

POLE ATTACHMENT AND CONDUIT OCCUPANCY AGREEMENT

This Pole Attachment and Conduit Occupancy Agreement (the “Agreement”) is made and entered into on _____, 2013 (the “Effective Date”), between Provo City Corporation, a municipal corporation organized under the laws of the State of Utah, (“Licensor”) and Google Fiber Utah, LLC, a Utah limited liability company, (“Licensee”) (each a “Party” and collectively, the “Parties”).

WITNESSETH

WHEREAS, Licensor is engaged in the business of providing electric distribution service to customers in Provo, Utah; and

WHEREAS, Licensor owns and operates Poles or Pole lines upon or along highways, streets or alleys and other public or private places for the purpose of supporting the wires and associated facilities used in Licensor’s business; and

WHEREAS, Licensor owns and operates a network of Conduit and Duct, some of which is for the purpose of routing electrical wiring used in Licensor’s business, and some of which is intended for telecommunications purposes; and

WHEREAS, Licensor desires to provide Licensee with the non-exclusive use of space on its Poles, Conduit, and Duct for the provision of communications services provided to residents and businesses located in Provo, Utah; and

WHEREAS, Licensor desires to continue the safe and reliable transmission and distribution of electricity to Licensor’s customers.

NOW, THEREFORE, in consideration of the mutual covenants and agreements made and contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I. DEFINITIONS

Section 1.01 Definitions

- (a) “**Affiliate**” means any entity that now or in the future, directly or indirectly controls, is controlled with or by or is under common control with a Party; and “control” shall mean, with respect to: (a) a U.S. corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof; (b) a non-U.S. corporation, if the voting power to elect directors thereof is less than fifty percent (50%), the maximum amount allowed by applicable law; and (c) any other entity, fifty percent (50%) or more ownership interest in said entity, or the power to direct the management of such entity.
- (b) “**Attachment(s)**” means all equipment, and the devices used to attach the equipment, of Licensee within Licensee’s allocated pole attachment space or placed in Licensor’s Conduit System. A new or existing service wire drop that is attached to the same pole as an existing attachment of Licensee is considered a component of the existing attachment for purposes of this definition. Additional equipment that is placed within Licensee’s existing attachment space, and equipment

placed in the unusable space, which is used in conjunction with the attachments, is not an additional pole attachment. All equipment and devices shall meet applicable code and contractual requirements. Attachments do not include items used for decorations, signage, barriers, lighting, sports equipment, or cameras.

- (c) “**Attachment Space**” means the space on a Pole above the minimum grade level to the top of the Pole, which includes the space occupied by Licensor owner and Attachment Space will be determined based on actual Pole dimensions, with typical dimensions expected to be approximately as follows:
 - (i) Average Pole height equals 37.5 feet.
 - (ii) Usable space per Pole equals 13.5 feet.
 - (iii) Unusable space per Pole equals 24.0 feet.
 - (iv) Space used by an attaching entity:
 - 1) An electric Pole attachment equals 7.5 feet.
 - 2) Licensee’s Pole attachment equals 1.0 foot.
- (d) “**Audit**” means a periodic examination of Licensor’s Poles, or Conduit and Duct occupied by Licensee and any of Licensee’s Attachments or Equipment attached to such Poles, Conduit or Duct for the purpose of (i) verifying the presence or location of all Attachments and other Equipment of Licensee, or (ii) determining whether Licensee is in compliance with the requirements and specifications of Section 3.09 of this Agreement or any other obligation of Licensee under this Agreement.
- (e) “**Conduit**” means a structure containing one or more Ducts, usually placed in the ground, in which cables or wires may be installed. Unless expressly stated, Conduit does not include “Electric Conduit”, which is Conduit containing Licensor’s current bearing Equipment.
- (f) “**Conduit System**” means any combination of Ducts, Conduits, Manholes, and Handholes joined to form an integrated whole. As used in this Agreement, the term refers to Conduit Systems owned or controlled by Licensor.
- (g) “**Confidential Information**” means all written and verbal proprietary or confidential communications between the parties and all plans, documents, materials and data provided by each Party to the other in connection with and related to this Agreement and Licensee’s Attachments.
- (h) “**Duct**” means a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other facilities. As used in this Agreement, the term Duct includes Inner-Ducts created by subdividing a Duct into smaller channels.
- (i) “**Electric Facilities**” means Licensor’s Equipment and Licensor’s Poles.
- (j) “**Electric Utility Space**” means the space on a Pole above and including Licensor’s Equipment

purposed for the provision of electricity.

- (k) **“Equipment”** means all devices, articles or structures necessary to operate the respective businesses of the Parties, as such businesses may exist as of the Effective Date and as such businesses may evolve, develop, or change at any time while this Agreement remains in effect, including, but not limited to, antennae, cables, wires, conductors, fiber optics, insulators, connectors, fasteners, transformers, capacitors, switches, batteries, amplifiers, transmitters, transceivers, materials, appurtenances, or apparatus of any sort, whether electrical or physical in nature, or otherwise, including without limitation all support equipment such as guy wires, anchors, anchor rods, grounds, and other accessories.
- (l) **“Fee Schedule”** means the fees and charges set forth in Licensor’s Pole Attachment and Conduit Occupancy Fee Schedule, attached hereto as Exhibit A.
- (m) **“Handholes”** means an enclosure, usually below ground level, used for the purpose of installing, operating, and maintaining Equipment in a Conduit. A Handhole is too small to permit personnel to physically enter.
- (n) **“Inner-Duct”** means a pathway created by subdividing a Duct into smaller channels.
- (o) **“Intellectual Property Rights”** means worldwide common law and statutory rights associated with (i) patents and patent applications; (ii) works of authorship, copyrights, copyright applications, copyright registrations and other rights; (iii) the protection of trade and industrial secrets and confidential information; (iv) trademarks, service marks, slogans, logos, sound marks, motion marks, trade dress, domain names, trade names, corporate names, or indicia; (v) other proprietary rights relating to intangible intellectual property (specifically excluding trademarks, trade names and service marks); (vi) analogous rights to those set forth above; and (vii) divisions, continuations, renewals, re-issuances and extensions of the foregoing (as applicable), including all foreign counterparts of the foregoing, now existing or hereafter filed, issued or acquired.
- (p) **“Make Ready Work”** means the changes to be made to Licensor’s Poles, its own Attachments, the Attachments of other attaching entities, or the existing additional equipment associated with such Attachments, which changes may be needed to accommodate Licensee’s proposed Attachment. Such make-ready work is to be approved by Licensor and performed by Licensee’s employees, Licensor’s employees, a certified contractor approved by Licensor but employed by Licensee, or a third party. Make Ready Work that involves Licensor’s Electric Facilities shall be done by Licensor, unless otherwise approved by Licensor. This definition includes all engineering, inspection, design, planning, construction, or other work reasonably necessary for the installation of Licensee’s Attachments on the Poles, including without limitation, work related to transfers, rearrangements and replacements of existing Poles or Equipment, and the addition of new Poles or Equipment, and the rearrangement of third party pole attachments.
- (q) **“Manhole”** means an enclosure, usually below ground level and entered through a hole on the surface covered with a cast iron or concrete Manhole cover, which personnel may enter and use for the purpose of installing, operating, and maintaining Equipment in a Conduit.
- (r) **“National Electrical Safety Code”** or **“NESC”** means the current edition, and any supplements thereto and revisions or replacements thereof, of the publication so named, published by the Institute of Electrical and Electronics Engineers, Inc., for the purpose of safeguarding persons and

property during the installation, operation, or maintenance of electric supply and communication lines and associated equipment.

- (s) **“Non-recurring Charges”** means legally authorized and identifiable amounts payable by Licensee under this Agreement other than rental charges.
- (t) **“Pole”** means a utility pole, excluding towers, used by Licensor to support mainly overhead distribution wires or cables.

Section 1.02 Other Interpretative Provisions

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- (b) The words “hereof,” “herein,” “hereunder” and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement; and Section, Article, clause, Schedule, Exhibit and Appendix references are to this Agreement unless otherwise specified.
- (c) The terms “including” and “include” are not limiting and mean “including without limitation” and “include without limitation.”
- (d) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including”; the words “to” and “until” each means “to but excluding,” and the word “through” means “to and including.”
- (e) Any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, amended and restated, supplemented or otherwise modified.
- (f) Any reference herein to any person or entity shall be construed to include such person or entity’s successors and permitted assigns.
- (g) Any reference herein to “year,” “month” or “day” shall mean a calendar year, month, or day unless otherwise specified.

ARTICLE II. SCOPE OF AGREEMENT

Section 2.01 Poles; Geographic Scope

This Agreement shall cover all of Licensor’s Poles, which are presently used, as well as Poles which now exist or which shall hereafter be erected within Provo, Utah.

Section 2.02 Conduit and Duct

This Agreement shall cover all of Licensor's Conduits and Ducts which are presently used, which now exist or which shall hereafter be constructed or obtained within Provo, Utah. This Agreement shall also cover only that portion of Licensor's Electric Conduit that contains telecommunications fiber as of the Effective Date.

Section 2.03 Exclusions

This Agreement applies to the use of Licensor's Poles, Conduits, and Ducts only. Licensee's use of electric transmission facilities, other than Poles, Conduits, and Ducts, is expressly excluded from this Agreement, and nothing in this Agreement will be construed to authorize Licensee to use any such facilities.

Section 2.04 Attachments; Purpose

Licensee's use of Licensor's Poles, Conduits, and Ducts shall be confined to the Attachments, which Licensor has granted Licensee written permission to install or as otherwise provided pursuant to the terms and conditions of this Agreement.

Section 2.05 Reservation of Space

Licensor may reserve space on its Poles for electric distribution cables if such reservation is consistent with a development plan that reasonably and specifically identifies a need for that space in the provision of its core utility service. Licensor shall inform Licensee that such a reservation exists in Licensor's response to Licensee's application to place an Attachment on a Pole or set of Poles where Licensor has reserved space pursuant to a specific development plan. In the event that there is no other usable space on the Pole, Licensor shall permit Licensee to use its reserved space until such time as Licensor has an actual need for that space, when Licensor may recover the reserved space for its own use. Licensor shall give Licensee commercially reasonable notice of the reclamation of space as well as the opportunity to make alternate arrangements, if available, including but not limited to allowing Licensee to pay for any reasonable modifications needed to continue to accommodate the Attachments that would otherwise be displaced, including replacement of the affected Pole.

Section 2.06 Discrimination

Licensor shall treat Licensee materially no less favorably than it treats other attachers to its Poles, Duct, and Conduits. In the event that Licensor makes available any terms or conditions materially more favorable to one or more third party attacher, Licensor shall promptly make those same terms available to Licensee. Upon Licensee's request, Licensor shall provide Licensee with a copy of all agreements where Licensor makes access to its Poles, Ducts, and Conduits available to third parties.

ARTICLE III. USE OF POLES

Section 3.01 Application for Permission to Install Attachment

With the exception of certain customer service drops as specified in Section 3.06 below, before Licensee places an Attachment upon any of Licensor's Poles, Licensee shall submit a Pole Attachment application to Licensor in writing. An application may be denied if:

- (a) The applicant fails to submit a complete application, provided that Licensor has notified Licensee that the application is incomplete and provided Licensee with a reasonable period of time to make the application complete;

- (b) The applicant fails to supplement its application with additional information reasonably requested by Licensor or otherwise cooperate with Licensor as reasonably requested in Licensor's evaluation of the application;
- (c) The applicant fails to pay fees as set forth on Exhibit A hereto as required under the terms of this Agreement, including any applicable notice and cure periods;
- (d) The proposed Attachments are of excessive size or weight or would otherwise subject Licensor's Electric Facilities to unacceptable levels of additional stress, as measured by applicable safety codes, provided that such application will not be denied where Licensee agrees to pay for such improvements as are necessary to eliminate the threat to the safety and reliability of Licensor's facilities;
- (e) Approval will jeopardize the reliability or integrity of Licensor's electric system or Electric Facilities, provided that such application will not be denied where Licensee agrees to pay for such improvements as are necessary to eliminate the threat to the reliability and integrity of Licensor's facilities;
- (f) Approval will present a safety hazard to Licensor's employees or the public, provided that such application will not be denied where Licensee agrees to pay for such improvements as are necessary to eliminate the safety hazard; or
- (g) Approval will require a change, upgrade or addition to Licensor's Electric Facilities, provided that such application will not be denied where Licensee agrees to pay for such change, upgrade, or addition.

If Licensor rejects the application, Licensor shall notify Licensee of the specific reason(s) for rejecting such application within fifteen (15) days. No Pole Attachment application is required for any Attachments existing on the Effective Date.

Section 3.02 Form of Application

Licensee shall make its written application to Licensor at the address set forth in Article XIII below. The written application form is attached hereto as Exhibit B and may be revised from time to time.

Section 3.03 Content of Application

Licensee's application shall contain the following information: (i) the specific Equipment to be installed; (ii) the map number (to the extent that it is identifiable or provided by Licensor and part of the Pole number); (iii) the Pole numbers (to the extent that the Pole numbers are on the Pole and identifiable); (iv) street address of nearest physical location identifier of the Poles in question; (v) the space desired on each Pole; and (vi) any additional information requested by Licensor as reasonably necessary to properly review the request for Attachment, including, but not limited to, that information described in Exhibit B. Licensor shall not unreasonably request such additional information and Licensee shall not unreasonably refuse to provide such additional information.

Section 3.04 Overlapping

With the exception of construction on existing slack spans or on existing messengers attached to Poles carrying voltages at or above 34.5 kV, Licensee may, during the period of intended completion of the

network upgrade, as otherwise agreed between the parties, overlash a single ninety-six (96) or fewer count fiber cable, or coaxial cable of equivalent diameter(s) and weight(s) without submitting an application. For these specific instances of overlashing, Licensee will provide Licensor with Pole numbers (or other information identifying the Poles) no less than twenty (20) days prior to such overlashing. Such notice shall include an engineering analysis of the proposed overlashing demonstrating that the proposed overlashing will not pose a danger to Licensor's Electric Facilities. Within ten (10) days of receipt of said notice, Licensor may notify Licensee of an objection to the proposed overlashing and may require an application to be submitted for Licensor's review. Licensor shall not unreasonably demand such an application. Any other overlashing requires Licensee to submit an application to Licensor and receive approval prior to installation.

Section 3.05 Licensee's Right to Install Equipment

To the extent that any installation, maintenance, and use of the Equipment is subject to an application requirement hereunder, Licensee shall have the right, subject to the terms of this Agreement, to install, maintain, and use the Equipment only as specified in the approved application, upon the Pole(s) identified therein.

Section 3.06 Service Drops

Licensee shall have the right to install service drops, without prior approval by or prior notification to Licensor. For service drops where Licensee already has an approved Attachment (including service drops made from Poles adjacent to a Pole with an authorized Attachment), Licensee's service drop shall not incur any additional rental fees. For service drops where Licensee does not already have an approved Attachment (other than service drops made from Poles adjacent to a Pole with an authorized Attachment), Licensee will incur a fee as set forth in Section 6.01 below, and Licensee must include a completed application in the form of the attached Exhibit B with its notification of the relevant service drop, provided that such application will not require approval from Licensor. No notification or approval shall be required for service drops that are not directly attached to Poles.

Section 3.07 Make Ready Work

Attachment applications shall be handled in accordance with the following:

- (a) Licensor shall respond to Licensee's application within thirty (30) days of receipt of a complete application. Licensee shall be free to request a two-alternative make ready bid that includes an estimate for self-building as an alternative to Licensor's performance of Make Ready Work. Under the self-building alternative, the Licensor will identify what Make Ready Work it will perform, if any, with an associated cost estimate, and also identify what Make Ready Work, if any, the Licensor is agreeable to have performed through a self-build option and the conditions, if any, for such self-build option. Licensor's response shall include a survey of what time and materials are necessary as part of the Make Ready Work ("Make Ready Survey") and an estimate of the Make Ready Work ("Make Ready Estimate") necessary to prepare the Poles for Licensee's Attachments (together the "Make Ready Documents"). If a response to Licensee's application is not issued by Licensor within thirty (30) days of receipt, Licensee may retain a certified contractor approved by Licensor pursuant to Section 3.15 to conduct a Make Ready Survey at the cost of Licensor. A Make Ready Survey conducted by Licensee's contractor must be submitted to Licensor for review and approval prior to performing any Make Ready Work. Within thirty (30) days of submission of Licensee's contractor's Make Ready Survey, Licensor shall respond or said Make Ready Survey shall be deemed accepted and Licensee's certified contractor approved by

Licensee may begin the Make Ready Work.

- (b) Within thirty (30) days of receipt of Licensor's Make Ready Documents, Licensee shall notify Licensor if Licensee desires Licensor to proceed with the Make Ready Work in accordance with Licensor's Make Ready Documents, including Licensor's portion of the work, if any, under a self-build alternative. If within thirty (30) days of receipt of Licensor's Make Ready Documents, (i) Licensee's contractor does not commence the Make Ready Work in accordance with a self-build option, if any, and (ii) Licensee does not request that Licensor proceed with the Make Ready Work, Licensor may, at its discretion, require resubmission of Licensee's application.
- (c) In the event that the Make Ready Survey identifies work necessary to remedy any Pole's existing non-compliance with applicable safety codes (the "Safety Work"), Licensor will perform all Safety Work within thirty (30) days of completion of Licensor's Make Ready Survey.
- (d) Upon completion of all work performed by Licensor pursuant to subparagraphs (b) and (c), Licensor shall notify Licensee in writing ("Notice of Completion").
- (e) If Licensor is going to perform Make Ready Work pursuant to subparagraph (b), Licensee shall pay in advance, within thirty (30) days of requesting that Licensor proceed, eighty percent (80%) of Licensor's costs for the Make Ready Work specified by Licensor's Make Ready Estimate. Within thirty (30) days of receipt of Licensor's Notice of Completion, Licensee will reimburse Licensor any reasonable and documented costs for the Make Ready Work in addition to the amount already paid. Notwithstanding anything to the contrary in the foregoing, all costs associated with Safety Work will be paid by Licensor. Licensor will reimburse Licensee within thirty (30) days of completion of the Make Ready Work in the event that reasonable and documented costs are less than the amount paid by Licensee.
- (f) Within sixty (60) days of issuance of Licensee's request to proceed, Licensor shall complete its Make Ready Work pursuant to subparagraph (b), if any. If Licensor performs Make Ready Work pursuant to subparagraphs (b) or (c), then within sixty (60) days of issuance of Licensor's Notice of Completion, Licensee shall complete its approved Make Ready Work and the installation of the Attachments. If Licensor does not perform Make Ready Work pursuant to subparagraphs (b) or (c), then within ninety (90) days of issuance of the Make Ready Documents, Licensee shall complete its approved Make Ready Work and the installation of the Attachments.
- (g) Upon completion of the Attachment installation, Licensee shall notify Licensor in writing. Licensor will then, within thirty (30) days, inspect the work and notify Licensee of any failure of the Attachment installation to comply with the Make Ready Survey or applicable safety codes. Licensee shall make such changes to the Make Ready Work or its Attachments as are required within twenty-one (21) days of such notice, provided that Licensor will also remedy any Make Ready Work that it performed and that contributed to the failed inspection within twenty-one (21) days of such notice.
- (h) Licensee shall attempt to coordinate Make Ready Work needing to be performed by any third party attachers with pre-existing attachments to Licensor's Poles covered by Licensee's application, including providing all third party attachers with attachments to the Poles covered by Licensee's application a copy of the Make Ready Survey within five (5) days of (1) receipt of the Make Ready Documents or (2) issuance of Licensee's request to proceed, as applicable. In the event that Licensee has attempted to coordinate Make Ready Work with third party attachers but

such third party attachers are not timely undertaking or completing such Make Ready Work, Licensor will make all reasonable efforts to coordinate with the third party attachers and to cause the third party attachers to complete such work. In the event any such third party fails to complete its Make Ready Work within the ninety (90) day period, Licensor shall (at Licensee's sole cost and expense) complete such work within (ten) 10 days from the end of the ninety day (90) day period.

Section 3.08 Labeling of Poles and Attachments

Licensor shall label its poles to indicate ownership. Licensor shall label any new pole installed, after the Effective Date of this Agreement, immediately upon installation. Poles installed prior to the Effective Date of this Agreement shall be labeled at the time of routine maintenance, normal replacement, change-out, or relocation, and whenever practicable. Labels shall be based on a good faith assertion of ownership. Licensee shall label its Pole Attachments to indicate ownership. Pole Attachment labels may not be placed in a manner that could be interpreted to indicate an ownership of the utility Pole. Licensee shall label any new Pole Attachment installed after the Effective Date of this Agreement immediately upon installation. Pole Attachments installed prior to the Effective Date of this Agreement shall be labeled at the time of routine maintenance, normal replacement, rearrangement, rebuilding, or reconstruction, and whenever practicable. Electrical power pole attachments do not need to be labeled. Upon Licensee's request, Licensor shall promptly provide current Pole numbers and locations to Licensee.

Section 3.09 Conformance to Requirements and Specifications

The use by Licensee of Licensor's Electric Facilities shall at all times comply with all applicable federal, Utah, and local laws, rules, and regulations, the requirements of the National Electrical Code and the NESC, and Licensor's reasonable specifications and construction guidelines.

Section 3.10 Access to Electric Utility Space

In the event that Licensee wishes to enter the Electric Utility Space on Licensor's Poles for any purpose, Licensee must receive prior written approval from Licensor, which may be subject to reasonable additional fees. When the Equipment sought to be installed on a Pole bearing electric facilities is a wireless antenna, which is to be installed at the Pole top or otherwise in the Electric Utility Space, Licensee shall make arrangements with Licensor for installation of the wireless antenna by a qualified third party electrical contractor pre-approved by Licensor (an "Approved Electrical Contractor"). Licensor shall provide a list of no less than three Approved Electrical Contractors. Licensee may request a specific third party electric contractor be added to Licensor's list of Approved Electrical Contractors. Licensor shall respond to such request within ten (10) days and shall not unreasonably refuse to add an electrical contractor requested by Licensee to the list of Approved Electrical Contractors, such addition to be made within such time period.

Section 3.11 Grounding

If Licensee requires grounding on an existing Pole where a grounding conductor does not exist, Licensee shall request Licensor to install grounding at the sole expense of Licensee. If Licensor is unable to install the requested grounding within thirty (30) days of the date requested, Licensee may hire an Approved Electrical Contractor to perform this work. Licensee, its employees and its contractors, shall at all times exercise Licensee's rights and perform Licensee's responsibilities under the terms of this Agreement in a manner that treats all Electric Facilities of Licensor as energized at all times.

Section 3.12 Nonconforming Equipment

If any Attachment is not, or has not been, placed and maintained in accordance with Section 3.09 above, upon notice by Licensor, Licensee shall use commercially reasonable efforts to timely perform all work reasonably necessary to correct conditions of Licensee's noncompliance. For purposes of this paragraph, compliance shall be deemed timely if performed under a plan approved by Licensor, unless such noncompliance creates an Emergency (as defined below). Any such work will be performed at Licensee's sole risk and expense. Licensor reserves the right to perform or authorize work necessary to bring Licensee's Attachments into compliance upon Licensee's failure to timely do so. Licensor will notify Licensee electronically or in writing prior to performing such work.

However, if Licensor determines in good faith that such conditions (i) pose an immediate threat to the safety of utility workers or the public; (ii) materially and adversely interfere with the performance of Licensor's or other Pole attachers' service obligations; or (iii) pose an immediate threat to the integrity of Licensor's or other Pole attachers' Poles or equipment (each, an "Emergency"), Licensor may perform or authorize such work and/or take such action that it deems necessary (acting reasonably) without first giving written or electronic notice to Licensee and without subjecting itself to any liability, except to the extent of Licensor's negligence or willful misconduct. As soon as practicable thereafter, Licensor will advise Licensee in writing of the work performed or the action taken and will endeavor to arrange for the accommodation of any affected Attachments. Licensee shall be responsible for paying Licensor or other Pole attachers, if applicable, upon demand, for all reasonable and documented costs actually incurred by Licensor or other Pole attachers for all work, action, and accommodation performed by Licensor or other Pole attachers under this Section.

Section 3.13 Time to Complete Installation

Except as otherwise agreed to by the Parties in good faith, and subject to additional time caused by delays of third party attachers (so long as Licensee is in material compliance with 3.07(h)), Licensee shall complete the installation of its Attachments upon the Pole(s) covered by each approved application within ninety (90) days of approval by Licensor. In the event Licensee should fail to complete the installation of its Attachments within the prescribed time limit, the permission granted by Licensor to place such Attachments upon Licensor's Pole or Poles shall terminate and Licensee shall not have the right to place such Attachments upon the Pole or Poles without first reapplying for and receiving permission to do so, all as prescribed in Section 1.01(a) above as applicable to the initial application.

Section 3.14 Subsequent Attachment by Third Party Attachers

If at any time subsequent to Licensee's Attachment to a Pole, a third party requests that Licensor provide access to that same Pole(s) the following procedure shall apply:

- (a) If it is determined that Make Ready Work on Licensee's Attachment(s) will be necessary to accommodate the third party's equipment, the Licensee will provide an estimate to the attaching third party for Licensee or its contractor to complete the Make Ready Work, or, in Licensee's sole discretion, for Licensor or its contractor to complete the Make Ready Work.
- (b) Licensee shall be solely responsible for negotiating with persons or entities other than Licensor for the rearrangement of Licensee's Attachment or Equipment and, except where such rearrangement is for the benefit of Licensee, Licensee shall not be responsible for paying any charges attributable to the rearrangement of such Attachment or Equipment.

- (c) Licensee shall make all rearrangements of its Equipment within such period of time as is jointly deemed reasonable by the Parties based on the amount of rearrangements necessary and a desire to minimize chances for service interruption or service denial to Licensee's customers.

If at any time subsequent to Licensee's placement of Equipment in Duct or Conduit, a third party requests that Licensor provide access to that same Duct or Conduit, Licensor will promptly notify Licensee.

Section 3.15 Certified Contractors

Licensee shall perform any Make Ready Survey, Estimate or Work as permitted by this Agreement by arranging for the performance of such work by a contractor certified by Licensor to work on or in its Equipment. Certification shall be granted based upon reasonable and customary criteria employed by Licensor in the selection of its own contract labor. In addition to the requirements herein with respect to Approved Electrical Contractors, Licensor shall maintain at all times a list of at least five (5) contractors certified to perform Make Ready Work, including surveying Poles to determine what Make Ready Work is necessary.

Section 3.16 Third party Consents, Permits, Licenses, Easements, Rights-of-way or Grants

If any Pole, Conduit, or Duct is located in private property not owned or controlled by Licensor, the Licensee's right of access to Licensor's Poles, Conduits, and Ducts granted by this Agreement does not include any right of access to the land upon which the Pole, Conduit, or Duct is situated nor does it include any right to cross the land from Pole-to-Pole with Licensee's Equipment, or to cross the land to access Manholes and Handholes, and such access rights are specifically disclaimed; provided, however, that solely to the extent Licensor may lawfully and without breaching or failing to comply with any consent, permit, license, easement, right-of-way, or grant to Licensor from private owners of real property, Licensor hereby grants or assigns (as applicable) Licensee the right of access to the land upon which any Pole, Conduit, or Duct is situated and the right to cross the land from Pole-to-Pole with Licensee's Equipment, or to cross the land to access Manholes and Handholes, in each case solely to the extent of Licensor's rights of access. To the extent Licensee requires a right of access to the land upon which any Pole, Conduit, or Duct is situated and the right to cross the land from Pole-to-Pole with Licensee's Equipment, or to cross the land to access Manholes and Handholes, and Licensor does not have the requisite right of access, Licensor will use its commercially reasonable efforts to assist Licensee in obtaining such right, provided that in the event that Licensor incurs any fees as a result of such assistance, Licensee will reimburse Licensor for the reasonable and documented expenses actually incurred. Except as otherwise provided herein, Licensee is solely responsible for obtaining from private owners of real property and maintaining in effect any and all consents, permits, licenses, easements, rights-of-way or grants that are necessary for the lawful exercise by Licensee of the permission granted by Licensor in response to any application approved hereunder.

Section 3.17 Interference with Licensor's or other Licensees' Equipment

If, in Licensor's reasonable judgment, Licensee's existing Attachments on any Pole interfere with Licensor's or other Pole attachers' existing Equipment or prevent the placing of any additional Equipment by Licensor required for its core utility service and included in Licensor's development plan as described in Section 2.05 above, Licensor will notify Licensee of the rearrangements or transfers of Equipment or Pole replacements or other changes required in order to continue to accommodate Licensee's Attachments. If Licensee desires to continue to maintain its Attachments on the Pole and so notifies Licensor in writing within thirty (30) days, Licensee may perform the necessary work (subject to Licensor's reasonable approval), or Licensee shall authorize Licensor to

perform the work. Should Licensee authorize Licensor to perform the work, Licensor shall make such changes as may be required, and Licensee, upon demand, will reimburse Licensor for the reasonable and documented expenses actually incurred. If Licensee does not so notify Licensor of its intent to perform the necessary work or authorize Licensor to perform the work, Licensee shall remove its Attachments from the affected Pole or Poles within an additional sixty (60) days from such original notification by Licensor for a total of ninety (90) days; provided, however, that Licensor in any Emergency may require Licensee to remove its Attachments within the time required by the Emergency. If Licensee has not removed its Attachments at the end of the ninety (90) day period, or in the case of Emergencies within the period specified by Licensor, as Licensor's sole and exclusive remedy Licensor may remove Licensee's Equipment at Licensee's sole risk and expense, and Licensee will pay Licensor, upon demand, for all reasonable and documented costs actually incurred by Licensor.

Section 3.18 Pole Replacement for Licensee's Benefit

Where an existing Pole is prematurely replaced (for reasons other than normal or abnormal decay) by a new Pole for the sole benefit of Licensee, including where replacement is necessary to accommodate Licensee's Attachment, Licensee shall reimburse Licensor for the reasonable and documented actual cost of replacement. Licensor shall credit Licensee for salvage value of the existing Pole if it is not topped and it is less than ten years old. Licensor shall remove and may retain or dispose of such Pole as the sole owner thereof. Any payments for Poles made or work performed by Licensee shall not entitle Licensee to ownership of any part of said Poles. If Pole replacement under this Section is requested by both Licensee and other Pole attachers, the costs of replacing the Pole shall be pro-rated among all requesting attachers. If Pole replacement under this Section is requested by Licensee but also benefits other Pole attachers, Licensee shall make reasonable attempts to notify the other benefitting attachers and request payment of a pro-rated portion of the costs of replacing the Pole. If the other Pole attachers refuse to pay or acknowledge the benefit to them of Pole replacement, Licensee shall decide whether to proceed with replacement with the responsibility for any costs refused by other attachers, or withdraw the request to replace the Pole. Notwithstanding anything to the contrary in this Section, if Pole replacement under this Section constitutes Safety Work, the costs of replacing the Pole shall be born by Licensor.

Section 3.19 Pole Placement or Replacement for Joint Benefit of Licensor and Licensee

Where Licensor requires a new Pole and Licensee requires extra height or strength on such new Pole exceeding a basic 40 foot Class 5 Pole to accommodate Licensee's new or existing Attachments, Licensee shall pay the reasonable and documented actual difference in cost and installation between a basic 40 foot Class 5 Pole and the Pole meeting Licensee's requirements.

Section 3.20 Expense of Situating Pole Attachments

Licensee shall place, maintain, rearrange, transfer, and remove its own Attachments at its own expense except as otherwise expressly provided hereunder.

Section 3.21 Relocation of Joint Poles at Request of Land Owner

Where a jointly used Pole is required to be replaced, moved or relocated due to a landowner request, Licensor shall provide notice to Licensee upon receipt of the land owner request and coordinate with Licensee and all other Pole attachers to provide a coordinated response with respect to timelines and costs to the land owner.

Licensee shall promptly arrange to transfer its Equipment to the new Pole and shall notify Licensor when such transfer has been completed. In the event such transfer is not completed within thirty (30) days after the time specified in the notice given by Licensor indicating that the Pole is ready for Licensee to transfer its Equipment (which time shall not begin until after the parties located above Licensee on the Pole have removed or moved their facilities), Licensor may transfer Licensee's Equipment from the replaced Pole to the replacement Pole in a reasonable manner consistent with industry practices, and Licensee will reimburse Licensor, or Licensor's contractor, for all reasonable and documented costs actually incurred.

When setting a Pole requires entering the Electric Utility Space, the setting of the Pole must be performed by an Approved Electrical Contractor, or may be performed by a licensed electrical engineer employed by Licensee upon prior approval of Licensor.

Section 3.22 Mid-span Poles

Any Poles erected by Licensee shall not interfere with or be in-line with Licensor's Poles, and shall not create a structure conflict as defined in the NESC.

Section 3.23 Removal of Attachments by Licensee

Licensee may at any time remove its Attachments from any of the Poles and, in each case Licensee shall promptly give Licensor notice of such removal. Removal of all Attachments from any Pole shall constitute a termination of Licensee's right to use such Pole unless a new application is submitted to Licensor. Licensee shall receive a pro-rata refund of any rental charges on account of any such voluntary removal, with such pro-rata refund calculated from the day the Attachment was removed from the Pole. Such refund shall occur as a credit granted in a given billing period for all refunds requested by Licensee during the prior billing period.

When Licensee performs maintenance to or removes or replaces its Equipment on a Pole, Licensee must chemically treat all field-drilled holes and plug any unused holes caused by Licensee, including those resulting from removal of Equipment; if Licensee fails to adequately plug and treat such holes, Licensor may do so at Licensee's sole risk and expense.

Section 3.24 Limitations on Licensee's Rights to Use Poles

No use, of any sort or duration, of any Poles under this Agreement shall create or vest in Licensee any ownership or property rights therein; nor shall any such use constitute the dedication of Licensor's Poles or Equipment to the public or to Licensee.

Section 3.25 Audits of Existing Attachments

Licensor may conduct an Audit of Attachments made to its Poles no more frequently than once every five (5) years. Licensor shall give Licensee at least ninety (90) days prior notice of an initial meeting to plan the next Audit. At such meeting, Licensor, Licensee and all other Pole attachers in attendance in person or by representative shall participate in, among other things, the selection of an independent contractor for conducting the Audit, as well as the scheduling, scope, extent and reporting of the Audit results. The independent contractor appointed to conduct the Audit must not be reasonably believed by Licensor, Licensee, or any other Pole attacher to have a conflict of interest with respect to the accurate completion of that Audit. Regardless of whether Licensee attends the Audit planning meeting or expresses an intention to participate in the Audit, Licensor shall notify Licensee at least sixty (60) days prior to the commencement of the Audit. Licensee shall advise Licensor if Licensee desires to

participate in the Audit with Licensor not less than thirty (30) days prior to the scheduled date of such Audit. The cost of the Audit shall be apportioned among those attachers who own attachments on the Poles included in the audit in proportion to the number of Poles to which they are attached. The data from Audit shall be made available to Licensee and all other attachers on the Poles and used to update the Parties' records, provided that any information confidential to Licensee will not be distributed to other attachers. Any Party shall make any objections to the Audit results within ninety (90) days of receipt of the Audit report or such objections are waived.

Section 3.26 Inspections

In addition to Audits as described in Section 3.25 above, Licensor shall have the right to inspect each of Licensee's Attachments and other Equipment attached to Licensor's Poles at any time.

Section 3.27 Tax Liability

Licensee shall promptly pay any tax, fee, or charge that may be levied or assessed against Licensor's Poles or property solely because of their use by Licensee. If Licensee should fail to pay any such tax or assessment on or before the date such tax or assessment becomes delinquent, Licensor, at its own option, may pay such tax on account of Licensee and Licensee shall, upon demand, reimburse Licensor for the full amount of tax and any penalties so paid. Nothing in this provision in any way limits either Party's rights to challenge such tax assessments.

Section 3.28 Payment for Licensee's Assistance

If Licensee performs any work approved by Licensor to facilitate Licensor's responsibilities in completion of work required to be undertaken by Licensor under this Agreement, including without limitation transferring equipment of Licensor, setting or lowering Poles, digging holes, or hauling Poles, Licensor shall pay to Licensee, upon receipt of an invoice, the reasonable and documented costs actually incurred for such work.

Section 3.29 Electricity for Wireless Facilities

Licensor shall supply electricity to Licensee's Wireless Facilities pursuant to and subject to the applicable electricity rates, terms and conditions for such electrical service, which, for the avoidance of doubt, shall be the same as (or less than) the rates charged to other similarly situated electricity users.

ARTICLE IV. MAINTENANCE OF POLES AND CONDUITS

Section 4.01 Expense of Maintenance

The expense of maintaining the Poles and Conduits shall be borne exclusively by Licensor and Licensor shall maintain its Poles and Conduits in a safe and serviceable condition, and shall replace, reinforce, or repair such Poles as they become defective. Licensor shall be solely responsible for collection of costs of damages for Poles or Conduits broken or damaged by third-parties. Licensee shall be responsible for collection of costs of damages to its own Equipment.

Section 4.02 Relocation of Jointly Used Poles Required For Licensor Purposes

Whenever Licensor, in its reasonable discretion, determines that it is necessary to replace, move, reset, or relocate a jointly used Pole, Licensor shall, at least sixty (60) days prior to making such replacement, move, or relocation, give written notice thereof to Licensee (except in case of emergency, when verbal notice shall be given if practicable and subsequently confirmed in writing), specifying in such notice the work to be performed and the approximate time of such proposed replacement or

relocation. Licensee may request that a Pole be reset in the same location and Licensor shall attempt to do so when resetting in the same location will conform with applicable law and safety codes and good engineering practices, will be consistent with Licensor's development plan for its electric utility service, and will not subject Licensor to commercially unreasonable terms and conditions; provided, however, that the additional cost of accommodating this request shall be borne by Licensee.

Upon receiving notice, Licensee shall promptly arrange to transfer its Equipment to the new Pole and shall notify Licensor when such transfer has been completed. In the event such transfer is not completed within thirty (30) days after the time specified in the notice given by Licensor indicating that the Pole is ready for Licensee to transfer its Equipment (which time shall not begin until after the parties located above Licensee on the Pole have removed or moved their facilities), Licensor may transfer Licensee's Equipment from the replaced Pole to the replacement Pole in a reasonable manner consistent with industry practices upon Licensee's failure to transfer its Equipment within the above mentioned thirty (30) days, and Licensee will reimburse Licensor, or its contractor, for all reasonable and documented costs actually incurred.

When setting a Pole requires entering the Electric Utility Space, the setting of the Pole must be performed by an Approved Electrical Contractor, or may be performed by a licensed electrical engineer employed by Licensee upon prior approval of Licensor.

Section 4.03 Tree Trimming and Brush Cutting

All tree trimming and brush cutting in connection with the initial placement of wires or other Equipment shall be borne entirely by the Party placing the wires or other Equipment. Licensee shall be responsible for performing all tree and vegetation trimming necessary for the safe and reliable operation, use and maintenance of its Attachments, provided that Licensor agrees that Licensee is only required to trim that portion of tree or vegetation interfering with the relevant Licensee's Attachment, rather than in a balanced manner.

ARTICLE V. ACCESS TO CONDUITS AND DUCTS

Section 5.01 Applications

Applications for the placing of Equipment in Licensor's Ducts and Conduits are subject to the same application and Make Ready Work process and timeline applicable to Poles as set forth in Article III.

Section 5.02 Access to Conduit and Duct

Licensee's Equipment placed in Licensor's Conduit System must meet all of the following physical design specifications:

- (a) Cables bound or wrapped with cloth or having any kind of fibrous coverings or impregnated with an adhesive material shall not be placed in Licensor's Conduit or Ducts.
- (b) The integrity of Licensor's Conduit System and overall safety of Licensor's personnel and other personnel working in Licensor's Conduit System requires that "dielectric cable" be placed when Licensee's cable Equipment utilizes an alternative Duct or route that is shared in the same trench by any current carrying Equipment of a power utility.
- (c) New construction splices in Licensee's fiber optic cables shall be located in Manholes, pull boxes or Handholes.

- (d) When Licensor performs maintenance on Electric Conduit that contains Licensee's Equipment, Licensor shall install new Conduit and shall transfer Licensee's Equipment from the Electric Conduit to the new Conduit. Once the transfer is complete, said Electric Conduit shall no longer be covered by this Agreement.
- (e) Licensee shall have no right to enter, utilize, or request the use of any of Licensor's Electric Conduit that does not contain Licensee's Equipment as of the date of this Agreement.

The following specifications apply to connections of Licensee's Conduit to Licensor's Conduit System:

- (a) Licensee will be permitted to connect its Conduit or Duct only at a Licensor Manhole. No attachment will be made by entering or breaking into Conduit between Manholes. All necessary work to install Licensee Equipment will be performed by Licensee or its contractor at Licensee's expense. In no event shall Licensee or its contractor "core bore" or make any other modification to Licensor Manhole(s) without the prior written approval of Licensor, which approval will not be unreasonably delayed, withheld or conditioned.
- (b) If Licensee constructs or utilizes a Duct connected to Licensor's Manhole, the Duct and all connections between that Duct and Licensor's Manhole shall be sealed, to the extent practicable, to prevent the entry of gases or liquids into Licensor's Conduit System. If Licensee's Duct enters a building, it shall also be sealed where it enters the building and at all other locations necessary to prevent the entry of gases and liquids from the building into Licensor's Conduit System.

Section 5.03 Opening of Manholes

The following requirements apply to the opening of Licensor's Manholes and the authority of Licensor personnel present when work on Licensee's behalf is being performed within or in the vicinity of Licensor's Conduit System.

- (a) Licensor's Manholes shall be opened only as permitted by Licensor's authorized employees or agents, including authorized third party contractors, which permission shall not be unreasonably denied, delayed or conditioned.
- (b) Except in the event of an emergency, Licensee shall notify Licensor forty-eight (48) hours in advance of any routine work operation requiring entry into any of Licensor's Manholes.
- (c) Licensee shall be responsible for obtaining any necessary authorization from appropriate authorities to open Manholes for Conduit work operations therein.

Section 5.04 Audits of Existing Equipment in Licensor's Duct and Conduit

Licensor may conduct an Audit of Equipment placed in its Duct and Conduit no more frequently than once every five (5) years. Licensor shall give Licensee at least ninety (90) days prior notice of an initial meeting to plan the next Audit. At such meeting, Licensor, Licensee and all other owners of Equipment in attendance in person or by representative shall participate in, among other things, the selection of an independent contractor for conducting the Audit, as well as the scheduling, scope, extent and reporting of the Audit results. The independent contractor appointed to conduct the Audit must not be reasonably believed by Licensor, Licensee, or any other owner of Equipment to have a conflict of interest with respect to the accurate completion of that Audit. Regardless of whether

Licensee attends the Audit planning meeting or expresses an intention to participate in the Audit, Licensor shall notify Licensee at least sixty (60) days prior to the commencement of the Audit. Licensee shall advise Licensor if Licensee desires to participate in the Audit with Licensor not less than thirty (30) days prior to the scheduled date of such Audit. The cost of the Audit shall be apportioned among those owners of Equipment who own Equipment placed in the Conduit and Duct included in the audit in proportion to the feet of Conduit and Duct in which they have placed Equipment. The data from Audit shall be made available to Licensee and all other relevant owners of Equipment and used to update the Parties' records, provided that any information confidential to Licensee will not be distributed to other owners. Any Party shall make any objections to the Audit results within ninety (90) days of receipt of the Audit report or such objections are waived.

Section 5.05 Inspections

In addition to Audits as described in Section 3.25 above, Licensor shall have the right to inspect Licensee's Equipment placed in Licensor's Conduit or Duct at any time.

Section 5.06 Removal

Licensee has the right to remove Equipment located within Licensor's Conduit by written notice to Licensor. Rental fees shall cease with respect to such Conduit as of the date of removal. In the event that (i) Licensee ceases to use certain Attachments placed in Licensor's Conduit, (ii) Licensee does not reasonably anticipate using such Attachments in the future, and (iii) Licensor needs to use the space occupied by Licensee within Licensor's Conduit, Licensee will remove the relevant Attachments from Licensor's Conduit. In the event that Licensee does not remove the relevant Attachments within thirty (30) days' of written agreement between Licensor and Licensee that Licensee is obliged to remove the Attachments pursuant to this Section 5.06, Licensor may remove the relevant Attachments from Conduit in a reasonable manner consistent with industry practices, and Licensee will reimburse Licensor, or Licensor's contractor, for all reasonable and documented costs actually incurred. Notwithstanding anything to the contrary in this Section 5.06 where Attachments that would otherwise need to be removed from Licensor's Conduit are located entirely or partially inside Licensor's Electric Conduit, Licensee shall not be required to remove that portion of the Attachments located inside the Electric Conduit. Nevertheless, Licensee shall be required to remove any portion of said Attachments that is located outside Electric Conduit and shall cut any connections that serve to connect that portion of the Attachments located inside the Electric Conduit to Licensee's other Equipment.

ARTICLE VI. RENTAL PAYMENTS

Section 6.01 Rental Amount—Poles

For authorized Attachments covered under this Agreement, Licensee shall pay to Licensor, in advance, on an annual basis, a rental amount per Pole as shown on Exhibit A, on a billing cycle beginning January 1 of each year. The rental amount for each year shall be based on Licensor's tabulation of Licensee's Attachments situated upon Licensor's Poles and Licensor's current records.

Section 6.02 Rental Amount—Conduit and Duct

For authorized Attachments placed in Licensor's Conduit or Duct covered under this Agreement, Licensee shall pay to Licensor, in advance, on an annual basis, a rental amount per linear foot as shown on Exhibit A, on a billing cycle beginning January 1 of each year. The rental amount for each year shall be based on Licensor's tabulation of Licensee's Attachments situated upon Licensor's Conduit and Duct and Licensor's current records.

Section 6.03 Unauthorized Attachments

Licensee shall not make Attachments to Licensors' Poles or in Licensors' Conduits without obtaining Licensors' written permission as provided for in this Agreement. In the event Licensee becomes aware of any unauthorized Attachment, Licensee shall make an application to Licensors for such Attachment. Licensee shall pay a late fee for such application in an amount equal to five (5) times the rental fee set forth on Exhibit A. Pole and Conduit rental fees shall accrue as of the date of installation, whether Licensee's application is approved or rejected. If Licensors validly rejects the Licensee's application pursuant to the standards described in Section 3.01, Licensee shall remove the unauthorized Attachment within ninety (90) days of Licensors' valid rejection of the application. If Licensee does not remove the unauthorized Attachment within such ninety (90) days, then Licensors may remove the unauthorized Attachment at Licensee's expense.

Section 6.04 Billing and Payments

Licensors shall send invoices to Licensee via regular U.S. Mail at the address specified below, or at such other address as Licensee may designate from time to time. Invoices for rental charges will be sent annually or semi-annually. Invoices for all Non-recurring Charges, Make Ready Work fees, and other obligations or amounts due under this Agreement other than rental charges will be sent at Licensors' discretion within a reasonable time, unless otherwise specified in this Agreement. Invoices for Non-recurring Charges will provide specific identifying information pertaining to each charge. Invoices for rental charges will provide summary information only. Licensee may obtain additional information pertaining to charges upon written request to Licensors. No charges may be billed by Licensors more than twelve (12) months after such charges were incurred.

Except as otherwise provided in this Agreement or agreed to by the Parties, Licensee shall pay all undisputed charges within forty-five (45) days from the invoice date. Interest at the rate set forth in Section 8.04 shall be imposed on any delinquent amounts. In the event of a billing dispute, Licensee shall submit such dispute in writing within one hundred and eighty (180) days of the date the bill was due. Licensors shall have sixty (60) days to resolve the dispute in writing. Upon resolution of any such billing dispute in Licensee's favor, Licensors will refund any amounts owed, with interest accruing at the rate specified in Section 8.04 below from the later of the date Licensee paid the disputed portion, or the date upon which Licensee provided Licensors notice of the amount in dispute. Upon resolution of any such billing dispute in Licensors' favor, Licensee will pay any amounts owed, with interest accruing at the rate specified in Section 8.04 on any unpaid disputed amounts, dating from the bill due date. If Licensee fails to pay any amounts owed within sixty (60) days after the resolution of a billing dispute, Licensee agrees that Licensors shall have the right to file a lien for the amounts owed against the Licensee's Attachments located within Provo. Licensors shall promptly take all actions necessary or appropriate to release any such lien upon payment by Licensee of amounts owed that were the subject of the billing dispute.

All bills shall be paid to the address designated from time to time in writing by Licensors.

Licensors' Billing Address:

Provo City Corporation
351 West Center Street
Provo, UT 84601
Attention: Finance Department

Licensee's billing address:

Google Fiber Utah, LLC
Attn: General Manager
1600 Amphitheatre Parkway
Mountain View, CA 94043

fax no.: (650) 253-0001
Email: googlefibernotices@google.com

With copies to (which shall not constitute notice):

Provo City Attorney's Office
PO Box 1849
Provo, UT 84603
Attention: City Attorney

AND

Provo City Energy Department, PO Box 658
Provo, UT 84603
Attention: Energy Department Director

With a copy to (which copy will not constitute notice):

Google Fiber Inc.
Attn: Google Fiber Legal Department
1600 Amphitheatre Parkway
Mountain View, CA 94043
Email: legal-notices@google.com

ARTICLE VII. BREACH AND REMEDIES

Section 7.01 Remedies for Default

If either Party shall default in any of its obligations under this Agreement and such default continues thirty (30) days after written notice thereof has been provided to the defaulting Party, the Party not in default may exercise any of the remedies available to it; provided, however, in such cases where a default cannot be cured within the thirty (30) day period by the exercise of diligent, commercially reasonable effort, the defaulting Party shall have an additional sixty (60) days to cure the default for a total of ninety (90) days after the Party not in default provides its notice of default. Subject to this section the remedies available to each Party shall include, without limitation: (i) refusal to grant any additional permission for Attachments to the other Party until the default is cured; (ii) termination of this Agreement; and (iii) injunctive relief, provided, however, that notwithstanding anything to the contrary in this Agreement, Licensor may only terminate this Agreement, and Licensee's rights to utilize its Attachments on Licensor's Poles and in Licensor's Conduit System granted herein, in the event that (i) Licensee fails to pay Licensor amounts owed for a minimum of ninety (90) days following receipt of invoice from Licensor or resolution of a payment dispute, whichever is later, or (ii) Licensee fails to cure a material breach of this Agreement in accordance with this Section 7.01 and Licensor is unable to cure that material breach using its best efforts, provided that monetary amounts necessary to cure that material breach shall not be considered so long as Licensee complies with the following sentence. In the event that Licensor remedies any breach by Licensee of this Agreement, Licensee shall (a) pay in advance, within thirty (30) days of notice of the breach by Licensor including a cost estimate, eighty percent (80%) of Licensor's costs for the remedy specified in the breach notice and (b) pay within thirty (30) days of receipt of an invoice following completion of the work any reasonable and documented costs in addition to the amount already paid. Licensor will reimburse Licensee within thirty (30) days of completion of the relevant work in the event that reasonable and documented costs are less than the amount paid by Licensee.

ARTICLE VIII. GENERAL PROVISIONS

Section 8.01 Governing Law

This Agreement and any action related to this Agreement will be governed the laws of the State of Utah, excluding that body of law controlling conflict of laws.

Section 8.02 Dispute Resolution

Except as otherwise precluded by law, a resolution of any dispute arising out of, or related to, this Agreement shall first be pursued through good-faith negotiations in order to reach a mutually acceptable resolution. If, after negotiating in good faith for a period of at least thirty (30) days, the parties are unable to resolve the dispute, then either party may seek resolution by exercising any rights or remedies available to either party at law or in equity.

Section 8.03 Failure to Enforce Rights

The failure of either Party to enforce or insist upon compliance with any of the terms or conditions of this Agreement in any instance 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.

Section 8.04 Interest

All amounts payable under the provisions of this Agreement shall, unless otherwise specified herein or disputed in good faith, be payable within forty-five (45) days of the invoice date. An interest charge at the rate of one percent (1%) per month shall be assessed against all late payments. Interest under this Agreement shall not exceed the interest allowable under applicable law.

Section 8.05 Relationship to Third-parties

Nothing herein contained shall be construed as affecting, diminishing or interfering with any rights or privileges previously conferred by Licensor, by contract or otherwise, to others not parties to this Agreement to use any Poles covered by this Agreement; and, except as otherwise provided herein and to the extent not affecting Licensee's rights hereunder, Licensor shall have the right to continue, modify, amend, or extend such rights or privileges. The privileges herein granted to Licensee shall, at all times, be subject to the rights of other entities with attachments to Licensor's Poles under existing third party contracts and arrangements. Further, nothing herein contained shall be construed as conferring or granting to Licensee the exclusive privilege or right to use any of the Poles or other facilities of Licensor. Nothing in this Agreement is intended to confer rights on any third party, as a third party beneficiary or otherwise.

Section 8.06 Confidential Information

Confidential Information may not be disclosed by either party to any person other than its trustees, directors, officers, council members, employees and attorneys of such party or agents of such party who have a need-to-know and agree to similar confidentiality obligations. These confidentiality obligations shall not apply to the extent Confidential Information (i) becomes publicly available other than through the receiving party; (ii) is required to be disclosed pursuant to a governmental or judicial rule, order or regulation or the rule or regulation of a stock exchange; (iii) the recipient of the Confidential Information independently develops such information without access to or use of the Confidential Information; or (iv) becomes rightfully available to the receiving party without restriction from a third party.

Section 8.07 Intellectual Property Rights

Licensee shall be the owner of and will retain all Intellectual Property Rights created, conceived, prepared, made, discovered or produced in connection with Licensee's Attachments.

Section 8.08 Assignment of Rights

Except as set forth below, neither Party may assign or transfer its rights and obligations under this Agreement, in whole or part, to a third party without the written consent of the other Party. Licensor may sell, transfer, or assign its ownership interest in the Poles, Conduit, or Duct provided that the purchaser, transferee, or assignee continues to be bound by the terms of this Agreement. Licensee may upon written notice to Licensor, assign this Agreement and/or any or all of its rights and obligations under this Agreement to (i) any Affiliate of Licensee; (ii) any successor in interest to Licensee in connection with any merger, acquisition or similar transaction; or (iii) any purchaser of all or substantially all of the Licensee's assets used to provide communications services to residents and businesses located in Provo, Utah.

Section 8.09 Survival of Liability or Obligations Upon Termination

Any termination of this Agreement shall not release either Party from any liability or obligations hereunder, whether of indemnity or otherwise, which may have accrued or may be accruing at the time of termination.

Section 8.10 Interpretation

References to Articles and Sections are references to the relevant portion of this Agreement. Headings are for convenience and shall not affect the construction of this Agreement. Exhibits A and B are attached hereto and made a part hereof.

Section 8.11 Severability

In the event that any of the terms, covenants or conditions of this Agreement, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court, regulatory agency, or other regulatory body having jurisdiction, all other terms, covenants or conditions of this Agreement and their application shall not be affected thereby, but shall remain in full force and effect; provided, in any such case, the Parties shall negotiate in good faith to reform this Agreement in order to give effect to the original intention of the Parties.

Section 8.12 Prior Agreements; Amendments

This Agreement shall supersede all prior negotiations, agreements and representations, whether oral or written, between the Parties relating to the installation and maintenance of Licensee's Equipment on Licensor's Poles. Any Equipment of Licensee attached to Licensor's Poles shall be subject to the terms and conditions and rental rates of this Agreement. This Agreement, including any Exhibits attached and referenced herein, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and may not be amended or altered except by an amendment in writing executed by the Parties hereto.

Section 8.13 Additional Representations and Warranties

Each Party warrants and represents to the other that it possesses the necessary corporate, governmental and legal authority, right and power to enter into this Agreement and to perform each and every duty imposed hereby. Each Party also warrants and represents to the other that each of its representatives executing this Agreement, or submitting or approving an application made hereunder, is authorized to act on its behalf.

Each Party further warrants and represents that entering into and performing under this Agreement does not violate or conflict with its charter, by-laws or comparable constituent document, any law

applicable to it, any order or judgment of any court or other agency of government applicable to it or any agreement to which it is a party and that this Agreement and any application approved hereunder, constitute valid, legal, and binding obligations enforceable against such Party in accordance with their terms.

Section 8.14 Relationship of the Parties

Nothing contained herein shall be construed to create an association, joint venture, trust, or partnership, or impose a trust or partnership covenant, obligation, or liability on or with regard to either Party. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement and otherwise.

Section 8.15 Joint Drafting

The Parties acknowledge that this Agreement (including the Exhibits, Appendices and Annexes hereto) has been drafted jointly by the Parties and agree that this Agreement will not be construed against either Party as a result of any role such Party may have had in the drafting process.

Section 8.16 Remedies Cumulative; Specific Performance

Except as provided otherwise in this Agreement, all rights and remedies granted to each Party under this Agreement are cumulative and in addition to, and not in lieu of, any other rights or remedies otherwise available to such Party at law or in equity. The Parties agree that irreparable damage would occur in the event any provision of this Agreement were not performed in accordance with the terms hereof and that a Party shall be entitled to specific performance of the terms hereof in addition to any other remedy at law or in equity, including monetary damages, that may be available to it.

Section 8.17 Further Assurances

In addition to any other obligations set forth in this Agreement, each Party agrees to take such actions (including the execution, acknowledgment and delivery of documents) reasonably requested by the other Party for the implementation or continuing performance of this Agreement.

Section 8.18 Counterparts; Signatures

This Agreement may be executed in multiple counterparts, all of which taken together constitute one and the same instrument. To the extent either Party to this Agreement uses an electronic signature the Parties agree that such signature is binding and this Agreement constitutes a writing.

ARTICLE IX. CONTRACT TERM

Section 9.01 Effective Date

This Agreement shall take effect on the Effective Date.

Section 9.02 Term and Termination

This Agreement shall remain in full force and effect for a period of ten (10) years from the Effective Date and will automatically renew for successive five (5) year periods, unless Licensee is no longer operating its network within Provo. Unless Licensee transfers its Attachments to a third party with which Licensor has a separate attachment agreement, upon termination, (i) existing Attachments will continue to be subject to the terms of this Agreement until such Attachments are removed from Licensor's Poles, (ii) Licensee shall use commercially reasonable efforts to commence removal of its

attachments, and (iii) unless Licensor grants an extension of time, all attachments must be removed at Licensee's cost within ninety (90) days after the effective date of termination.

ARTICLE X. INDEMNIFICATION; LIMITATION OF LIABILITY

Section 10.01 Indemnification by Licensee

Licensee shall defend, solely at Licensee's expense, Licensor and its officers, directors, managers, council members, personnel, permitted successors and permitted assigns (collectively, the "Licensor Indemnified Parties"), against all claims, lawsuits, actions, causes of action, demands or proceedings ("Claims") and shall indemnify and hold harmless Licensor Indemnified Parties from any losses, disbursements, fines, fees, penalties, taxes, settlements, awards, damages, costs, expenses, liabilities, or obligations of any kind, ("Losses") arising out of, relating to, or otherwise in respect of any of the following:

- (a) Claims for bodily injury, death, or damage to tangible personal or real property to the extent: (i) proximately caused by the negligence or willful acts or omissions of Licensee, its personnel and its contractors; or (ii) resulting proximately from Licensee's failure to perform its obligations under this Agreement;
- (b) Claims arising from Licensee's breach of any representation or warranty in this Agreement or from Licensee's deviation from Licensor written directions or requirements;
- (c) Claims arising from any failure by Licensee or its contractors to comply with all applicable safety codes and requirements, including NESC compliance, with respect to attachments of Licensee attached after the Effective Date;
- (d) Claims that any Licensee personnel is an employee of Licensor, including Claims arising out of Licensee's failure to promptly pay any Licensee personnel for its services, materials, facilities, equipment or labor; and
- (e) Licensee's fraud, violation of law, wrongful misconduct or misrepresentations.

Section 10.02 Indemnification by Licensor

Licensor shall defend, solely at Licensor's expense, Licensee, its Affiliates and each of their respective officers, directors, managers, members, personnel, permitted successors and their permitted assigns (collectively, the "Licensee Indemnified Parties"), against all Claims and shall indemnify and hold harmless Licensee Indemnified Parties from Losses arising out of, relating to, or otherwise in respect of any of the following:

- (a) Claims for bodily injury, death, or damage to tangible personal or real property to the extent: (i) proximately caused by the negligence or willful acts or omissions of Licensor, its personnel and its contractors or (ii) resulting proximately from Licensor's failure to perform its obligations under this Agreement;
- (b) Claims arising from Licensor's breach of any representation or warranty in this Agreement;
- (c) Claims arising from any failure by Licensor to comply with all applicable safety codes and requirements, including NESC compliance, with respect to attachments of Licensor; and

- (d) Licensor's fraud, violation of law, wrongful misconduct or misrepresentations.

Section 10.03 Procedure

A Party who seeks indemnification pursuant to this Agreement (the "Indemnified Party") shall give written notice thereof to the other Party (the "Indemnitor") promptly after the Indemnified Party learns of the existence of such Claim; provided, however, the failure to give such notice shall not affect the rights of such Indemnified Party, except and only to the extent the Indemnitor is prejudiced by such failure. The Indemnitor shall have the right to employ counsel reasonably acceptable to the Indemnified Party to defend against any such Claim. The Indemnitor must acknowledge in writing its obligation to indemnify the Indemnified Party for the entire amount of any Loss relating thereto. No settlement of a Claim may seek to impose any liability or obligation upon the Indemnified Party other than for money damages. If such counsel will represent both Indemnitor and the Indemnified Party, there may be no conflict with such counsel's representation of both. The Indemnified Party will use commercially reasonable efforts to fully cooperate in any such action at its own cost, shall make available to the other Party any books or records useful for the defense of any such Claim, and shall reasonably make available its personnel with respect to defense of the Claim. If the Indemnitor fails to acknowledge in writing its obligation to defend against or settle such Claim within fifteen (15) days after receiving notice thereof from the Indemnified Party (or such shorter time specified in the notice as the circumstances of the matter may dictate), the Indemnified Party shall be free to dispose of the matter, at the expense of the Indemnitor (but only if indemnification is adjudged to be proper), in any way in which the Indemnified Party deems to be in its best interest.

Section 10.04 Disclaimer of Damages

NOTWITHSTANDING ANYTHING TO THE CONTRARY AND EXCEPT FOR (I) THIRD PARTY CLAIMS FOR PERSONAL INJURY, INCLUDING DEATH, AND DAMAGE TO TANGIBLE PROPERTY CAUSED BY THE NEGLIGENT OR INTENTIONAL ACTS OF A PARTY OR ITS PERSONNEL; AND (II) WILLFUL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, EXEMPLARY, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING UNDER OR RELATING TO THIS AGREEMENT IN ANY WAY, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA, LOSS OF USE, OR LOSS OF PROFITS EVEN IF A PARTY HAS BEEN ADVISED, KNOWS OR SHOULD KNOW OF THE POSSIBILITY OF THE FOREGOING.

Section 10.05 Cap on Damages

EXCEPT AS PROVIDED IN THE PRECEDING SECTION, EACH PARTY'S CUMULATIVE LIABILITY FOR ALL CLAIMS, AND LOSSES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE FORM IN WHICH ANY ACTION IS BROUGHT (E.G., CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE), SHALL NOT EXCEED \$2,000,000.00.

ARTICLE XI. INSURANCE

Section 11.01 Workers Compensation and Employer's Liability Acts

Licensee shall comply with all applicable worker's compensation and employer's liability acts and shall furnish proof thereof satisfactory to Licensor prior to placing Equipment on Licensor's Poles or in Licensor's Conduit System.

Section 11.02 Licensee Maintenance of Insurance Coverage

Without limiting any liabilities or any other obligations of Licensee, Licensee shall, at its sole expense and prior to placing Equipment on Licensor's Poles or in Licensor's Conduit System, secure and continuously carry with insurers reasonably acceptable to Licensor the following insurance coverage:

Commercial General Liability insurance with a minimum single limit of \$2,000,000 to protect against and from all loss by reason of injury to persons, including Licensee's employees, Licensor's employees and all other third persons, or damage to property, including Licensor's property and the property of all other third-parties, based upon or arising out of Licensee's operations hereunder, including the operations of its contractors of any tier.

Business Automobile Liability insurance with a minimum single limit of \$2,000,000 for bodily injury and property damage with respect to Licensee's vehicles whether owned, hired or non-owned, assigned to or used in Licensee's operations hereunder.

Umbrella liability with a minimum limit of \$5,000,000 with up to a \$50,000 deductible.

The policies required herein shall include (a) provisions or endorsements naming Licensor, its directors, officers and employees as additional insured, and (b) a cross-liability and severability of interest clause.

The policies required herein shall include provisions that such insurance is primary insurance with respect to the interests of Licensor and that any other insurance maintained by Licensor is excess and not contributory insurance with the insurance required under this section and provisions that such policies shall not be cancelled or their limits of liability reduced without thirty (30) days prior written notice to Licensor. A certificate in a form satisfactory to Licensor certifying the issuance of such insurance shall be furnished to Licensor by Licensee.

Section 11.03 Licensor Maintenance of Insurance Coverage

Without limiting any liabilities or any other obligations of Licensor, Licensor shall, at its sole expense, secure and continuously carry with insurers possessing an A.M. Best rating of A or better, or meeting some other objective criteria mutually agreeable to Licensor and Licensee the following insurance coverage:

Commercial General Liability insurance with a minimum single limit of \$2,000,000 to protect against and from all loss by reason of injury to persons, including Licensor's employees, Licensee's employees and all other third persons, or damage to property, including Licensee's property and the property of all other third-parties, based upon or arising out of Licensor's operations hereunder, including the operations of its contractors of any tier.

Umbrella liability with a minimum limit of \$5,000,000 with up to a \$500,000 deductible.

The policies required herein shall include (a) provisions or endorsements naming Licensee, its directors, officers, managers, and employees as additional insured, and (b) a cross-liability and severability of interest clause.

The policies required herein shall include provisions that such insurance is primary insurance with respect to the interests of Licensee and that any other insurance maintained by Licensee is excess and not contributory insurance with the insurance required under this section and provisions that such policies shall not be cancelled or their limits of liability reduced without thirty (30) days prior written notice to Licensee. A certificate in a form satisfactory to Licensee certifying the issuance of such insurance shall be furnished to Licensee by Licensor.

Licensor shall also self-insure by maintaining at all times liquidity of at least \$500,000.

ARTICLE XII. FORCE MAJEURE

Neither Party shall be subject to any liability or damages for inability to perform its obligations under this Agreement, except for any obligation to pay amounts when due, to the extent that such failure shall be due to causes beyond the reasonable control of either Party, including but not limited to the following: (a) the operation and effect of any rules, regulations and orders promulgated by any commission, municipality, or governmental agency of the United States, or subdivision thereof (so long as the claimant Party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such government action); (b) restraining order, injunction or similar decree of any court; (c) war or act of terrorism; (d) flood; (e) earthquake; (f) act of God; (g) civil disturbance; or (h) strikes or boycotts; provided, the Party claiming Force Majeure shall make every reasonable attempt to remedy the cause thereof as diligently and expeditiously as possible. Time periods for performance obligations of Parties herein shall be extended for the period during which Force Majeure was in effect.

ARTICLE XIII. NOTICE

Except as otherwise provided herein, any notice required, permitted or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth below or at such other address as a Party may designate for itself from time to time by notice hereunder, and shall be transmitted by United States mail, by regularly scheduled overnight delivery, by personal delivery, or by email:

To Licensor:

Provo City Corporation
351 West Center Street, Provo, UT 84601
Attention: Mayor

With copies to (which shall not constitute notice):

Provo City Attorney's Office, PO Box 1849
Provo, UT 84603
Attention: City Attorney

AND

To Licensee:

Google Fiber Utah, LLC
Attn: General Manager
1600 Amphitheatre Parkway
Mountain View, CA 94043
fax no.: (650) 253-0001
Email: googlefibernotices@google.com

With a copy to (which copy will not constitute notice):

Google Fiber Inc.
Attn: Google Fiber Legal Department
1600 Amphitheatre Parkway

Provo City Energy Department, PO Box 658
Provo, UT 84603
Attention: Energy Department Director

Mountain View, CA 94043
Email: legal-notices@google.com

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the date first herein written.

Provo City Corporation

Google Fiber Utah, LLC

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A
FEE SCHEDULE

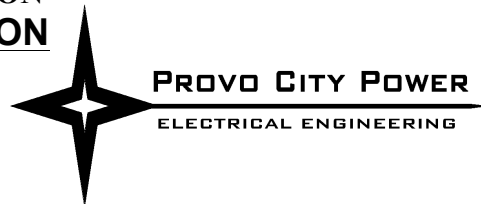
1) Poles.

- a. Except as otherwise agreed between the Parties, the rental rate for each Attachment to a Pole will be the same as, or less than, the lowest rate charged by Licensor of any other attacher to its Poles. In the event that Licensor makes available any rate more favorable to one or more third party attacher, Licensor shall make that same rate available to Licensee at the same time as to that third party attacher. Upon Licensee's request, Licensor shall provide Licensee with reasonable documentation showing the rate charged by Licensor of each third party attacher to its Poles.
- b. The lowest rental rate charged by Licensor per attachment to its Poles at the effective date is \$5.00, which is the amount that Licensee will pay per Attachment to a Pole from the Effective Date (the "Pole Rental Fee").
- c. Licensor may decrease the Pole Rental Fee at any time and in any amount.
- d. Licensor may only increase the Pole Rental Fee by way of an ordinance passed by the Provo Municipal Council, and only provided that the Pole Rental Fee may never be greater than the rental rate that would be charged under the pole rental formula contained in 47 C.F.R. 1.1409(e)(2).

2) Conduit and Duct.

- a. Except as otherwise agreed between the Parties, the rental rate for each Attachment in Conduit and Duct will be the same as, or less than, the lowest rate charged by Licensor of any other attacher in its Conduit or Duct. In the event that Licensor makes available any rate more favorable to one or more third party attacher, Licensor shall make that same rate available to Licensee at the same time as to that third party attacher. Upon Licensee's request, Licensor shall provide Licensee with reasonable documentation showing the rate charged by Licensor of each third party attacher in its Conduit and Duct.
- b. The lowest rental rate charged by Licensor per linear foot of attachment in its Conduit and Duct at the effective date is \$0.25 for Conduit that is not Electrical Conduit and \$0.52 for Electrical Conduit, which is the amount that Licensee will pay per linear foot of Attachment in Conduit and Duct from the Effective Date (the "Conduit and Duct Rental Fee").
- c. Licensor may decrease the Conduit and Duct Rental Fee at any time and in any amount.
- d. Licensor may only increase the Conduit and Duct Rental Fee by way of an ordinance passed by the Provo Municipal Council, and only provided that the Conduit and Duct Rental Fee may never be greater than the rental rate that would be charged under the pole rental formula contained in 47 C.F.R. 1.1409(e)(3).

EXHIBIT B
FORM OF ATTACHMENT APPLICATION
POLE ATTACHMENT APPLICATION



New Attachment ☐ Conduit Lease in Electric Conduit ☐
 Overlash Attachment ☐ Conduit Lease in Dedicated Conduit ☐

Incomplete applications will be returned to the applicant without further action by Provo City Power. Required information includes the completed application, proposed schedule, prints and maps, proposed route, project description, and a copy of the Filing Fee check [1].

APPLICATION INFORMATION (Applicant)

Project Name _____
 Applicant Name _____ Date _____
 Corporate Rep _____ Phone _____ Fax _____
 Email Address _____

Project Description (Attach if necessary)	# of Provo poles	Liner feet of Conduit	Planned install date(s)

Proposed Cable Installation _____
 # of cables to install _____
 Fiber count _____
 Cable diameter _____

Existing Cable Installation _____
 Existing cable count _____
 Existing pole count _____
 Cable(s) diameter _____
 Strand(s) diameter _____

Nearest street address of attachment	City Grid # (if available)

APPLICATION APPROVAL (Provo City Power)

Application Approved? Yes ☐ No ☐ Make Ready Required? Yes ☐ No ☐
 Conditional ☐ (see attached report) Work Order # _____

Actual Provo City Power pole count _____ Actual foreign pole count _____ Actual Install Date _____

Comments _____

Provo City Power Inspector (signature)	Phone	Fax	Email Address	Date

Provo City Power Representative

Licensee Representative

 Name Date

 Name Date

For Use with Pole Attachment Applications

[illegible]