



**POLE LICENSE AGREEMENT – NON-CABLE  
COMMUNICATIONS REQUEST**

THIS AGREEMENT is made as of \_\_\_\_\_, \_\_\_\_\_, by and between CONSUMERS ENERGY COMPANY, a Michigan corporation, having its principal office at One Energy Plaza, Jackson, Michigan 49201, hereinafter called "Owner," and \_\_\_\_\_, having its principal office at \_\_\_\_\_, hereinafter called the "Licensee,"

Recitals

WHEREAS, Licensee represents that it is the holder of all necessary governmental permits to erect and maintain non-cable equipment in the streets, alleys, and other public places in the State of Michigan, hereinafter called "the municipality," for the purpose of transmitting communications; and

WHEREAS, Licensee desires to attach its non-cable equipment, hereinafter called "Licensee's Equipment", to Owner's poles in the municipality in order to avoid expensive and unnecessary duplication of facilities; and

WHEREAS, Owner is willing to permit, to the extent it may lawfully do so, the attachment of Licensee's Equipment, not requiring consecutive poles of any distance, to its poles in the municipality for the above stated purposes, upon the terms and conditions hereinafter set forth.

Agreement

NOW, THEREFORE, in consideration of their respective undertakings herein, the parties agree as follows:

**ARTICLE I  
AVAILABILITY OF POLES FOR LICENSEE'S EQUIPMENT**

To the extent permitted by law, by the provisions of presently existing joint-use contracts, and by the terms of all necessary permits, licenses, easements, franchises or consents from property Owners and governmental authorities having jurisdiction, Owner's poles in the municipality shall be available to Licensee for the attachment of Licensee's Equipment in accordance with the terms of this agreement, if and to the extent that such use, in Owner's judgment, will not interfere with Owner's service requirements, including, but not by way of limitation, considerations of safety and economy.

**ARTICLE II  
APPLICATION AND PERMIT PROCEDURE**

Whenever Licensee desires to have Licensee's Equipment attached to any of Owner's poles, Licensee shall prepare and submit to Owner three (3) copies of an Application (accompanied by the fee required by Paragraph 1 of Article IX hereof) on an Application and Permit form, a copy of which is attached hereto and made a part hereof as Exhibit B, including any sketch and other information necessary to clearly show the location of such pole or poles. As soon as reasonably possible after a properly prepared and submitted Application and Permit is furnished to Owner, Owner shall either deny or grant permission for such attachment as follows:

- (1) If, in Owner's judgment, a selected pole is unavailable for attachment, Owner shall notify Licensee in writing of such unavailability.
- (2) If, in Owner's judgment, a selected pole is available for attachment and no facility alterations is necessary, Owner shall furnish to Licensee the estimated cost of work Owner will need to perform to attach Licensee's Equipment above Owner's conductors ("attachment work"). If Licensee desires to proceed with the attachment, Licensee shall remit payment for the attachment work to Owner within ten (10) days of receipt of the estimate, and Owner shall proceed with the attachment work upon receipt of the payment. The Application and Permit shall not be effective until Owner notifies Licensee in writing that attachment work has been completed.
- (3) If, in Owner's judgment, a selected pole is available for attachment and facility alterations are necessary, Owner shall furnish to Licensee the estimated cost of necessary facility alterations and of attachment work. If Licensee desires to proceed with the attachment, Licensee shall remit payment for the facility alteration and attachment work to Owner within ten (10) days of receipt of the estimate, and Owner shall proceed with the attachment work upon receipt of the payment. The Application and Permit shall not be effective until Owner notifies Licensee in writing that necessary facility alterations and attachment work have been completed.

The determination of whether Owner's poles are available or unavailable for attachment of Licensee's Equipment shall be within Owner's sole discretion.

### **ARTICLE III SPECIFICATIONS FOR ATTACHMENT OF LICENSEE'S EQUIPMENT; INSPECTION**

Licensee's Equipment shall be attached and maintained in accordance with the requirements, specifications, and applicable rules and orders of the Michigan Public Service Commission and other authorities having jurisdiction over such attachments, and in accordance with such other specifications not less restrictive than the foregoing as the parties may agree upon from time to time. Drawings showing certain of such requirements and specifications are attached hereto and made a part hereof as Exhibit A. Licensee shall be responsible for any fines, assessments, taxes or levies imposed by any governmental entity (including the Michigan Public Service Commission) against either Licensee or Owner as a result of any violation or alleged violation of any applicable laws, ordinances, rules, or regulations due to the attachment of Licensee's Equipment to Owner's poles.

Owner may specify the location on its poles below Owner's electric conductors at which Licensee may attach Licensee's Equipment. Licensee shall be solely responsible to determine if the making or maintaining of an attachment at the specified location will violate any applicable law, rule, regulation, ordinance or order of any governmental authority or regulatory body, including the Michigan Public Service Commission. If Licensee determines that the specified location will result in such a violation, Licensee shall so advise Consumers and obtain Consumers' authorization to make the attachment at a location that does not result in such a violation.

**OWNER OR OWNER'S CONTRACTORS SHALL MAKE ALL ATTACHMENTS OF LICENSEE'S EQUIPMENT TO THE PORTION OF OWNER'S POLES ABOVE OWNER'S ELECTRIC CONDUCTORS, EQUIPMENT AND ASSOCIATED SAFETY ZONE AND SHALL LIKEWISE PERFORM ALL INSPECTIONS, MAINTENANCE, REPAIRS, ALTERATIONS, AND REMOVALS THEREOF, AT LICENSEE'S EXPENSE. THE ASSOCIATED SAFETY ZONE IS THE ZONE WHICH EXTENDS DOWNWARD A CERTAIN DISTANCE, FROM THE ELECTRIC FACILITIES INSTALLED AT THAT POLE, AS DEFINED BY THE NATIONAL ELECTRICAL SAFETY CODE (NESC) AND AS SHOWN IN EXHIBIT A. LICENSEE SHALL AT NO TIME HAVE ACCESS TO THE PORTION OF OWNER'S POLES IN OR ABOVE THE SAFETY ZONE NEAR OWNER'S ELECTRIC CONDUCTORS OR EQUIPMENT FOR ANY PURPOSE.**

**TO ARRANGE FOR ATTACHMENT, INSPECTION, MAINTENANCE, REPAIR, ALTERATION, REMOVAL, OR OTHER WORK ON LICENSEE'S EQUIPMENT, LICENSEE SHALL CONTACT OWNER AT THE PHONE NUMBER INDICATED IN THE PERMIT OWNER ISSUES TO LICENSEE. OWNER OR OWNER'S CONTRACTORS SHALL PERFORM SUCH WORK TO MEET LICENSEE'S REQUIREMENTS, BUT WORK OWNER PERFORMS SHALL BE PERFORMED AT TIMES DICTATED BY OWNER'S UTILITY BUSINESS. LICENSEE MAY ATTACH LICENSEE'S EQUIPMENT TO THE PORTION OF OWNER'S POLES BELOW OWNER'S ELECTRIC CONDUCTORS, ENERGIZED EQUIPMENT AND ASSOCIATED SAFETY ZONE AS DETERMINED BY APPLICABLE SAFETY CODES.**

**LICENSEE'S EQUIPMENT LOCATED BELOW OWNER'S ELECTRIC CONDUCTORS, EQUIPMENT AND THE ASSOCIATED SAFETY ZONE MAY BE ATTACHED AND MAINTAINED BY THE LICENSEE, USING HOWEVER ONLY PROPERLY TRAINED, SKILLED WORKERS WHO ARE FULLY QUALIFIED AND LICENSED TO PERFORM SUCH WORK IN PROXIMITY TO ELECTRIC LINES AND EQUIPMENT.**

**LICENSEE SHALL BE RESPONSIBLE TO ARRANGE FOR SEPARATELY-METERED ELECTRIC SERVICE FOR LICENSEE'S EQUIPMENT ON OWNER'S POLES, AT A LOCATION OWNER APPROVES. LICENSEE SHALL PAY FOR ALL COSTS AND CHARGES ASSOCIATED WITH SUCH SERVICE.**

#### **ARTICLE IV FACILITY ALTERATIONS FOR LICENSEE'S EQUIPMENT**

If Owner determines, in its sole discretion, that an attachment permitted in an Application and Permit that Licensee has endorsed will require the alteration of Owner's pole or its facilities thereon, Licensee's endorsement of the Application and Permit shall constitute Licensee's authorization to Owner to make the required alterations. The alterations, including replacement of inadequate poles, shall be made with reasonable promptness after receipt of Licensee's authorization, and Owner shall give Licensee notice of completion within ten (10) days after completion.

Licensee shall pay Owner for such facility alterations in accordance with Article IX hereof.

Licensee's payment for facility alterations (including, but not limited to, contributions toward the cost of replacement poles) shall not create or vest in Licensee any ownership or property rights in such facilities or poles, and Licensee's rights in said poles shall be and remain a mere license.

Licensee shall also reimburse the owner of any other facilities attached to the existing pole pursuant to joint use or pole license agreements for their respective costs of altering their attached facilities to accommodate the attachment of Licensee's Equipment, including, where applicable, the cost of transferring said facilities from the existing pole to the replacement pole, except to the extent, if any, that any such facility owner has agreed to pay for same. The time and manner of the making of any such payment to the owners of any such facilities shall be as agreed between Licensee and said owners.

#### **ARTICLE V AUTHORIZATION FOR LICENSEE'S EQUIPMENT**

Upon the execution of this agreement, Licensee shall submit to Owner satisfactory evidence of Licensee's right to erect and maintain non-cable equipment in the streets, alleys, and other public places of the municipality.

Licensee's Equipment shall not be attached to Owner's poles unless and until Licensee has obtained all necessary permits, licenses, easements, franchises, and consents from property owners and governmental authorities for such attachment and use of Licensee's Equipment on Consumers' poles. Licensee shall be solely responsible for obtaining all such licenses, easements, franchises, and

consents. Upon Consumers' request, Licensee shall submit to Consumers satisfactory evidence that Licensee has acquired such permits, licenses, easements, franchises, and consents.

## **ARTICLE VI MAINTENANCE OF LICENSEE'S EQUIPMENT; INSPECTION**

Licensee's Equipment shall be maintained in a safe condition and in thorough repair, at Licensee's expense, and in such manner, suitable to Owner, that said attachments will not conflict with the use of Owner's poles by Owner or other authorized parties or interfere with the operation or use of facilities that are or may from time to time be placed thereon.

**THE ATTACHMENT OF LICENSEE'S EQUIPMENT SHALL AT NO TIME RESULT IN INTERFERENCE WITH CONSUMERS' SERVICE REQUIREMENTS, INCLUDING WITHOUT LIMITATION, CONSIDERATIONS OF SAFETY AND ECONOMY. IN THE EVENT OF PERFORMING MAINTENANCE OR REPAIRS, THE OWNER SHALL HAVE THE RIGHT TO DE-ENERGIZE LICENSEE'S EQUIPMENT ON THE POLE. LICENSEE SHALL BE SOLELY RESPONSIBLE FOR THE COST OF ELIMINATING ANY AND ALL INDUCTIVE INTERFERENCE. LICENSEE SHALL PAY OWNER FOR THE COST OF ANY WORK OR OPERATIONS OWNER PERFORMS TO ELIMINATE OR REDUCE INDUCTIVE INTERFERENCE.**

Owner reserves the right to make periodic inspections of any part of Licensee's Equipment on Owner's poles and in the vicinity thereof, in which event Licensee shall reimburse Owner for the costs incurred in making such inspections. Owner will not make inspections more often than once a year unless, in Owner's judgment, such inspections are required for reasons involving safety or are required because of Licensee's violation of the terms of this agreement. The making of such inspections or the failure to do so shall not operate to relieve Licensee of any responsibility, obligation, or liability assumed under this agreement.

## **ARTICLE VII RELOCATION OF LICENSEE'S EQUIPMENT**

If at any time it becomes necessary, in Owner's opinion, to relocate, replace, renew, or transfer Licensee's Equipment in connection with the maintenance, replacement, removal, or relocation of Owner's poles or Owner's facilities thereon or in connection with Owner's service needs, Owner shall have the right to relocate, replace, renew, or transfer Licensee's Equipment above Owner's electric conductors, equipment and associated safety zone or perform any other work in connection with such attachments, and Licensee shall, on demand, reimburse Owner for the costs thereby incurred. Upon notice from Owner, Licensee shall, at its own expense, relocate, replace, renew, or transfer Licensee's Equipment below Owner's electric conductors, equipment and associated safety zone or perform any other work in connection with such attachments. If the Licensee neglects or refuses to do so, or in cases of emergency, Owner shall have the right to remove, relocate, replace or renew Licensee's Equipment below Owner's electric conductors, equipment and associated safety zone, transfer Licensee's Equipment below Owner's electric conductors, equipment and associated safety zone to replacement poles, or perform any other work in connection with Licensee's Equipment, in which event Licensee shall, on demand, reimburse Owner for the costs Owner incurred as a result of the Licensee's failure or refusal to act in compliance with such notice.

## **ARTICLE VIII UNAUTHORIZED ATTACHMENTS**

If Owner finds any non-cable equipment owned by Licensee on a pole for which there is no effective Permit, Owner may, without prejudice to its other rights or remedies under this agreement or otherwise: (1) immediately remove the non-cable equipment forthwith without liability to Licensee, and (2) impose a charge on Licensee. For the purpose of determining the charge, in the

absence of satisfactory evidence to the contrary, the unlicensed use shall be treated as having existed for a period of three (3) years prior to its discovery; and the fee, at the appropriate rate as shown in Article IX hereof, for each year and for any portion of a year contained in such period, shall be due and payable forthwith. Any such charge Owner imposes shall be in addition to its rights to any other sums due and payable and to any claims or damages under this agreement or otherwise. Owner's act or failure to act with regard to said charge or said unlicensed use shall not be deemed a ratification or the licensing of the unlicensed use, and if Owner subsequently issues a permit, after Licensee applies and pays the application fee therefor, the permit shall not operate retroactively or constitute Owner's waiver of any of its rights or privileges under this agreement or otherwise. In addition, Licensee shall be responsible to reimburse Owner for the expense of such removal upon demand and shall indemnify and save Owner harmless from and against all loss, liability or expense (including, but not limited to, claims of third parties) resulting from such unauthorized attachment and the removal thereof.

## **ARTICLE IX FEES AND CHARGES**

The provisions of Owner's Pole Attachment and Conduit Use Rate "PA" pertaining to fees, charges, and payments, including any amendments thereto that may be made from time to time ("Rate PA"), shall apply to this agreement to the same extent as if this agreement were governed by said Rate PA.

- (1) For each application for a Permit, Licensee shall pay Owner an Application Fee in the amount provided for in Rate PA. The Application Fee must accompany the Application.
- (2) For each permitted attachment, Licensee shall pay Owner an Annual Fee in the amount provided for in Rate PA. The Annual Fee shall be prorated for any Permit granted after July 1 of any contract year, payable within twenty-one (21) days after Owner issues the Permit. **IF PERMITTED ATTACHMENT OCCUPIES MORE THAN 12" OF USABLE SPACE ON THE POLE, AN ADDITIONAL ATTACHMENT FEE WILL BE ACCESSED FOR EACH ADDITIONAL 12" OF SPACE OR PORTION THEREOF OCCUPIED BY THE ATTACHMENT.**
- (3) If Licensee authorizes Owner to alter Owner's facilities to accommodate attachment of Licensee's Equipment pursuant to this agreement, Licensee shall pay Owner in advance for the cost of making such alterations, including but not limited to the cost of inspection, engineering, rearranging the existing facilities, guying of the pole, tree trimming and/or replacement of the pole.
- (4) In the event that any present or future Federal Law, Executive Order, or Administrative Rules and Regulations pertaining to Economic Controls prevents Owner from charging all or any part of the Application Fee specified in Paragraph 1 of this Article IX or any part of the Annual Fee specified in Paragraph 2 of this Article IX, Licensee shall, during such times as Owner is prevented from making such charges, pay the permissible portion of said Application Fee and/or Annual Fee pertaining to Economic Controls.
- (5) When any charge to Licensee provided for in this agreement is to be based upon Owner's cost, said cost shall be determined in accordance with Owner's regular and customary method of determining such costs unless otherwise expressly provided herein.
- (6) Owner may, at its option, require Licensee to pay the estimated cost of any facility alterations Licensee is to pay pursuant to Paragraph 3 of this Article IX, prior to the commencement of engineering and/or other work on said alterations. If the actual cost of any such alterations is not equal to Licensee's advance payment for said alterations, Owner will, after completing the alterations, submit to Licensee a bill for the amount by

which the cost of said alterations exceeded said advance payment or will grant Licensee a credit for the amount by which said advance payment exceeded the actual cost of said alterations.

Licensee's payment for use of Owner's poles under this agreement, however extended, shall not create or vest in Licensee any ownership or property rights in such facilities or poles, and Licensee's rights in said poles shall be and remain a mere license.

## **ARTICLE X TERMINATION OF ATTACHMENT PERMITS**

Upon notice from Owner to Licensee that the attachment to any pole is not authorized by federal, state, county or municipal authority or private property owner, the Permit for such attachment shall immediately terminate and shall be surrendered.

Upon notice from Owner to Licensee that Owner intends to abandon any pole, the Permit covering said pole shall, unless otherwise provided in the notice, terminate and cease to be effective as to said pole. To the extent that it may legally do so under prior agreements or otherwise, Owner may sell to Licensee, at any time within thirty (30) days after such notice, at the then value thereof in place or such other equitable sum as may be agreed upon between the parties, any pole which Owner has given notice of intent to abandon.

If at any time Owner, or other party under the terms of a joint use or pole license agreement executed prior to the date of this agreement, desires to make additional attachments to any pole (except a pole replaced at Licensee's expense under Article IV hereof) carrying Licensee's Equipment, or otherwise desires to use for its own service needs the space Licensee's Equipment occupies, and, in Owner's judgment, the existing pole is inadequate under applicable requirements and specifications to support such additional attachments or use, Owner shall give Licensee notice to that effect and the Permit covering said pole shall terminate and cease to be effective as to said pole unless within ten (10) days after such notice Owner receives authorization from Licensee agreeing to pay the entire cost (as provided in Paragraph 3 of Article IX hereof) to Owner of replacing the inadequate pole with a pole adequate to support such additional attachments or use together with the attachments of Licensee and the existing attachments of Owner that are to remain, and the existing attachments of other parties if made pursuant to joint use or pole license agreements executed prior to the date of this agreement. If the existing pole would be adequate but for the attachments of other parties made pursuant to joint use or pole license agreements executed after the date of this agreement, Licensee shall not be liable for any portion of the cost of a replacement pole therefor.

Licensee may at any time terminate any Permit by giving Owner notice in duplicate on the Termination of Attachments by Licensee form attached hereto and made a part hereof as Exhibit C.

Any Permit granted hereunder for attachment to Owner's poles shall terminate without further notice to Licensee as to individual poles covered by the Permit to which Licensee has not attached within sixty (60) days from the date that Owner has notified Licensee that such poles are available for attachment of the facilities of Licensee.

All Permits shall automatically terminate and cease to be effective upon the termination of this agreement.

## **ARTICLE XI TERMINATION FOR DEFAULT**

If Licensee shall neglect or refuse to comply with any of the provisions of this agreement, including the specifications and requirements referred to in Article III hereof, or default on any of its obligations hereunder, and shall fail within ten (10) days after notice from Owner to correct such neglect, refusal or default, Owner may, at its option, in addition to any other remedy available to it, forthwith terminate this agreement or the Permit or Permits covering the pole or poles as to which such neglect, refusal or default shall have occurred.

## **ARTICLE XII REMOVAL UPON TERMINATION**

Owner may remove Licensee's Equipment from the pole or poles for which any Permit has been terminated, without notice or liability of any kind to Licensee, and Licensee shall reimburse Owner upon demand for the cost of such removal and shall indemnify and save Owner harmless from and against all loss, liability, or expense (including, but not limited to, claims of third parties), resulting from such removal.

## **ARTICLE XIII LIABILITY AND INSURANCE**

Owner reserves to itself, its successors and assigns, the right to maintain its poles and to operate its facilities thereon in such manner as will best enable it to fulfill its own service requirements. Owner shall not be liable to Licensee for any interruption in service Owner furnishes to Licensee or to Owner's other customers, or in service Licensee furnishes to its customers, or for any interference, including but not limited to inductive interference, with the operation of Licensee's Equipment or of Owner's or Licensee's customers that may arise in any manner out of Licensee's use of Owner's poles, whether by Owner's negligence or otherwise, except for Owner's sole negligence.

Licensee shall be responsible for any and all damage to Owner's poles or facilities and to the facilities of others on Owner's poles arising out of or caused by Licensee's conduct or property, whether by Licensee's negligence or otherwise. Licensee shall immediately report the occurrence of any such damage to Owner or the owners of any such facilities and shall reimburse Owner or such owners for expenses they incur in making necessary repairs and replacements.

Licensee hereby assumes all responsibility for bodily injury to persons, including death or damages, sustained or claimed by its employees, Owner's employees, or any other person, and also for damage to property, including the property of Licensee, Owner, or any other person, and also for any interruptions to electric or community antenna television or other communications service, that may occur or allegedly occur because of, or result from, or in any manner are connected with or directly or indirectly arise out of or are caused in whole or in part by the erection, maintenance, presence, replacement, use, or removal of Licensee's Equipment hereunder or by the proximity of Licensee's Equipment and those of Owner or other users of Owner's poles, or by any action, operation, or omission of Licensee, its agents, contractors or employees, under this agreement; and Licensee shall assume all responsibility for and shall indemnify and save Owner harmless from and against all losses, liabilities, claims, demands, payments, actions, legal proceedings, recoveries, costs, expenses, attorney fees, settlements, judgments, orders and decrees of every nature and description brought or recovered against, or incurred by, Licensee, Owner, or both of them, by reason of any such bodily injury to persons, damage to property, or interruptions to service.

Licensee shall also pay or reimburse Owner for any and all claims and demands of whatever kind which arise directly or indirectly from the operation of Licensee's facilities including taxes, special charges by others, claims and demands for damages or loss for infringement of copyright, for libel and slander, for unauthorized use of other program material, and all claims and demands for infringement of patents with respect to the manufacture, use and operation of Licensee's

equipment whether arising from the use of Licensee's equipment in combination with Owner's poles or otherwise.

Licensee shall at its sole expense secure and maintain in force in the name of Licensee during the entire life of this agreement, policies of insurance of the following types:

- (a) Workers' Compensation Insurance with Michigan statutory limits.
- (b) Commercial General Liability Insurance, including contractual liability, with a minimum combined bodily injury and property damage single limit of \$1,000,000 per occurrence. Such insurance shall name Owner, its Directors, Officers, and Employees as additional insureds as their interest may appear; and such coverage shall be primary to any insurance Owner maintains.
- (c) Automobile Liability Insurance with a minimum combined bodily injury and property damage single limit of \$500,000 per occurrence, providing coverage for owned, non-owned and hired vehicles.

Such policies of insurance shall be in a form and with companies satisfactory to Owner and shall be obtained and become effective prior to the attachment of facilities of Licensee to any pole or poles of Owner hereunder. A copy of the policy shall be furnished to Owner at Owner's request.

Licensee shall submit Certificates of Insurance to Owner prior to the attachment of facilities of Licensee to any of Owner's poles. The Certificate of Insurance shall be on the form Owner furnishes or any other form Owner's Corporate Insurance Department approves. The Certificate shall require that the Insurance Company give at least thirty (30) days prior written notice of cancellation or material change in any such policy.

The Certificate of Insurance shall be submitted to:

Consumers Energy  
Corporate Insurance Department  
One Energy Plaza  
Jackson, Michigan 49201

Certificates can also be sent electronically to: [Insurancecertificates@cmsenergy.com](mailto:Insurancecertificates@cmsenergy.com)

The above requirements as to policies of insurance may be varied by written amendment to this agreement.

**ARTICLE XIV  
RIGHTS OF OTHER PARTIES**

The attachment of Licensee's Equipment to Owner's poles shall be subject to all permits, licenses, easements, franchises, or consents granted to Consumers by property owners and governmental authorities, and Licensee shall be responsible to comply with the terms and conditions of all such permits, licenses, easements, franchises, or consents.

Nothing contained herein shall be construed as affecting any rights or privileges Owner has heretofore granted by contract or otherwise to any other parties to use any poles this agreement covers, and Owner shall have the right to continue, modify and extend any such rights or privileges in accordance with the terms of any such rights or privileges. The attachment privileges granted herein shall be subject to such previously granted rights or privileges. Moreover, nothing contained herein shall be construed as affecting any rights or privileges Owner hereafter grants by contract or otherwise to any other parties, to use any poles this agreement covers, and Owner shall have the right to initiate, continue, modify and extend any such rights or privileges in any manner not inconsistent with the performance of its obligations hereunder.

**ARTICLE XV  
ASSIGNMENT**

This agreement shall be personal to Licensee, and any assignment or other transfer by Licensee, in whole or in part, of its rights or privileges hereunder, without Owner's prior written consent, shall be void and not merely voidable. Subject to the foregoing, this agreement shall extend to and bind the permitted successors and assigns of the parties hereto.

**ARTICLE XVI  
WAIVER OF TERMS AND CONDITIONS**

Owner's failure to enforce or insist upon compliance with any of the terms or conditions of this agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

**ARTICLE XVII  
BILLS AND PAYMENTS**

Unless otherwise expressly provided herein, bills under this agreement shall be payable within twenty-one (21) days after presentation. Nonpayment of bills within said period shall be deemed to be a default within the meaning of Article XI hereof. Any bill not paid when due shall be subject to the Late Payment Charge provided in Rate PA, as the same may be amended from time to time.

**ARTICLE XVIII  
MICHIGAN PUBLIC SERVICE COMMISSION**

This agreement is subject to all applicable present and future rules, regulations and orders of the Michigan Public Service Commission. To the extent that any provision of this agreement is in conflict with any such rule, regulation or order, such rule, regulation or order shall control.

**ARTICLE XIX  
TERM OF AGREEMENT**

This agreement shall take effect on \_\_\_\_\_ and unless sooner terminated in accordance with the provisions of Article XI hereof, shall continue in effect until terminated by mutual consent, or by either party giving the other at least six (6) months' advance notice of its desire to terminate the same at any time hereafter.

**ARTICLE XX  
NOTICES AND DOCUMENTS**

The giving or furnishing of any notice or document in connection with this agreement shall be deemed to occur (a) in the case of delivery of such notice or document in person, by telefax, or by recognized overnight courier, on the date of such delivery, (b) in the case of mailing of such notice or document by registered or certified mail, on the date of receipt of such registered or certified mail, or (c) in the case of mailing of such notice or document by regular mail, on the second business day following the date of postmark of such mailing.

Notices and documents to be given or furnished to Owner shall be delivered or mailed to:

Consumers Energy Company  
Attn:  
1945 West Parnall Road  
Jackson, Michigan 49201

Notices and documents to be given or furnished to Licensee shall be delivered or mailed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may at any time change a designation of the individual or address to which notices or other documents are to be delivered or mailed by giving notice in writing of such change of designation to the other party.

This agreement may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be deemed an original. Any document generated by the Parties with respect to the Agreement, including the Agreement, may be imaged and stored electronically and introduced as evidence in any proceedings as if original business records. Neither Party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

**ARTICLE XXI  
SEVERABILITY**

The invalidity or unenforceability of any provision of this agreement shall not in any way affect any other provision or provisions hereof. This agreement shall remain in effect and be construed in all respects as if such invalid or unenforceable provision were omitted.

**ARTICLE XXII  
HEADINGS**

Headings are provided for convenience only. They are not a part of this agreement and shall not affect the construction or interpretation thereof.

**ARTICLE XXIII  
PREVIOUS AGREEMENTS**

With respect to the subject matter hereof, this agreement supersedes all previous representations, understandings and negotiations, either written or oral, between the parties hereto or their representatives, and constitutes the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate by their duly authorized representatives.

CONSUMERS ENERGY COMPANY \_\_\_\_\_

By \_\_\_\_\_  
Steven J Herrygers,  
Executive Director, Electric Distribution Design

By \_\_\_\_\_

	REVIEW	APPROVAL
	<input type="checkbox"/>	<input type="checkbox"/>
LEGAL	<input type="checkbox"/>	<input type="checkbox"/>