denial by Owner Utility for modification of the pole is based on nondiscriminatory standards of general applicability.

X. ABANDONMENT OR REMOVAL OF UTILITY OWNER'S FACILITIES

- A. Notice of Abandonment or Removal of Utility Facilities. If Owner Utility desires at any time to abandon or remove any of its Utility Poles or other Facilities to which Attaching Utility's Facilities are attached, it shall give Attaching Utility notice in writing to that effect at least sixty (60) calendar days prior to the date on which it intends to abandon or remove such Facilities. Notice may be limited to thirty (30) calendar days if Owner Utility is required to remove or abandon its Utility Facilities as the result of the action of a third party and the greater notice period is not practical. Such notice shall indicate whether Owner Utility is offering Attaching Utility an option to purchase the Pole(s). If, following the expiration of said period, Attaching Utility has not yet removed and/or transferred all of its Facilities therefrom and has not entered into an agreement to purchase the Owner Utility's Poles or other Facilities pursuant to Paragraph B of this Article, Owner Utility shall have the right, subject to any applicable laws and regulations, to have Attaching Utility's Facilities removed and/or transferred from the Pole at Attaching Utility's expense.
- B. Option to Purchase Abandoned Poles. Should Owner Utility desire to abandon any Pole, Owner Utility, in its sole discretion, may grant Attaching Utility the option of purchasing such Pole at a rate negotiated with Owner Utility. Attaching Utility must notify Owner Utility in

writing within thirty (30) calendar days of the date of Owner Utility's notice of abandonment that Attaching Utility desires to purchase the abandoned Pole. Thereafter, Attaching Utility must also secure and deliver proof of all necessary governmental approvals and easements allowing Attaching Utility to independently own and access the Pole within sixty (60) calendar days. Should Attaching Utility fail to secure the necessary governmental approvals, or should Owner Utility and Attaching Utility fail to enter into an agreement for Attaching Utility to purchase the Pole prior to the end of the sixty (60) calendar days, Attaching Utility must remove its Attachments as required under Paragraph A of this Article X.

XI. REMOVAL OF ATTACHING UTILITY'S FACILITIES

Removal on Expiration/Termination. At the expiration or other termination of this Joint Use Agreement or individual Permit(s), Attaching Utility shall remove its Facilities from the affected Poles at its own expense. If Attaching Utility fails to remove such facilities within sixty (60) calendar days of expiration or termination or some greater period as allowed by Owner Utility, Owner Utility shall have the right to have such facilities removed at Attaching Utility's expense.

XII. TERMINATION OF PERMIT

- A. Automatic Termination of Permit. Any Permit issued pursuant to this Agreement shall automatically terminate when Attaching Utility ceases to have authority to construct and operate its Facilities on public or private property at the location of the particular Pole(s) covered by the Permit.
- B. Surrender of Permit. Attaching Utility may at any time surrender any Permit for Attachment and remove its Facilities from the affected Pole(s), provided, however, that before commencing any such removal Attaching Utility must provide Owner Utility with notice prior to removal.

XIII. INSPECTION OF ATTACHING UTILITY'S FACILITIES

- A. Inspection. Owner Utility shall have the right at any time to make periodic inspections of Attaching Utility's Facilities, utilizing its employees and/or contractors at the sole expense of Owner Utility, unless prior agreement has been reached between Owner Utility, Attaching Utility and any third parties attached to Owner Utility's Poles.

- B. Notice. Owner Utility will give Attaching Utility reasonable advance written notice of such inspections, except in those instances where safety considerations justify the need for such inspection without the delay of waiting until written notice has been received.
- C. Duty of Full Compliance. Attaching Utility agrees to bring its Attachments into full compliance with this Agreement within thirty (30) calendar days of receipt of written notice in the event that any inspection results in a finding by Owner Utility that Attaching Utility is not in compliance with this Agreement. Attaching Utility shall be responsible for the costs of bringing its Attachments into compliance unless it can demonstrate that the non-compliance is the result of the Owner Utility or a third-party attaching entity and not the result of the Attaching Utility's actions.
- D. No Liability. The making of any inspections under this Article XIII, or the failure to do so, shall not operate to impose upon Owner Utility any liability of any kind whatsoever or relieve Attaching Utility of any responsibility, obligations or liability whether assumed under this Agreement or otherwise existing.

XIV. UNAUTHORIZED OCCUPANCY OR ACCESS

- A. Penalty Fee. If after the initial joint inventory any of Attaching Utility's Attachments are found occupying any Pole for which no Permit has been issued, Owner Utility, without prejudice to its other rights or remedies under this Agreement, may assess an Unauthorized Attachment Penalty Fee as specified in Appendix A, Item 2. In the event Attaching Utility fails to pay such Fee within (60) sixty calendar days of receiving notification thereof, Owner Utility has the right to remove such Facilities at Attaching Utility's expense.
- B. Service Drop Exclusion. Service Drops on Owner Utility's Poles will not be considered Unauthorized Attachments when discovered. Owner Utility will, however, expect Attaching Utility to apply to and receive from Owner Utility appropriate Permits to document these Service Drops.
- C. No Ratification of Unlicensed Use. No act or failure to act by Owner Utility with regard to said unlicensed use shall be deemed as ratification of the unlicensed use and if any Permit should be subsequently issued, such Permit shall not operate retroactively or constitute a waiver by Owner Utility of any of its rights or privileges under this Agreement or

otherwise; provided, however, that Attaching Utility shall be subject to all liabilities, obligations and responsibilities of this Agreement in regards to said unauthorized use from its inception.

XV. LIABILITY AND INDEMNIFICATION

- A. Liability. Owner Utility reserves to itself the right to maintain and operate its Poles in such manner as will best enable it to fulfill its service requirements. Attaching Utility agrees to use Owner Utility's Poles at Attaching Utility's sole risk. Notwithstanding the foregoing, Owner Utility shall exercise all reasonable precaution to avoid damaging Attaching Utility's Facilities and shall report to Attaching Utility the occurrence of any such damage caused by its employees, agents or contractors. Subject to Article XVI, Paragraph E, Owner Utility agrees to indemnify Attaching Utility for all reasonable costs incurred by Attaching Utility for the physical repair of such facilities damaged by the negligence or willful misconduct of Owner Utility.
- B. Indemnification. Attaching Utility, and any agent, contractor or subcontractor of Attaching Utility, shall defend, indemnify and hold harmless Owner Utility and its officials, officers, directors, representatives, employees, agents, and contractors, against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments made by Owner Utility under any plan for employees' disability and death benefits), and expenses (including reasonable attorney fees of Owner Utility 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 Attaching Utility, or by Attaching Utility's officers, directors, employees, agents, and contractors, of Attaching Utility's Facilities or arising out of the breach by the Attaching Utility of any of its obligations hereunder, except to the extent of Owner Utility'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;
 2. Cost of work performed by Owner Utility that was necessitated by Attaching Utility's failure, or the failure of Attaching Utility's

officers, directors, employees, agents, or contractors, to install, maintain, present, use, transfer or remove Attaching Utility's Facilities in accordance with the requirements and specifications of this Agreement, or from any other work this Agreement authorizes Owner Utility to perform on Attaching Utility's behalf;

3. Damage to property, injury to or death of any person arising out of the performance or nonperformance of any work or obligation undertaken by Attaching Utility, or Attaching Utility's officers, directors, employees, agents, and contractors, pursuant to this Agreement; and
4. Liabilities incurred as a result of Attaching Utility's violation, or a violation by Attaching Utility's officers, directors, employees, agents, and contractors, of any law, rule, or regulation of the Cayman Islands Government or any other governmental entity or administrative agency, whether such violation is the result of a violation of the statute by Owner Utility or Attaching Utility solely or any joint violation thereof.

C. Procedure for Indemnification.

1. Owner Utility shall give notice promptly to the Attaching Utility of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit or proceeding filed by a third party against Owner Utility, the notice shall be given to Attaching Utility by Owner Utility no later than ten (10) calendar days after written notice of the action, suit or proceeding was received by Owner Utility.
2. Failure to timely give the required notice will not relieve the Attaching Utility from its obligation to indemnify the Owner Utility unless the Attaching Utility is materially prejudiced by such failure.
3. The Attaching Utility will have the right at any time, by notice to the Owner Utility, to participate in or assume control of the defense of the claim with counsel of its choice, which counsel must be reasonably acceptable to the Owner Utility. The Owner Utility agrees to cooperate fully with the Attaching Utility. If the Attaching Utility so assumes control of the defense of any third-party claim, the Owner Utility shall have the right to

participate in the defense at its own expense. If the Attaching Utility does not so assume control or otherwise participate in the defense of any third-party claim, it shall be bound by the results obtained by the Owner Utility with respect to the claim.

4. If the Attaching Utility assumes the defense of a third-party claim as described above, then in no event will the Owner Utility admit any liability with respect to, or settle, compromise or discharge, any third party claim without the Attaching Utility's prior written consent, and the Owner Utility will agree to any settlement, compromise or discharge of any third-party claim which the Attaching Utility may recommend which releases the Owner Utility completely from such claim.
- D. Environmental Hazards. Attaching Utility represents and warrants that its use of Owner Utility's Poles will not generate any hazardous substances, that it will not store or dispose on or about Owner Utility's Poles or transport to Owner Utility's Poles any hazardous substances and that Attaching Utility's Facilities will not constitute or contain and will not generate any hazardous substance in violation of any law now or hereafter in effect including any amendments. "Hazardous substance" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any laws, regulations or rules now or hereafter in effect including any amendments. Attaching Utility further represents and warrants that in the event of breakage, leakage, incineration or other disaster, its Facilities would not release such hazardous wastes or substances. Attaching Utility, and its agents, contractors and subcontractors, shall defend, indemnify and hold harmless Owner Utility and its respective officials, officers, board members, representatives, employees, agents, and contractors against any all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, expenses (including reasonable attorney fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, storage or discovery of any such hazardous wastes or hazardous substances on, under or adjacent to Owner Utility's Poles attributable to Attaching Utility's use of Owner Utility's Poles.

XVI. DUTIES, RESPONSIBILITIES, AND EXCULPATION

- A. Duty to Inspect. Attaching Utility acknowledges and agrees that Owner Utility does not warrant the condition or safety of Owner Utility's Poles, or the premises surrounding the Poles, and Attaching Utility further acknowledges and agrees that it has an obligation to inspect Owner Utility's Poles and/or premises surrounding the Poles, prior to commencing any work on Owner Utility's Poles or entering the premises surrounding the Poles.
- B. Knowledge of Work Conditions. By executing this Agreement, Attaching Utility 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 Attaching Utility 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. Disclaimer. Owner Utility makes no express or implied warranties with regard to its Poles, all of which are hereby disclaimed, and Owner Utility makes no other express or implied warranties, except to the extent expressly and unambiguously set forth in this Agreement. Owner Utility expressly disclaims any implied warranties of merchantability or fitness for any other particular purpose.
- D. Duty to Competent Supervision and Performance. The parties further understand and agree that in the performance of work under this Agreement, Attaching Utility and its agents, servants, employees, contractors and subcontractors will work near electrically energized lines, transformers, or other Utility 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. Attaching Utility shall ensure that its employees, servants, agents, contractors and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of Owner Utility, and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, Attaching Utility shall furnish its employees, servants, agents, contractors and subcontractors with competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner. Attaching Utility agrees that in emergency situations in which the Electric Utility must de-energize any part of its Electric Utility equipment, the Communications Utility shall

ensure that work has been suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.

- E. Requests to De-energize. In the event Electric Utility de-energizes any equipment or line at Communications Utility's request and for its benefit and convenience in performing a particular segment of any work, Communications Utility shall reimburse Electric Utility in full for all costs and expenses incurred, in accordance with Article III, Paragraph G, in order to comply with Communications Utility's request. Before Electric Utility de-energizes any equipment or line, it shall provide, upon request, an estimate of all costs and expenses to be incurred in accommodating Communications Utility's request.
- F. Interruption of Service. In the event that Attaching Utility shall cause an interruption of service by damaging or interfering with any equipment of Owner Utility, Attaching Utility at its expense shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting therefrom and shall notify Owner Utility immediately.
- G. Duty to Inform. Communications Utility further warrants that it understands the imminent dangers (INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION) inherent in the work necessary to make installations on Electric Utility's Poles by Communications Utility's employees, servants, agents, contractors or subcontractors, and accepts as its duty and sole responsibility to notify and inform Communications Utility's employees, servants, agents, contractors or subcontractors of such dangers, and to keep them informed regarding same.

XVII. INSURANCE.

- A. Policies Required. At all times during the term of this Agreement, Attaching Utility shall keep in force and affect all insurance policies as described below:
 - 1. Worker's Compensation and Employers' Liability Insurance. Statutory worker's compensation benefits and employers' liability insurance with a limit of liability no less than that required by Cayman Island law at the time of the application of this provision for each accident. This policy shall be endorsed to include a waiver of subrogation in favor of Owner Utility. Attaching Utility shall

require subcontractors and others not protected under its insurance to obtain and maintain such insurance.

2. Commercial General Liability Insurance. Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage with Limits of liability not less than \$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 policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.
 4. Umbrella Liability Insurance. Coverage is to be in excess of the sum employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than \$4,000,000 each occurrence, \$4,000,000 aggregate.
 5. Property Insurance. Each party will be responsible for maintaining property insurance on 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 Utility 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. Qualification; Priority; Contractors' Coverage. The insurer must be authorized to do business under the laws of the Cayman Islands and have an "A" or better rating in AM Best's Guide. Such insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of Attaching Utility shall carry, in full force and effect, worker's compensation and employer's liability, comprehensive general liability and automobile liability insurance coverage's of the type that Attaching Utility is required to obtain under this Article with the same limits.

- C. Certificate of Insurance; Other Requirements. Prior to the execution of this Agreement and prior to each insurance policy expiration date during the term of this Agreement, Attaching Utility will furnish Owner Utility with a Certificate of Insurance and, upon request, certified copies of the required insurance policies. The Certificate shall reference this Agreement and worker's compensation and property insurance waivers of subrogation required by this Agreement. Owner Utility shall be given thirty (30) calendar days advance notice of cancellation or nonrenewal of insurance during the term of this Agreement. Owner Utility, its council members, board members, commissioners, agencies, officers, officials, employees and representatives (collectively, "Additional Insureds") shall be named as Additional Insureds under all of the policies, except worker's compensation, which shall be so stated on the Certificate of Insurance. All policies, other than worker's compensation, shall be written on an occurrence and not on a claims-made basis. All policies may be written with deductibles, not to exceed \$100,000, or such greater amount as expressly allowed in writing by Owner Utility. To the extent allowed by law, Attaching Utility shall defend, indemnify and hold harmless Owner Utility and Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Article. Attaching Utility shall obtain Certificates of Insurance from its agents, contractors and subcontractors and provide a copy of such Certificates to Owner Utility upon request.
- D. Limits. The limits of liability set out in this Article 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, including the passage of laws which would materially increase or decrease Attaching Utility's exposure to risk.
- E. Prohibited Exclusions. No policies of insurance required to be obtained by Attaching Utility or its contractors or subcontractors shall contain provisions that (1) exclude coverage of liability assumed by this Agreement with Owner Utility except as to infringement of patents or copyrights or for libel and slander in program material, (2) exclude coverage of liability arising from excavating, collapse, or underground work, (3) exclude coverage for injuries to Owner Utility's employees or agents, or (4) exclude coverage of liability for injuries or damages caused by Attaching Utility's contractors or contractor's employees, servants or agents. This list of prohibited provisions shall not be interpreted as exclusive.

- F. Deductible/Self-insurance Retention Amounts. Attaching Utility shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.

XVIII. AUTHORIZATION NOT EXCLUSIVE

Owner Utility 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 its Utility Facilities covered by this Agreement. Such rights shall not interfere with the rights granted to Attaching Utility by the terms of this Agreement.

XIX. ASSIGNMENT

- A. Limitations on Assignment. Attaching Utility shall not assign its rights or obligations under this Agreement, nor any part of such rights or obligations, without the prior written consent of Owner Utility, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Attaching Utility may assign or transfer its interest in this Agreement to Attaching Utility's Affiliate without Owner Utility's consent, provided that Owner Utility is given prior written notice of such transfer.
- B. Obligations of Assignee/Transferee and Attaching Utility. No assignment or transfer under this Article XIX shall be allowed until the assignee or transferee becomes a signatory to this Agreement and assumes all obligations of Attaching Utility arising under this Agreement. Attaching Utility shall furnish Owner Utility with prior written notice of the transfer or assignment, together with the name and address of the transferee or assignee. Notwithstanding any assignment or transfer, Attaching Utility 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 express written consent to the release of Attaching Utility by Owner Utility.
- C. Sub-licensing. Without Owner Utility's prior written consent, Attaching Utility shall not sub-license to a non-affiliated third party, including but not limited to allowing third parties to place Attachments on Owner Utility's Poles, including Overlashing, or to place Attachments for the benefit of such third parties on Owner Utility's Poles. Any such action shall constitute a material breach of this Agreement. The use of Attaching Utility's Facilities by third parties (including but not limited to leases of

dark fiber) that involves no additional Attachment or Overlashing is not subject to the provisions of this Article XIX, Paragraph C.

XX. FAILURE TO ENFORCE

Failure of Owner Utility or Attaching Utility to take action to enforce compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder 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 the Agreement.

XXI. TERMINATION OF AGREEMENT

- A. Notwithstanding Owner Utility's rights under Article XII, Owner Utility shall have the right, pursuant to the procedure set out in Article XXI, Paragraph B, to terminate this entire Agreement, or any Permit issued hereunder, whenever Attaching Utility is in default of any term or condition of this Agreement, including but not limited to the following circumstances:
1. Construction, operation or maintenance of Attaching Utility's Facilities in violation of law or in aid of any unlawful act or undertaking; or
 2. Construction, operation or maintenance of Attaching Utility's Facilities after any authorization required of Attaching Utility has lawfully been denied or revoked by any governmental or private authority or such construction, operation or maintenance violation of any other agreement between the Attaching Utility and the Owner Utility; or
 3. Construction, operation or maintenance of Attaching Utility's Facilities without the insurance coverage required under Article XVII.
- B. Owner Utility will notify Attaching Utility in writing within fifteen (15) calendar days, or as soon as reasonably practicable, of any condition(s) applicable to Paragraph A. above. Attaching Utility shall take immediate corrective action to eliminate any such condition(s) within thirty (30) calendar days, or such longer period mutually agreed to by the parties, and shall confirm in writing to Owner Utility that the cited condition(s) has (have)

ceased or been corrected. If Attaching Utility fails to discontinue or correct such condition(s) and/or fails to give the required confirmation, Owner Utility may immediately terminate this Agreement or any Permit(s).

- C. Owner Utility shall have the right to terminate this entire Agreement, or any Permit issued hereunder, in the event of the Attaching Utility having a receiver or liquidator appointed or the passing of a resolution for winding-up or a court making an order to that effect.
- D. In the event of termination of this Agreement or any of Attaching Utility's rights, privileges or authorizations hereunder, Owner Utility may seek removal of Attaching Utility's Facilities pursuant to the terms of Article XI, provided, that Attaching Utility shall be liable for and pay all fees and charges pursuant to terms of this Agreement to Owner Utility until Attaching Utility's Facilities are actually removed.

XXII. TERM OF AGREEMENT

- A. This Agreement shall become effective on the date set out above, and, if not terminated in accordance with other provisions of this Agreement, shall continue in effect for a term of fifteen (15) years. Either party may terminate this Agreement at the end of the fifteen (15) year term by giving to the other party written notice of an intention to terminate the Agreement at least three (3) years prior to the end of the said term. Upon failure to give such notice of intent to terminate during the fifteen (15) year term, this Agreement shall automatically continue in force for a further term of fifteen (15) years unless terminated by either party upon three (3) years written notice.
- B. Even after the termination of this Agreement, Attaching Utility's responsibility and indemnity obligations shall continue with respect to any claims or demands related to Attaching Utility's Facilities as provided for in Article XVI.
- C. Notwithstanding the termination of this Agreement, this Agreement shall remain in full force and effect with respect to all Poles jointly used by the parties at the time of such termination.

XXIII. FORCE MAJEURE

- A. Neither Party shall be held liable or deemed to be in default under this Agreement for failure to perform its obligations hereunder if such failure results directly or indirectly from Force Majeure.
- B. For the purpose of this Licence, "Force Majeure" means any circumstances beyond the reasonable control of such Party, including but not limited to:
 - 1. war and other hostilities, (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition or embargo;
 - 2. ionizing radiation or contamination by radio-activity from any nuclear fuel or explosives, or other hazardous properties of any explosive nuclear assembly or nuclear components thereof;
 - 3. rebellion, revolution, insurrection, military or usurped power and civil war, acts of God; and
 - 4. riot, commotion or disorder, except where solely restricted to employees of the Party.

XXIV. DISPUTE RESOLUTION

- A. Unresolved Disputes. A dispute between the Parties regarding any matter relating to the administration of this Agreement or the breach thereof shall be resolved in a fair, expedient and reasonable manner. The Parties acknowledge that achievement of the purpose and intent of this Agreement shall require each party to act in good faith and fair dealing. In order to promptly resolve any misunderstandings, conflicts or disputes that may interfere in the achievement of the principal goals and objectives of the parties, the Parties shall escalate such misunderstandings, conflicts or disputes in the manner set out below.
- B. Initial Meeting. In the event of a misunderstanding, conflict or dispute, a meeting shall be held promptly between the Parties to attempt in good faith to consult and negotiate with each other, and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. In the event that any matter cannot be promptly resolved by the representatives designated in Article XXVI to receive notices or

their respective designees, either party may further escalate such misunderstandings, conflicts or disputes in the manner set out below.

C. Alternative Dispute Resolution.

- i. Appointment of Mediator. If, within thirty (30) days after such meeting, the Parties are not successful in negotiating a resolution to the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of them (the Mediator). The Parties shall share the fees of the Mediator equally; however each Party shall assume its own cost including legal and consulting fees, expert witness fees and other out-of-pocket expenses in connection with such mediation. The location of any mediation will be Grand Cayman, Cayman Islands if the Parties do not agree on an alternative location. If the Parties agree, or if the mediator believes the nature of the dispute could be effectively resolved without face-to-face mediation sessions, a telephonic or other electronic mediation session may be used. Performance of this Agreement shall continue during dispute escalation and/or mediation proceedings. No payments due or payable to Owner Utility shall be withheld on account of pending reference to such escalation and/or mediation proceedings.
- ii. In consultation with the Mediator, the Parties will also select a date and time for the mediation to be held and a date by which the mediation will be completed. The Mediator will make the decision as to the procedure, the date and time, and the date of completion if the Parties have been unable to agree on any such matters within ten (10) days after initial consultation with the Mediator.
- iii. Unresolved Disputes. The Parties involved in the dispute shall participate in good faith in the mediation to its conclusion as designed by the Mediator. If the Parties are not successful in resolving the dispute through mediation, then either Party may, upon notice to the other Party, elect to finally resolve the dispute by arbitration.

- D. Binding Commercial Arbitration. In the event the procedures of this Article, Paragraphs B and C do not resolve the dispute, and the Parties agree to resolve the dispute by binding arbitration, the dispute shall be resolved under this Paragraph rather than by litigation. The following procedures and requirements shall apply to any arbitration hereunder.

- i. Procedures. The matter shall be subject to and settled finally by binding arbitration in accordance with the International Arbitration Rules of the International Centre for Dispute Resolution (the international division of the American Arbitration Association). The place of arbitration shall be Grand Cayman, Cayman Islands and the governing law of the arbitration shall be the substantive law of the Cayman Islands. The language to be used in the proceedings shall be English.
 - ii. Notice/Statement of Facts. The notice of the Party electing arbitration shall be provided to the other party and shall include a statement of the facts or circumstances causing the controversy and the resolution, determination or relief sought by the Party desiring arbitration.
 - iii. Selection and Background of Arbitrators. Such arbitration shall be conducted before a panel of three (3) arbitrators and each Party shall nominate one arbitrator, and the two arbitrators appointed shall appoint the third arbitrator. The Party filing the notice electing arbitration shall strike first and the other Party shall strike second. The third arbitrator appointed by the first two arbitrators shall be the chairman of the arbitration panel. The Arbitrators named shall be competent by virtue of education and experience in the particular matter subject to arbitration.
- E. Settlement Conference/Stipulation. Before the matter is presented to the arbitrator or panel of arbitrators, a conference shall be held to attempt to voluntarily resolve the controversy or if that is not possible, to stipulate to as many facts as possible and to clarify, narrow and finalize the issues to be submitted to arbitration.
- F. Limitation on Authority of Arbitrators. The arbitrator(s) shall have no authority, power or jurisdiction to alter, amend, change, modify, add to or subtract from any of the provisions of this Agreement or to decide any issues other than the issues or controversies set forth in the notice instituting the arbitration.

- G. Final and Binding Award. If the parties agree to binding arbitration, the decision or award of the arbitrator or panel of arbitrators shall be final and binding upon the Parties and the Parties shall do such acts as the arbitrator's decision or award may require of them. Judgment upon any award rendered by the arbitrator or panel of arbitrators may be entered in any court having jurisdiction and execution issued thereon. This provision shall survive the termination of this Agreement.
- H. Cost of Arbitration. The cost of the arbitrator or panel of arbitrators shall be divided equally between the Parties. Each Party shall assume its own cost including legal and consulting fees, expert witness fees and other out-of-pocket expenses.

XXV. AMENDING AGREEMENT

Notwithstanding other provisions of this 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 both parties.

XXVI. NOTICES

- A. Wherever in this Agreement notice is required to be given by either party to the other, such notice shall be in writing and shall be effective if personally delivered or may be given by facsimile or mailed, with postage prepaid, properly addressed as follows:

If to Electric Utility, at:
Caribbean Utilities Company, Ltd.
P.O. Box 38GT
Grand Cayman,
Cayman Islands B.W.I.

Attention: President and CEO
With a copy to the Company Secretary
Fax: (345) 949-5203

If to Communications Utility, at
Infinity Broadband Limited
P. O. Box 30110 SMB
Grand Cayman
Cayman Islands

Attention: Chief Operating Officer
With a copy to: Vice President, Regulatory Affairs
Tel: (345)-946-3985
Fax: (345) 946-3986

Or to such other address as either party, from time to time, may give the other party in writing.

Notice shall be deemed to have been made to the other Party on the day of delivery in the case of personal, facsimile or courier and five days following the date of mailing in the case of postal delivery.

- B. Both the Owner Utility and Attaching Utility shall provide one another with a comprehensive and periodically-updated list of names and telephone numbers that will enable each Utility to reach the other in cases of emergency or to report damage to either Utility's facilities.

XXVII. ENTIRE AGREEMENT

This Agreement supersedes all previous agreements, whether written or oral, between Owner Utility and Attaching Utility for placement and maintenance of Attaching Utility's Facilities on Owner Utility's Poles within the Owner Utility's geographical service area covered by this Agreement; and there are no other provisions, terms or conditions to this Agreement except as expressed herein.

XXVIII. SEVERABILITY

If any provision or portion thereof 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.

XXIX. GOVERNING LAW

XXX. INCORPORATION OF RECITALS AND APPENDICES

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

BY: J. Munnick
Title: PRESIDENT & CEO

BY: [Signature]
Title: Director

Witness:

Witness:

MASTER POLE JOINT USE AGREEMENT
Between Caribbean Utilities Company, Ltd.
And Infinity Broadband, Ltd.

Appendix A
Pole Attachment Fees

Item 1 -- Annual Attachment Fee.

- A. Annual Attachment Fee shall be
- B. Annual Attachment Fee shall be effective October through September and may be revised annually based on Owner Utility's annual financial results as specified in Item 4 below.
- C. Annual billing amount will be determined based on Annual Attachment Fee times the number of Attachments. The number of Attachments will be determined based on the procedures specified in Item 5 below.
- D. All Attachments must be specified in an approved Permit. Any Attachments not specified in an approved Permit shall be considered an Unauthorized Attachment and subject to the Unauthorized Attachment Fee in Item 2 below.
- E. Attaching Utility or its Affiliate may Overlash an existing Attachment and such Overlash will not be considered an additional Attachment, provided that such Overlash is specified in an approved Permit. Any Overlash by the Attaching Utility or its Affiliate not specified in an approved Permit shall be considered an Unauthorized Attachment and subject to the Unauthorized Attachment Fee in Item 2 below.
- F. Annual billing amount will be billed in quarterly installments.
- G. Each Attachment shall be counted in the calculation of the annual billing amount as of the date of approval by the Owner Utility of the associated Permit. For billing purposes, each Permit shall be deemed to be in effect for the entire calendar quarter in which it was approved. For Attachments added during the year, the Annual Attachment Fee will be pro-rated quarterly.

Item 2 -- Unauthorized Attachment Fee.

- A. Any Attachment or Overlash made by Attaching Utility or its Affiliate to a Pole owned by Owner Utility prior to approval of Permit by Owner Utility or without specifying the Attachment or Overlash in an approved Permit shall be considered an Unauthorized Attachment.
- B. The Unauthorized Attachment Fee shall be the Annual Attachment Fee in effect at the time the Unauthorized Attachment is discovered, except that the Unauthorized Attachment Fee is payable in one annual installment. The Unauthorized Attachment Fee is considered payment in arrears for an Attachment deemed to exist for one year prior to the discovery, no matter what date the Attachment was actually made.

MASTER POLE JOINT USE AGREEMENT
Between Caribbean Utilities Company, Ltd.
And Infinity Broadband, Ltd.

Item 3 – Third Party Overlash.

- A. Any third party (a party other than the Owner Utility or the Attaching Utility or their respective Affiliates) that seeks to Overlash an existing Attachment on a Pole owned by Owner Utility, whether such Attachment is owned by Owner Utility or Attaching Utility, must negotiate a separate Agreement with Owner Utility.
- B. Any Overlash to an existing Attachment by a third party shall be considered a separate Attachment for billing purposes and will be subject to the Annual Attachment Fee in Item 1 above.
- C. All Overlashes by a third party must be specified in an approved Permit. Any Overlashes not specified in an approved Permit shall be considered an Unauthorized Attachment and subject to the Unauthorized Attachment Fee in Item 2 above.

Item 4 – Determination of Annual Attachment Fee.

- A. The Annual Attachment Fee will be calculated annually by the Owner Utility based on the following formula:
$$\text{Annual Attachment Fee} = \frac{\text{Net Cost of a Bare Pole}}{\text{Space Factor}} \times \text{Number of Poles}$$
- B. The Net Cost of a Bare Pole equals _____, based on the net book value of poles as of the most recent annual financial statements of the Owner Utility divided by the number of poles as of the most recent fiscal year end.
- C. For purposes of this Agreement, the calculation of net book value of poles excludes any costs associated with the Electric Utility equipment attached to the poles.
- D. For purposes of this Agreement, the net book value of poles and the number of poles in this calculation shall include only wood poles. Therefore, the Net Cost of Bare Pole shall be calculated based on only the Owner Utility's wood poles, even though Attaching Utility may attach to Poles other than wood poles.
- E. The Space Factor represents an allocation of the total pole height based on the actual space used by the Attachment plus an allocated portion of the unusable space on the pole in accordance with the following formula:
$$\text{Space factor} = \frac{\text{Attachment Height}}{\text{Total Pole Height}}$$
- F. The Space Factor is _____, as derived from the following values for the Owner Utility as of the most recent fiscal year end:

MASTER POLE JOINT USE AGREEMENT
Between Caribbean Utilities Company, Ltd.
And Infinity Broadband, Ltd.

1. The unusable space on the pole = 24.5 feet.
 2. The space occupied by the Attachment = one foot.
 3. The number of Attachments = three.
 4. The weighted average height of wood poles = 38.5 feet.
- G. The Annual Carrying Charge Rate based on the sum of the following component percentage values:
1. Administrative = based on total administrative and general expenses for the fiscal year divided by the net book value of total assets as of fiscal year end, as reported in the most recent annual financial statements of the Owner Utility.
 2. Maintenance = based on total distribution expenses for the fiscal year divided by the net book value of distribution system assets as of fiscal year end, as reported in the most recent annual financial statements of the Owner Utility.
 3. Depreciation = based on the annual depreciation expense of wood poles divided by the net book value of wood poles as of the fiscal year end. Depreciation and net book value for purposes of this calculation exclude any amounts associated with the Electric Utility equipment attached to the poles.
 4. Return =

Item 5 -- Determination of Total Number of Attachments.

- A. The number of Attachments for billing purposes shall be based on the Attachments specified in current Permits approved by the Owner Utility.
- B. Any inventory of all Attachments, whether performed by Owner Utility or jointly by Owner Utility and Attaching Utility, may be used to adjust the number of Attachments for purposes of the annual billing amount.
- C. Any additional Attachments discovered as a result of the inventory may be considered Unauthorized Attachments and may be subject to the Unauthorized Attachment Fee specified in Item 2 above at Owner Utility's sole discretion.
- D. Any discrepancies between the inventory amounts and the Permit amounts shall be resolved at Owner Utility's sole discretion by any of the following actions:
 1. Revision of the Attachments specified in a current approved Permit;
 2. Approval of a new Permit for the previously unrecorded Attachments; or
 3. Removal of the Unauthorized Attachments at the Attaching Utility's expense.

MASTER POLE JOINT USE AGREEMENT
Between Caribbean Utilities Company, Ltd.
And Infinity Broadband, Ltd.

Appendix B
Permit Requirements

Item 1 – Form of Permit.

- A. Form of Permit Application is shown as Attachment A to this Appendix B.
- B. Form of Permit Application may be revised by Owner Utility at any time upon reasonable notice to Attaching Utility to accommodate requirements of the Agreement.

Item 2 – Applicability.

A Permit is required as set forth in the Agreement and generally includes the following circumstances:

- 1. Attachments to Owner Utility's Poles;
- 2. Attaching Utility Overlashes to its own existing Attachments; and
- 3. Third party Overlashes to existing Attachments.

Item 3 – Procedures.

The procedures for Permit application and approval are as set forth in the Agreement and are generally described as follows

- 1. Attaching Utility submits a Permit form to the Owner Utility specifying the requested Attachments. This constitutes a Permit Application.
- 2. Owner Utility reviews the Permit Application to determine acceptance and Make-Ready Work requirements, if any.
- 3. Owner Utility submits estimated cost of Make-Ready Work to Attaching Utility.
- 4. Any required Make-Ready Work is completed and the associated costs are paid.
- 5. Owner Utility signs and returns a copy of the Permit Application to Attaching Utility. This constitutes an approved Permit.
- 6. Attaching Utility makes Attachments.

MASTER POLE JOINT USE AGREEMENT
Between Caribbean Utilities Company, Ltd. (CUC)
And Infinity Broadband, Ltd. (IBL)

ATTACHMENT A

SAMPLE FORM ONLY

JOINT USE PERMIT REQUEST

REQUEST#: _____ FROM COMPANY: _____ NAME: _____

REQUEST DATE: _____ TO COMPANY: _____ NAME: _____

DRAWING INCLUDED (Y/N): _____ CUC W/O#: _____
POLE WORK (REQUIRED BY): _____ C&W W/O#: _____
ATTACHMENT WORK: (Y/N): _____
OTHER: _____

APPROVED: _____ DATE: _____

LOCATION: BLOCK _____ PARCEL _____

REASON FOR WORK:
NEW SERVICE ☐ UPGRADING ☐ DETERIORATION ☐ CLEARANCE ☐
OTHER (SPECIFY) _____

STRUCTURE TABLE-RECORD INITIAL ACTIVITY ONLY

ACTV.	LOCATION OF POLE	EXISTING POLE #	NEW POLE #	CONNECTION		SEPARATION C&W & CUC
				G&W	CUC	

RECOMMENDATIONS: _____

ACTIVITY CODES (ACTV): ATTACHMENT APPLICATION:(A) ATTACH. CABLE:(C) TRANSFER:(T) GUY:(Y)
MISC.WORK FOR C&W:(M) PLACEMENT POLE:(P) REPLACEMENT POLE:(R) MODIFICATION FRAMING:(X)

A) REQUEST: ACCEPTED ☐ REJECTION: ☐ SIGNED: _____ DATE: _____

REASON FOR REJECTION: _____

B) POLE INSTALLATION COMPLETE _____ SIGNED: _____
C) TRANSFERS COMPLETE CUC: _____ SIGNED: _____
D) TRANSFERS COMPLETE C&W: _____
E) POLES REMOVED: _____
F) MISC. WORK COMPLETED: _____

MASTER POLE JOINT USE AGREEMENT
Between Caribbean Utilities Company, Ltd.
And Infinity Broadband, Ltd.

Appendix C
Design Specifications for Attachments to Poles

Item 1 – Typical Pole Configuration.

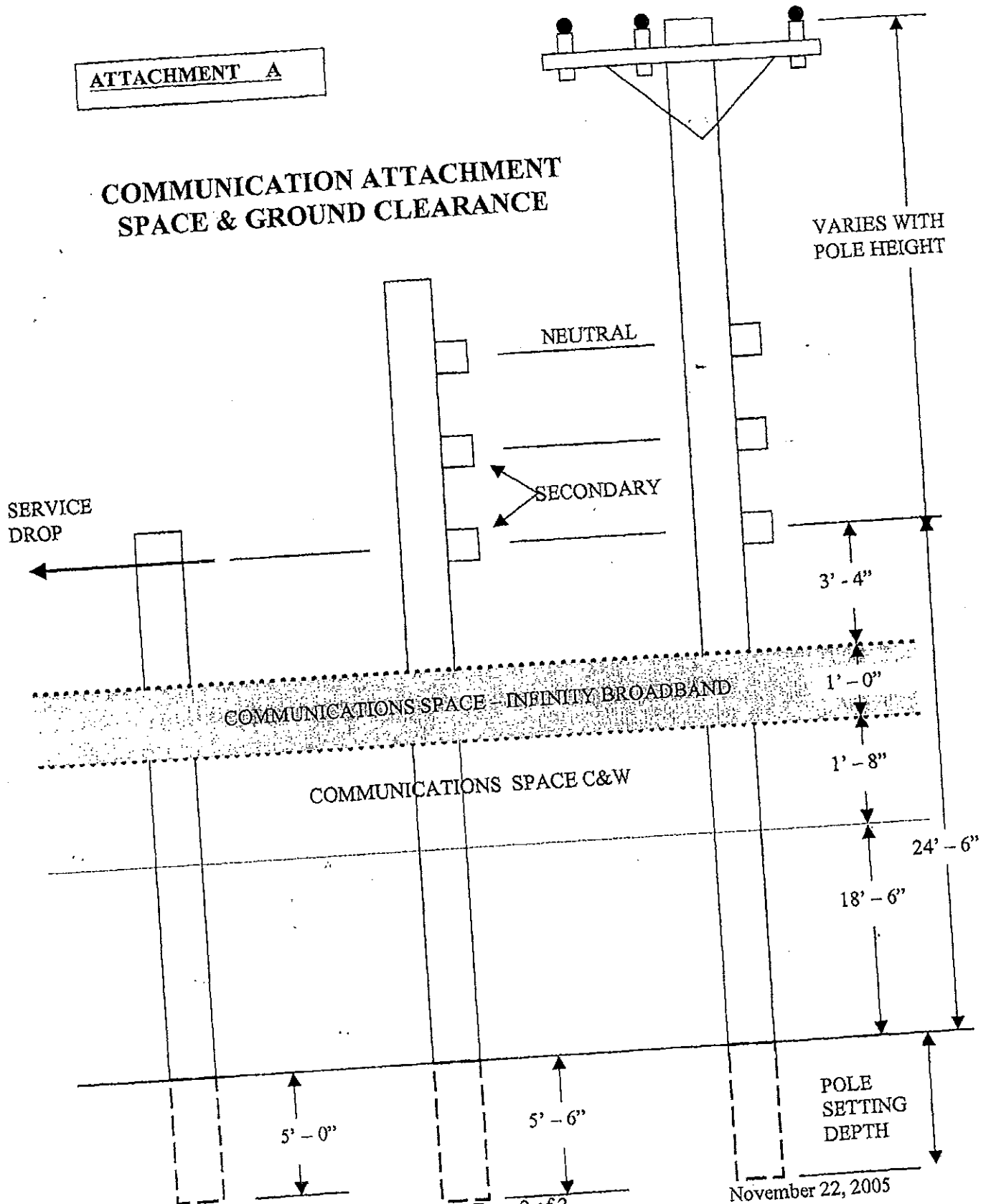
- A. Representative Pole configurations are shown in the drawing included as Attachment A to this Appendix C.
- B. Applicable Standards are as set forth in the Agreement.
- C. Attaching Utility shall have a space of one foot on Pole for Attachment.
- D. Attaching Utility shall have only one Attachment on Pole-per space.

Item 2 – Other Mutual Agreements.

- A. In addition to the Permits required to make Attachment within the Attaching Utility's authorized space, approved Permits are also required for the installation of vertical runs of communication cable from ground level up to such authorized space. Such runs may include mechanical and/or electrical protection and splice enclosures.
- B. Electric Utility shall be permitted at all times to install conduits for carrying power cables vertically through the authorized space, provided that (a) no means of fixing the said conduits to the pole shall be permitted within the authorized space, (b) such installations shall be placed on the "bush side" of the pole, and (c) such installations shall comply with Article 239.G of the NESC.
- C. In order to provide access to supply circuits and equipment on the upper portions of the pole, the "bush side" (i.e., the side facing the bush) of the pole shall be kept free of all communication Attachments, which shall be attached to the "road side" (i.e., the side facing the road) of the pole.
- D. Communication drop wires shall, wherever practicable, follow the same route as the Electric Utility's power lines. They shall be attached to the pole in such a manner as to provide an unobstructed area of at least thirty (30) inches by thirty (30) inches, measured from the pole surface, for raising supply equipment to the upper part of the pole.
- E. Attaching Utility shall design for and request, as needed, pole guys to be installed by Owner Utility.

ATTACHMENT A

COMMUNICATION ATTACHMENT
SPACE & GROUND CLEARANCE



November 22, 2005