

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



January 17, 2017

Advice Letter 4978-E

Erik Jacobson
Director, Regulatory Relations
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177

**Subject: Telecommunications AL for 3 License Agreements for
Duct, Conduit, & Other Underground Structure Access**

Dear Mr. Jacobson:

Advice Letter 4978-E is effective as of January 14, 2017.

Sincerely,

A handwritten signature in cursive script that reads "Edward Randolph".

Edward Randolph
Director, Energy Division

December 15, 2016

Advice 4978-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: Telecommunications Advice Letter for Three License Agreements for Duct, Conduit, and Other Underground Structure Access

Purpose

In compliance with Appendix A, Rule VI, of Decision (D.) 98-10-058, dated October 22, 1998 (also referred to as the “Right-of-Way Decision”), Pacific Gas and Electric Company (PG&E) hereby submits a revised form License Agreement for Duct, Conduit and Other Underground Structure Space Access between PG&E and [Applicant]¹ and three separate License Agreements, one each with Crown Castle NG West, LLC (Crown Castle), Astound Broadband, LCC (Astound); and Modus, Inc. (Modus), respectively (Crown Castle, Astound, and Modus are referred to individually as a “Counterparty” and collectively as the “Counterparties” and the agreements between each Counterparty and PG&E as “the Agreements”).² The Agreements provide the terms and conditions under which these competitive local exchange carrier (“CLEC”) telecommunications companies may access PG&E’s underground distribution conduits and ducts pursuant to the Right-of-Way Decision.

Background

On October 22, 1998, the California Public Utilities Commission (Commission or CPUC) issued Decision (D.) 98-10-058, which promulgated rules by which telecommunications carriers and cable television companies could obtain access to public utilities rights-of-way and support structures. As stated in Section I of Appendix A to D.98-10-058, the Commission-Adopted Rules Governing Access to Rights-of-Way and Support Structures of Incumbent Telephone and Electric Utilities (the ROW Rules), the ROW Rules are not compulsory but are to be applied as guidelines by parties in negotiating rights-of-way access agreements.

¹ PG&E is attaching a pro forma nondiscriminatory form (Attachment 1) with the goal of using the same form in the future for all companies desiring to install their own dielectric communications cable in PG&E’s underground conduits and ducts.

² Copies of the three agreements are attached as Attachments 3, 4, and 5.

In accordance with D.98-10-058 and the ROW Rules, PG&E and Webpass Telecommunications, LLC (Webpass) negotiated a License Agreement to provide Webpass access to “excess capacity” in PG&E’s distribution conduits, ducts, and other underground structures, as defined in the ROW Rules (Webpass Agreement). Pursuant to D.98-10-058, on May 31, 2016, PG&E submitted the Webpass Agreement to the Commission in Advice Letter 4850-E, requesting approval of the agreement and to rely on that agreement as a template for future license agreements. The Commission approved the Webpass Agreement on October 27, 2016.

Using the Webpass Agreement as the starting point, PG&E and each Counterparty negotiated a separate license agreement. Through these negotiations, PG&E and each Counterparty agreed to modify terms from the original Webpass Agreement. Some of these changes were individual and specific to each Counterparty; others consisted of improvements to the Webpass Agreement, including clarifications, streamlining, and correcting of typographical and grammatical errors.

Based on these resulting agreements, PG&E has prepared a revised form License Agreement (attached as Attachment 1), which reflects the improvements made to the Webpass Agreement.³ Telecommunications and cable television companies who seek access to excess capacity in PG&E’s distribution conduits, ducts, and other underground structures may submit a completed and executed revised form License Agreement to PG&E. PG&E will negotiate with other telecommunications and cable television companies to address unique circumstances.

The form License Agreement and each of the individually negotiated license agreements generally track the ROW Rules and PG&E’s overhead and underground licenses in most respects.⁴ The telecommunications companies’ license rights are subject to General Order (GO) 69-C, which allows PG&E to reclaim the space either upon order of the Commission or upon PG&E’s own decision if PG&E needs to commence or resume the use of the space to provide gas or electric utility service. Otherwise the Agreements are for five year terms, but will continue in effect for recurring five year periods unless terminated by either party upon one year’s notice to the other.

Under the agreements, the Counterparties or their contractors will install and maintain each entities’ equipment, but they are required to follow the National Electric Safety Code, the National Electrical Code, GO 128, and PG&E’s nondiscriminatory design, engineering and construction standards, and safety rules.⁵ Consistent with GO 128, Rule 44.1C, work in PG&E substructures by a counterparty or its contractors will be

³ For convenience, a redlined version showing the differences between the revised form License Agreement and the Webpass Agreement is attached as Attachment 2.

⁴ See, e.g., PG&E’s Advice 2982-E for PG&E’s Standard Overhead License Agreement; and PG&E’s Advice 4850-E for Duct, Conduit, and Other Structure Space License Agreement with Webpass Telecommunications, LCC.

⁵ Dielectric communication cables are permitted to occupy the same conduit with supply cables or conductors by mutual consent, consistent with Rule 44.1A of GO 128.

performed by qualified personnel under the supervision of a qualified electrical worker. In addition, Counterparties may only access PG&E's space when accompanied by PG&E personnel.

In addition to the revised form License Agreement and redlined comparison to the Webpass Agreement, PG&E also submits each of the three negotiated License Agreements with each Counterparty: Crown Castle, Astound, and Modus (attached as Attachments 3, 4, and 5). In accordance with D.16-10-043, PG&E requests confidential treatment for the Crown Castle and Astound negotiated agreements. Accompanying this Advice letter is a declaration supporting confidential treatment (attached as Attachment 6). The terms and conditions of the Modus negotiated agreement are identical to the revised form License Agreement, and thus no confidential treatment is necessary.

Protests

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, facsimile or E-mail, no later than January 4, 2016, which is 20 days after the date of this filing. Protests must be submitted to:

CPUC Energy Division
ED Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: EDTariffUnit@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest shall also be sent to PG&E either via E-mail or U.S. mail (and by facsimile, if possible) at the address shown below on the same date it is mailed or delivered to the Commission:

Erik Jacobson
Director, Regulatory Relations
c/o Megan Lawson
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177

Facsimile: (415) 973-1448
E-mail: PGETariffs@pge.com

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter (General Order 96-B, Section 7.4). The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division (General Order 96-B, Section 3.11).

Effective Date

PG&E requests that this Tier 2 advice filing become effective on regular notice, January 14, 2017 which is 30 calendar days after the date of filing.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and/or via U.S. mail to parties indicated below and the parties on the service list for R.95-04-043. Address changes to the General Order 96-B service list should be directed to PG&E at email address PGETariffs@pge.com. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at ProcessOffice@cpuc.ca.gov. Send all electronic approvals to PGETariffs@pge.com. Advice letter filings can also be accessed electronically at: <http://www.pge.com/tariffs/>.

_____/S/

Erik Jacobson
Director, Regulatory Relations

- Attachment 1 – Revised Form License Agreement (public)
- Attachment 2 – Redline comparison between revised form License Agreement and the Webpass Agreement (public)
- Attachment 3 – Crown Castle Agreement (confidential)
- Attachment 4 – Astound Agreement (confidential)
- Attachment 5 – Modus Agreement (public)
- Attachment 6 – Declaration for Confidential Treatment

cc: Sonny Nunez, Crown Castle NG West, LCC.
Byron Springer, Astound Broadband, LLC.
Erik Corkery, Modus, Inc.
Suzanne Toller, Davis Wright Tremaine
Katie Jorrie, Davis Wright Tremaine
Service List for R.95-04-043

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39 E)**

Utility type:

ELC GAS
 PLC HEAT WATER

Contact Person: Annie Ho

Phone #: (415) 973-8794

E-mail: AMHP@pge.com and PGETariffs@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas
PLC = Pipeline HEAT = Heat WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **4978-E**

Tier: **2**

Subject of AL: **Telecommunications Advice Letter for Three License Agreements for Duct, Conduit, and Other Underground Structure Access**

Keywords (choose from CPUC listing): Compliance, Agreements

AL filing type: Monthly Quarterly Annual One-Time Other _____

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: D.98-10-058

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL: _____

Is AL requesting confidential treatment? If so, what information is the utility seeking confidential treatment for: Yes. See the attached matrix (Attachment 6) that identifies all of the confidential information.

Confidential information will be made available to those who have executed a nondisclosure agreement: Yes No

Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information: Dave Gabbard, (415)-973-8996

Resolution Required? Yes No

Requested effective date: **January 14, 2017**

No. of tariff sheets: N/A

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: N/A

Service affected and changes proposed: N/A

Pending advice letters that revise the same tariff sheets: N/A

Protests, dispositions, and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

California Public Utilities Commission
Energy Division
EDTariffUnit
505 Van Ness Ave., 4th Flr.
San Francisco, CA 94102
E-mail: EDTariffUnit@cpuc.ca.gov

Pacific Gas and Electric Company
Attn: Erik Jacobson
Director, Regulatory Relations
c/o Megan Lawson
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177
E-mail: PGETariffs@pge.com

Advice 4978-E
December 15, 2016

Attachment 1

Revised Form License Agreement

(Public)

**Duct, Conduit, and Other Underground
Structure Space License Agreement**

between

Pacific Gas and Electric Company

and

[Applicant]

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TELCO CONTACT PERMIT

Exhibit B - CONDUIT ATTACHMENT FEE

Exhibit C - ESTIMATED UNIT COSTS

Exhibit D – COMPANY SAFETY RULES

These Exhibits are part of this Agreement and are attached separately. The exhibits referenced within this Agreement may be revised or converted to an electronic on-line application in the future, which will be deemed an equivalent means of requesting access, providing notification and coordination of the activities. The Permittee shall use the latest issued exhibits identified by the Company when requesting access, providing notification and coordination of their activities.

DUCT, CONDUIT, AND OTHER STRUCTURE SPACE LICENSE AGREEMENT

This Duct, Conduit, and Other Structure Space License Agreement (“Agreement”) is entered into by and between Pacific Gas and Electric Company (“Company”), a California corporation and _____ (“Permittee”), a _____ (together, the Company and Permittee shall be referred to as the “Parties”), and in consideration of the mutual promises and agreements set forth herein, the Parties hereby agree as follows:

ARTICLE 1

GRANT OF LICENSE

1.1 LICENSE

1.1.1 The Company gives Permittee permission, on the terms and conditions stated herein, to install and maintain completely dielectric communications cables (no metallic shield or embedded tracing wire allowed) and related equipment (hereinafter sometimes collectively referred to as “Attachment(s)”) in “Excess Capacity” (as defined in Section 2.1.4) within distribution ducts, conduits, manholes, handholes, and other distribution structures, including above-ground distribution conduit, ducts, or other structures used for services entry to buildings (but excluding space on poles or other aerial facilities) owned, leased, or controlled by, or licensed to the Company for use in the provision of electric service, consistent with General Order (G.O.) 128 of the California Public Utilities Commission (CPUC) and Company standards, as discussed herein, collectively referred to as “Company Space,” along with a license to use such rights-of-way owned, leased, or controlled by, or licensed to the Company (“Company Rights-of-Way”) as are reasonably required to enable Permittee to access Company Space for such purposes. The Company Space to be accessed shall be identified by Permittee and submitted to the Company for authorization in the form set forth in Exhibit A.

1.1.2 This Agreement as a license is given pursuant to the authority of, and upon, and subject to, the conditions prescribed by G.O. 69-C of the CPUC, dated and effective July 10, 1985, which by this reference is incorporated herein. This license is effective the date it is signed and delivered by the Company, and will terminate based on any of the terms and conditions set forth in this Agreement. No Permittee use of any Company Space or Company Rights-of-Way shall create or vest in Permittee any ownership or property rights herein; Permittee’s rights hereunder shall be and remain a mere license, but subject to CPUC Decision (D.) 98-10-058 as amended or superseded (“CPUC ROW Decisions”).

1.1.3 Pursuant to G.O. 69-C this license is conditioned upon the right of the Company, either upon order of the CPUC, or upon the Company’s own decision, consistent with CPUC ROW Decisions, to commence or resume the use of the property in question whenever, in the interest of the Company’s utility service to its patrons or customers, it shall appear necessary or

desirable to do so. In such case, the Company will use commercially reasonable efforts consistent with applicable legal requirements to accommodate relocations, rearrangements, and replacements under Section 6.3.

1.1.4 Notwithstanding anything in this Agreement to the contrary, including Article 10 (“Dispute Resolution”), interpretation of the meaning and effect of G.O. 69-C in this Agreement shall be in the exclusive jurisdiction of the CPUC.

1.2 THE COMPANY DISCLAIMER

Permittee expressly acknowledges that the Company does not represent or warrant that Company Rights-of-Way, whether by easement, franchise, or other form of permission, are broad enough to permit Permittee’s Attachments in the Company Space or for the exercise by Permittee of any other rights set forth in this Agreement. It shall be the sole responsibility and obligation of Permittee to secure any such further rights or permission for the placement and use of the Permittee’s Attachments in Company Space and Company Rights-of-Way as may be necessary, including obtaining any permits or other approvals required by an authorized permitting agency. Permittee shall obtain any such necessary rights, including any required encroachment permits, from Granting Authorities before installing attachments. “Granting Authority(ies)” means those persons or entities from whom the Company has received the Company Rights-of-Way and includes both governmental and non-governmental entities and persons. This Agreement does not include a conveyance of any interest in real property, the Company Space, or facilities in which Company Space is located, and Permittee agrees to never claim such interest.

1.3 CHALLENGE TO AGREEMENT

1.3.1 If a Granting Authority, in any forum, in any way challenges, disputes, or makes a claim against the Company’s authority to grant this license, the Company shall give Permittee reasonable written notice of same. The Company reserves the right in its sole discretion to require Permittee to remove from Company Space the Attachments that are the subject of the challenge, dispute, or claim, within thirty (30) days of written notice from the Company or such earlier time required by the Granting Authority. Permittee shall, upon such written notice, relinquish use of the Company Space, and remove any Attachments promptly prior to the last date specified in the notice.

1.3.2 Notwithstanding the above, if within the period described above, Permittee obtains an order from a court or regulatory agency with jurisdiction over the challenge, dispute, or claim against the Company’s authority to grant this license, which order allows Permittee’s Attachments to remain in the Company Space, Permittee shall be allowed to maintain the Attachments in the Company Space under the terms of that order, until a final decision or judgment is made at the highest level desired by Permittee. In the event of such contest, Permittee shall indemnify and hold the Company harmless from any expense, legal action, or cost, including reasonable attorneys’ fees, resulting from the exercise of Permittee’s right to contest under this section at Permittee’s sole expense.

1.4 INCREMENTAL PROPERTY RIGHTS AND COSTS

1.4.1 If any time during this Agreement a Granting Authority of the Company makes a demand for additional compensation or indicates its intent to reopen, renegotiate, or terminate the Company's franchise, easement, license, or other agreement establishing the Company's rights in any of the Company Rights-of-Way as a direct result of the existence of this Agreement, the Company shall promptly notify Permittee. After conferring with the Company and allowing the Company an opportunity to resolve the issue, Permittee may attempt at Permittee's expense to resolve the issue with the Granting Authority through negotiation or settlement. Any decision to commence litigation on behalf of or in the name of the Company shall be in the sole discretion of the Company, and any subsequent litigation, whether brought by the Company at Permittee's request or by such third party Granting Authority, shall be conducted at Permittee's expense, but under the Company's direction and control with respect to any issues materially affecting the Company's rights in the Company Right-of-Way. If the dispute is resolved through negotiation or settlement approved by Permittee (which approval will not be unreasonably withheld), and such resolution requires the payment of additional consideration by the Company, Permittee shall reimburse the Company for the amount of such additional consideration, to the extent such amount is due to Permittee's presence in the Company Space. If the dispute is resolved through litigation in accordance with the foregoing and the judgment resulting therefrom requires the payment of additional consideration by the Company, Permittee shall reimburse the Company for the amount of such additional consideration to the extent such amount is due to Permittee's presence on or in the Company Space. If Permittee possesses the power of eminent domain within the relevant jurisdiction, Permittee shall have the right, in its sole discretion, independently of the Company to seek resolution of such a dispute by exercising such power of eminent domain, provided that Permittee shall pay all costs of such exercise. Permittee's obligation to reimburse the Company for the amounts of additional compensation due to Granting Authorities shall survive this Agreement.

1.4.2 Notwithstanding the foregoing, the Company after conferring with Permittee at any time and in the Company's sole discretion, may require that Permittee discontinue such attempts to resolve issues with a particular governmental Granting Authority by litigation or otherwise; provided that, such requirement of the Company notwithstanding, Permittee may still continue to attempt to resolve such issues independently of the Company, by litigation or otherwise, so long as the Company is not named, joined, or otherwise included as a party or principal in any such litigation or other attempt; and provided further that the foregoing shall not be deemed to prohibit Permittee from exercising any eminent domain rights that Permittee is authorized to pursue within the relevant jurisdiction.

1.5 TERM OF LICENSE

This Agreement is for a term of five (5) years from the date it is signed by the Company and will thereafter continue in effect for recurring five (5) year periods until terminated, as of the end of the then-current term, by either Party upon one (1) year's written notice to the other.

1.6 COMMISSION JURISDICTION

Unless otherwise expressly ordered by the CPUC, this Agreement at all times shall be subject to such modifications as the CPUC may direct from time to time in the exercise of its jurisdiction.

ARTICLE 2

PLACING ATTACHMENTS

2.1 PROCESS FOR ATTACHING IN THE COMPANY SPACE

2.1.1 Request For Information

Permittee may, from time to time, submit a written request for information about the availability of Company Space. The request for information must include the proposed route or location of Attachments. Company shall respond in writing to such request for information as quickly as possible using commercially reasonable methods and consistent with applicable legal, safety, and reliability requirements. Availability of Company Space shall be determined in a manner consistent with Sections 2.1.4 and 2.1.5. Subject to the Confidentiality provisions in Section 13.4, the Company shall, within such period, provide Permittee with access to maps, and currently available records such as drawings, plans, and other information that it uses in its daily transaction of business necessary for evaluating the availability of Excess Capacity for the proposed route or location of Attachments specified by the Permittee in the request. Permittee agrees to pay in advance all of the Company's estimated unit costs currently in effect to respond to the request for information. The total cost for providing the information will be reconciled based on the Company's actual costs at the end of the task. The Company's estimated unit costs for such work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

2.1.2 Request For Access

If Permittee desires to install new Attachments or replace existing Attachments in Company Space, it must submit a request for access using the form attached as Exhibit A, or such other form as the Company may specify from time to time in its reasonable discretion, and identify the facilities and equipment, including their physical characteristics (e.g., material and dimensions), to be placed in the Company Space and a copy of Permittee's property lease or right-of-way document, if any are required.

Permittee agrees to pay in advance all of the Company's estimated unit costs to respond to the request for access. The total cost for responding to the request is reconciled based on the Company's actual costs at the end of the task. The Company's estimated unit costs for such work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

2.1.3 Response to Request for Access

The Company shall provide a written response to the Permittee's request for access as quickly as possible using commercially reasonable methods and consistent with applicable legal, safety, and reliability requirements. The response shall state whether the request is being granted or denied, and if the request is denied, provide all of the reasons why the request is being denied. In granting a request, the Company will select or approve Permittee's selection of the specific duct, conduit, or innerduct, or other location in the Company Space that Permittee may occupy. If denial of access is proposed, upon request of Permittee the Company will promptly meet with Permittee and explore in good faith reasonable alternatives to accommodate the proposed access. Permittee must request such meeting within ten (10) business days of receipt of a notice of denial.

2.1.4 Space Availability

(a) "Excess Capacity" means volume or capacity in a distribution duct, conduit, manhole, handhole, or other distribution structure, including an above-ground distribution conduit, duct, or other structure used for service entry to a building (but excluding space on poles or other aerial facilities) which can be used for dielectric communications cables and equipment, consistent with General Order 128 and the Company's nondiscriminatory design, engineering and construction standards and safety rules.

(b) Excess Capacity that is not assigned, reserved for Company use or occupied shall be deemed available for use by Permittee.

(c) Excess Capacity shall be deemed assigned if, on a nondiscriminatory basis, another customer, telecommunications carrier or cable TV company has an agreement with Company or other legal right to occupy said Excess Capacity and has requested or reserved access to a particular route or specific distribution conduit or duct or other space containing said Excess Capacity prior to Permittee requesting the use of such particular route or specific distribution conduit or duct or other space containing said Excess Capacity.

(d) Permittee's Attachments shall be permitted to co-occupy, with the Company's electrical cables and other equipment, available Excess Capacity consistent with G.O. 128 and Company's nondiscriminatory standards and safety rules.

(e) A duct, conduit, innerduct, or other location for which there is insufficient Excess Capacity to accommodate Permittee's request for access, or which is already occupied or assigned for use by the Company or another telecommunications carrier, cable TV company or customer shall be deemed unavailable for assignment to Permittee.

(f) No Company Space shall be deemed assigned to, or otherwise reserved for use by, the Company unless (i) prior to Permittee's request for access the Company had a bona fide development plan in place and the specific reservation of the attachment capacity is reasonably and specifically needed for the provision of utility service within such twelve (12) month period; (ii) there is no other feasible solution to the Company's meeting its immediately foreseeable needs; (iii) there is no commercially reasonable available technological means for

increasing the capacity of the support structure for additional attachments; and (iv) the Company has attempted to negotiate with Permittee for a cooperative solution to the capacity problem.

2.1.5 Denial Based on Safety, Reliability, Engineering Considerations

In the event the Company denies a request based on reasons of safety or reliability, the Company shall, in the event of dispute, bear the burden of establishing that the proposed Attachment cannot be accommodated without threat to safety or utility service reliability, and that the Company's relevant practices and standards are being applied in a nondiscriminatory manner.

2.1.6 Make Ready Work

(a) Determination of Need

If a request for access is granted, the Company, using the information included in the request and other information as the Company may reasonably require, will conduct engineering evaluations to determine any rearrangement (including replacement, if necessary), modifications, or expansions, or other work to or in the Company Space or any Company or third-party-owned facilities or equipment in the Company Space ("Make Ready Work") that is needed to accommodate the Attachments, and shall provide an estimate of the Company's unit costs for such Make Ready Work. The Company's estimated unit costs for such work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

Alternatively, if Permittee meets the qualifications established by the Company's guidelines, Permittee may at its expense conduct the engineering evaluations to determine and identify the required Make Ready Work. The Company reserves the right to check, at Permittee's expense, the accuracy of the Permittee's engineering evaluations and if relevant errors are found, Permittee shall be notified and advised to resubmit its request with accurate information. If relevant efforts result in a request for access that results in an infraction of applicable codes and standards, Permittee agrees to reimburse the Company for the actual cost of checking the Permittee's initial and resubmitted engineering evaluation.

(b) Performance of Make Ready Work

If it is determined that Make Ready Work will be necessary to accommodate Permittee's Attachments, Permittee will have forty-five (45) days (the "Acceptance Period") to either (i) submit payment for the estimated unit costs authorizing the Company to complete the Make Ready Work, in which case, the Company shall schedule and complete the Make Ready Work on a nondiscriminatory, commercially-reasonable basis without unreasonable delay, following its receipt of such payment; or (ii) advise the Company of its willingness to perform the proposed make-ready work itself if permissible in the application area.

Permittee agrees to pay in advance all of the Company's estimated unit costs to perform Make Ready Work at Permittee's expense. The total cost for such work is reconciled based on the Company's actual costs at the end of the project. The Company's estimated unit costs for such

work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

Alternatively, the Company will at its discretion allow Permittee to perform Make Ready Work at Permittee's expense. Make Ready Work performed by Permittee, or by a contractor approved by Company ("Authorized Contractor") and selected by Permittee, shall be performed in accordance with the Company's specifications and in accordance with the same standards and practices that would be followed if such work were being performed by the Company or the Company's contractors. Neither Permittee nor Authorized Contractors selected by Permitted shall conduct such work in any manner that degrades the integrity of Company Space or any equipment or facilities in such Space or in which such Space is located or that interferes with any existing use of any such equipment, facilities, or Space.

Permittee shall make arrangements with third parties who have facilities occupying Company Space regarding reimbursement for any expenses incurred by such third parties in transferring or rearranging their facilities and equipment to accommodate the placement of Permittee's Attachments in the Company Space.

2.1.7 Occupancy of Company Space After Make Ready Work Completed and Relinquishment of Assignment of Company Space If Not Timely Occupied

(a) Permittee must exercise its access rights and occupy a specific duct, conduit, or innerduct, or other location in the Company Space approved for Permittee's occupation (i) within ninety (90) days after a determination that Make Ready Work is not necessary in accordance with Section 2.1.6(a) above; (ii) within ninety (90) days after the completion of Make Ready Work if the Company is performing the Make Ready Work pursuant to Section 2.1.6(b) above; or (iii) within twelve (12) months after Permittee's request for access is granted by the Company if the Permittee advises the Company that the Permittee will perform the Make Ready Work pursuant to Section 2.1.6(b) above.

(b) If Permittee does not exercise its access rights and occupy a specific duct, conduit, or innerduct, or other location in the Company Space approved for Permittee's occupation within the time set forth in subsection (a) above, or if Permittee has elected to make the determination of the necessity for any Make Ready Work itself in accordance with the second paragraph of Section 2.1.6(a) but has failed to complete that determination within ninety (90) days, then the assignment will lapse and the assigned location will be deemed available for use by the Company or another telecommunications carrier.

2.1.8 Installation of Attachments

Under no circumstances shall Permittee enter Company's Rights-of-Way, enter or access Company Space or install any Attachments in Company Space without (a) obtaining any necessary encroachment or street occupation permits from local authorities, (b) receiving all required approvals from Company and (c) being accompanied by Company personnel, as set forth in Section 3.2.

Permittee shall be responsible for the placement of Attachments in the Company Space and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities.

Permittee shall provide the Company with a construction schedule and thereafter keep the Company informed of anticipated changes in the construction schedule.

Permittee's Attachments shall be placed, constructed, maintained, repaired, and removed in full compliance with the requirements, specifications, and standards specified in this Agreement, and the current (as of the date when such work is performed) versions of the following:

(a) the National Electrical Safety Code ("NESC"), published by the Institute of Electrical and Electronic Engineers, Inc. ("IEEE");

(b) the National Electrical Code ("NEC"), published by the National Fire Protection Association ("NFPA");

(c) General Order 128;

(d) The Company's nondiscriminatory design, engineering and construction standards and safety rules.

Without limitation, Permittee will mechanically and electrically protect Permittee's cables within any Company splice box, vault or enclosure. Permittee shall be permitted to locate communications splices, coils of communications cable, or other communications equipment within a Company vault or other subsurface enclosure to the extent consistent with the Company's nondiscriminatory standards and practices as applied to other communications splices, coils of communications cable, or other communications equipment, excluding those used by the Company solely for its own internal communications purposes. To the extent practicable, Permittee shall place its own enclosure, if required, adjacent to the Company enclosure for splices, coils of cable or other equipment.

Permittee is solely responsible to maintain safe and efficient working and operating conditions. Notwithstanding the foregoing, any Company representative has the authority to temporarily revoke any Permittee access or stop Permittee activities if the Company representative believes that there is or has been a violation of any safety rule or procedure or that the situation is unsafe.

2.1.9 Inspection

Permittee must notify the Company when Permittee has completed work in the Company Space and Company Rights-of-Way. If the Company has not had the opportunity to complete the review, the Company will attempt to meet with Permittee's contractors to finalize the review. If the Company is not available when Permittee provides the Company with notice of completion then the Company may perform a post-construction inspection as described in this section. Permittee shall reimburse the Company for costs associated with the presence of the Company's authorized employee or representative.

The Company may, at Permittee' expense, conduct a post-construction inspection of the Permittee' installation of Attachments in Company Space for the purpose of determining the conformance of the installation to the access authorization. The Company will provide the Permittee advance notice of the proposed date and time of the post-construction inspection. Permittee may accompany the Company on the post-construction inspection.

The Company shall have the right, but not the obligation, to make periodic inspections of all Attachments installed in Company Space.

2.1.10 Noncompliance

If an inspection reflects that Permittee's Attachments are not in compliance with the terms of this Agreement, Permittee shall bring the Attachments into compliance within thirty (30) days after being notified of such noncompliance. If any modification work to the Company's facilities or Company Space is required to bring Permittee's Attachments into compliance, Permittee shall provide written notice to the Company and such modification work will be treated in the same fashion as Make Ready Work in connection with a new request for access. If the violation creates a hazardous condition, Permittee must bring its Attachments into compliance upon notification.

2.1.11 "As-Built" Drawings

Within ninety (90) days following Permittee's installation of any Attachment(s) in Company Space, Permittee shall provide Company with "as-built" drawings (CAD and PDF versions) of the communications cables or other related equipment including fiber cable numbers, fiber cable type and count, tracer wire details, butterfly drawings, splice locations, building POI locations, GPS or latitude & longitude coordinates.

2.2 ADDITIONAL ATTACHMENTS

Permittee shall not install any additional Attachments in Company Space without first securing the Company's written authorization in accordance with Section 2.1 and following the process for a new attachment.

ARTICLE 3

COMPLIANCE WITH LAW AND SAFETY REQUIREMENTS

3.1 APPLICABLE LAW AND REQUIREMENTS

3.1.1 Permittee shall, at its sole expense, install, maintain, operate and keep in good repair the Attachments in conformity with all applicable state and federal laws, including rules, and regulations of state and federal governmental agencies, and other governmental authorities, including, but not limited to, the rules, regulations, and orders of the CPUC, and in conformity with any safety standards or requirements as may be required or specified by the Company in its sole, good faith discretion.

3.1.2 Permittee shall be solely responsible for the Attachments and shall take all necessary precautions during installation, and maintenance on or near the Company's facilities and the Company's Rights-of-Way so as to protect all persons and the property of the Company and others from injury and damage. Without limiting the foregoing and without assuming any obligation to maintain or monitor the Attachments, if the Company believes that Permittee's Attachments are in any way endangering any person or property or are in noncompliance with any requirement referenced in Sections 3.1.1 (a "Hazardous Condition"), the Company may, in its sole discretion, take any steps it deems necessary to remedy the Hazardous Condition; in which case Permittee shall be required to reimburse the Company for its actual costs of doing so. Notwithstanding the above, the Company shall take reasonable action to notify Permittee of any Hazardous Condition that does not require immediate attention, and where feasible, allow Permittee to correct the Hazardous Condition prior to any corrective action taken by the Company. In addition, if the Company notifies Permittee of any Hazardous Condition, Permittee shall remedy such condition promptly and in no case later than ten (10) days after receipt of such notice.

3.2 ACCESS TO COMPANY SPACE OR RIGHTS OF WAY

3.2.1 The following requirements apply to any access to and any work performed in Company Space and Rights-of-Way:

(a) Except for emergencies or service restoration, Permittee shall notify the Company not less than five (5) business days in advance before entering Company Space. The notice shall state the general nature of the work to be performed. All such activities shall be conducted during normal business hours except as otherwise agreed by the Parties or required by a government agency. For emergencies or service restoration, Permittee shall provide Company with as much notice as reasonably possible under the circumstances, and Company shall make commercially reasonable efforts to provide an authorized employee or agent of Company present to enable Permittee to enter Company Space. If an electric service shutdown is required, the Permittee shall arrange a specific schedule with the Company prior to performing any work in the proximity of energized electrical conductors or equipment.

(b) Notwithstanding any other provision of this Agreement, an authorized employee or representative of the Company must be present when Permittee or personnel acting on Permittee's behalf enter or perform work within the Company Space and Company Rights-of-Way. Permittee shall pay Company for Company's employee or representative based upon Company's current fully loaded labor rate.

(c) Access shall be in accordance with CPUC General Order 128.

(d) Any access by Permittee, whether for initial installation, maintenance, repairs or service restoration shall be performed by using "qualified" personnel, as such term is defined in the California Code of Regulations Title 8, division 4, Chapter 4, under the supervision of a qualified electrical worker licensed in the State of California and whose qualifications have been verified in advance by Company. All work under this Agreement to be performed in the proximity of energized electrical conductors or equipment shall only be performed by qualified electrical workers in accordance with Title 8 -- State of California High

Voltage Safety Orders as amended. Permittee (including any Authorized Contractor selected by Permittee) must satisfy the qualifications required by the Company of its own personnel and the Company's contractors who perform such work as set forth on https://www.pge.com/en_US/for-business-partners/purchasing-program/suppliers/suppliers.page.

(e) Permittee shall not make any physical contact with Company's cables or other elements of Company's electrical system.

(f) Permittee shall comply with Company's established safety rules, a copy of which is attached to and incorporated by reference in this Agreement as Exhibit D, when working around electric cables or other elements of the Company electric system.

(g) Permittee shall comply with any conditions legally imposed by the owner of the property on which the Right of Way is located.

(h) Permittee shall indemnify Company as further provided in Section 4.1 of this Agreement with respect to such entry as specified in Section 3.2.

3.2.2 Company's authorized employee or agent shall have the authority, without subjecting Company to any liability, to suspend Permittee's work in and around Company Space or Company facilities if, in the sole discretion of that employee or agent, any Hazardous Conditions arise or any unsafe practices (including unsafe practices which may threaten the integrity of Company's facilities) are being followed by Permittee's employees, agents or contractors. The presence of Company's authorized employee or agent shall not relieve Permittee of its responsibility to conduct all of its work and operations in and around Company Space or Company facilities in a safe and workmanlike manner.

3.2.3 Company, from time to time by written notice to Permittee, may specify additional reasonable and necessary entry conditions or requirements in addition to the requirements set forth in this Agreement.

3.3 WORK PRIORITY

Permittee's workers shall conduct their work so as not to interfere or delay any other work performed or scheduled to be performed by the Company or its authorized agents on or near the Company Space or the Company Rights-of-Way, or to interfere with Company's utility services or operations. The Company and its authorized agents shall have priority to access the Company Space and the Company Rights-of-Way at any time and Permittee's Workers must adhere to any requests made by the Company to modify or interrupt the work of Permittee's workers.

3.4 IDENTIFICATION TAGS

Permittee shall identify its Attachments in accordance with Company's Labeling Standard (ISTS 2014).

3.5 MARK AND LOCATE RESPONSIBILITY

Permittee shall be responsible for marking and locating its underground Attachments in accordance with California Government Code § 4216 and shall become a member of U.S.A (Underground Service Alert) and shall maintain membership for the duration of this Agreement.

ARTICLE 4

INDEMNIFICATION AND LIABILITY

4.1 INDEMNIFICATION

4.1.1 The Parties agree to bear any and all Losses (defined below) that arise out of or are in any way connected with the performance of this Agreement as set forth in this section. All losses, fines, penalties, claims, demands, legal liability, damages, attorneys' fees, costs of investigation and litigation, expenses, settlements, verdicts, awards or judgments (collectively, "Losses") connected with or resulting from injury to or death of any person (including employees of the Parties), damage to or destruction of any property (including property of the Parties), damage to the environment or any natural resources, or violation of any local, state or federal law, rule or regulation, including but not limited to environmental laws and regulations, however caused on either Party shall be borne as follows:

(a) Any Losses arising from injury to or death of an employee, contractor, subcontractor, or agent of a Party or arising from damage to or destruction of any property of a Party shall be borne by such Party, and such Party shall defend, indemnify and hold harmless the other Party and each of its officers, directors, partners, employees, and agents ("Indemnitees") against such Losses, excepting only Losses as may be caused by the sole negligence or willful misconduct of the Indemnitees.

(b) Excepting Losses arising from injury to or death of an employee, contractor, subcontractor, an agent of a Party or arising from damage to or destruction of any property of a Party, any Losses caused by the joint or concurrent negligence of the Parties or their respective contractors or agents, or by the failure of the Parties to observe or perform any obligation hereunder, shall be borne by the Parties according to their degree of fault.

(c) Any Loss caused by entering the Company Space or Company Rights-of-Way by the employee, agent, contractor or subcontractor of a Party shall be borne solely by such Party.

(d) Any Loss caused by the sole act or omission of a Party shall be the responsibility of that Party.

If either Party, as the result of any claim for Losses, is compelled to pay damages to a greater extent than specified in this section, such Party shall have, to the extent of the excess so paid by it, the right of contribution from the other Party.

4.1.2 Notwithstanding the foregoing, Permittee shall indemnify, defend and hold harmless the Company, its officers, directors, partners, agents, and employees (collectively, "the

Company Indemnitees”) from and against all claims, demands, losses, damages, expenses, and legal liability connected with or resulting from (i) interruption, discontinuance or interference with Permittee’s service to any of its customers or any economic or commercial loss of Permittee’s customers, resulting therefrom (but only to the extent of Permittee’s customers’ claims, not those of the Company), with the exception of claims, demands, losses, damages, expenses, and legal liability arising solely from the gross negligence or willful misconduct of the Company or the Company’s agents, employees or independent contractors who are directly responsible to the Company; (ii) Permittee’s failure to comply with applicable rules, regulations or safety standards; and (iii) any and all claims or assessments of any kind or nature, including increased franchise fees, right-of-way or easement fees, made or asserted against the Company Indemnitees by any third party, including any Granting Authority, franchise authority, governmental authority or other property owner as a result of Permittee’s use of, or failure to relinquish use of the Company Space or Company Rights-of-Way or remove any Attachments as may be required by the Company pursuant to Section 1.3 or Section 11.2. Regardless of fault on behalf of Permittee, the Company shall exercise reasonable commercial effort toward restoring the Company’s service to its customers in accordance with the Company’s customary procedures and priorities, to enable Permittee to restore Permittee’s Attachments in the Company Space and to resume service to Permittee’s customers so as to minimize any and all losses once an interruption, discontinuance, or interference with a Party’s service to its customers occurs. Nothing in this Article 4 shall affect the application of the provisions of Section 13.11 “No Third Party Beneficiaries.” Under no circumstance shall either Party have the authority to admit any liability on behalf of the other.

4.1.3 Any Party seeking indemnification hereunder (“Indemnitee”) shall notify the other party (“Indemnitor”) of the nature and amount of such claim and the method and means proposed by the Indemnitee for defending or satisfying such claim within a reasonable time after the Indemnitee receives written notification of the claim. The Indemnitee shall consult with the Indemnitor respecting the defense and satisfaction of such claim, and the Indemnitee shall not pay or settle any such claim without the prior written consent of the Indemnitor, which consent shall not be unreasonably withheld or delayed; provided, however, that the Indemnitee’s failure to give such notice shall not impair or otherwise affect the Indemnitor’s obligation to indemnify against such claim except to the extent that the Indemnitor demonstrates actual damage caused by such failure.

4.2 AD VALOREM INDEMNITY

If the ad valorem property taxes, special assessments, local improvement district levies, or other levies or taxes (collectively, “Ad Valorem Taxes”) or bases for ad valorem taxation payable by the Company with respect to the Company facilities increase as a result of Permittee’s Attachments, or the Ad Valorem Taxes increase or change due to any construction, installation, or improvements provided pursuant to this Agreement, the Company shall deliver to Permittee copies of the relevant tax bills and supporting materials along with a detailed calculation of such taxes to be paid by Permittee only to the extent such Ad Valorem Tax exceeds the amount which the Company would otherwise pay. Within thirty (30) days Permittee shall pay or reimburse the Company for such amounts. Permittee may make such reimbursements or payments under protest, in which event Permittee and the Company shall attempt to agree upon a calculation of the amount payable by Permittee. If agreement cannot be reached, either party may refer the

dispute to mediation in accordance with the provisions of Article 10. Permittee also shall be responsible for timely payment of any Ad Valorem Taxes or other taxes and fees levied against the Permittee's Attachments or other of Permittee's property or equipment located in the Company Space or the Company Rights-of-Way that are billed directly to Permittee by the taxing authority. However, in the event the same property or interests are assessed an Ad Valorem Tax or sales or use tax in the same year to both the Company and Permittee, each Party agrees to promptly notify the other upon becoming aware thereof to cooperate with the other in seeking appropriate redress from the authority or authorities assessing the property or imposing the tax; and, provided the Company has notice of such potential double taxation, the Company agrees at Permittee's request, not to pay such tax and seek reimbursement from Permittee without having first protested, at Permittee's expense, the assessment at the appropriate administrative level.

4.3 DEFENSE OF CLAIMS

Both parties shall, on request, defend any suit asserting one or more claims covered by the indemnities set forth in Section 4.1.1. Permittee shall, on the Company's request, defend any suit asserting one or more claims covered by the indemnities set forth in Sections 4.1.2 and 4.2. The indemnifying party shall pay any costs that may be incurred by the Indemnitee in enforcing such indemnity provisions, including reasonable attorney's fees.

4.4 LIMITATION OF LIABILITY

In no event shall the total cumulative liability of the Company, arising out of or in connection with the use of the Company Space or Company Rights-of-Way or relating to this Agreement, exceed the sum of the attachment fees received, and forecasted to be received, by the Company under the current Agreement with Permittee whether based on contract, tort, including negligence, or otherwise. The above limitations of liability shall not apply to any willful misconduct on the part of the Company or to the Company's liability for contribution under Section 4.1.1 if Permittee, as the result of any claim for Losses, is compelled to pay damages to a greater extent than specified in that section.

4.5 NO WARRANTIES

Except as specifically and expressly provided herein, the Company makes no warranty, express or implied with respect to the Company Space or Company Rights-of-Way or the use of the Company Space or Company Rights-of-Way by Permittee. The Company Space is "as is." The Company disclaims all warranties express or implied including the warranties of merchantability and fitness for particular purposes.

4.6 CONSEQUENTIAL DAMAGES

Notwithstanding anything in this Agreement to the contrary, neither Party nor its contractors or subcontractors shall be liable to the other Party for the other Party's own special, consequential or indirect damages, including without limitation, loss of use, loss of profits or revenue, loss of capital or increased operating costs, arising out of this transaction or from breach of this Agreement, even if either Party is negligent, grossly negligent, or willful.

ARTICLE 5

INSURANCE

With the written consent of the Company, and until Permittee has demonstrated to the Company's satisfaction adequate financial strength to support self-insurance, Permittee shall maintain the following insurance coverage or self-insurance and be responsible for its contractors and subcontractors maintaining sufficient limits of the same insurance coverage.

5.1 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

5.1.1 Workers' Compensation insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal, where Permittee performs any work in the Company Space or the Company Rights-Of-Way.

5.1.2 Employers' Liability insurance shall not be less than \$1,000,000 for injury or death each accident.

5.2 COMMERCIAL GENERAL LIABILITY

5.2.1 Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions.

5.2.2 The limit shall not be less than \$10,000,000 each occurrence for bodily injury, property damage, personal injury, and completed operations, with no exclusions for collapse, explosions, and underground hazards. Defense costs shall be provided as an additional benefit and not included within the limits of liability. Coverage limits may be satisfied using an umbrella or excess liability policy.

5.2.3 Coverage shall: (1) by "Additional Insured" endorsement add as additional insured the Company, its directors, officers, agents and employees with respect to liability arising out of the work performed by or for the Permittee for ongoing operations as well as completed operations. If the Permittee has been approved to self-insure, Permittee shall, at all times, extend coverage to the Company in the same position as if the Company were an "Additional Insured" under a policy; (2) be endorsed to specify the Permittee's insurance is primary and that any insurance or self-insurance maintained by the Company shall not contribute with it.

5.3 BUSINESS AUTO

5.3.1 Coverage shall be at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, code 1 "any auto."

5.3.2 The limit shall not be less \$3,000,000 each accident for bodily injury and property damage.

5.4 POLLUTION LIABILITY

5.4.1 Coverage for bodily injury, property damage, including clean up costs and defense costs resulting from sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, hydrocarbons, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water.

5.4.2 The limit shall not be less than \$1,000,000 each occurrence for bodily injury and property damage.

5.4.3 The Company shall be named as additional insured.

5.5 ADDITIONAL INSURANCE PROVISIONS

5.5.1 Before commencing any work in the Company Space or Company Right-Of-Way, Permittee shall furnish the Company with certificates of insurance and Additional Insured endorsement of all required insurance for Permittee.

5.5.2 The policies shall state that insurers shall provide thirty (30) days prior written notice to the Company prior to cancellation.

5.5.3 The certificate must be signed by a person authorized by that insurer to bind coverage on its behalf and shall be submitted to:

Pacific Gas and Electric Company
Joint Utility Department
1850 Gateway Blvd, Room 6032
Concord, CA 94520

A copy of all such insurance certificates and the Additional Insured endorsement shall be sent to the Company's Contract Negotiator and/or Contract Administrator.

5.5.4 The Company may require Permittee to furnish to the Company certificates of insurance or other evidence thereof attesting that the insurance required by Article 5 is in effect.

5.5.5 Upon request, Permittee shall furnish the Company the same evidence of insurance for its contractors and subcontractors, as the Company requires of Permittee.

5.5.6 Permittee shall provide Company with written notice of cancellation within five (5) business days of Permittee's receipt of notice of cancellation from insurer.

5.5.7 If Permittee claims to self-insure then this section applies. Notwithstanding any provisions in this Article to the contrary, Permittee represents that its customary practice, as of the date of this Agreement, is to self-insure for all or a portion of the insurance required of it under this Agreement. Accordingly the parties agree that such self-insurance shall constitute compliance with all or some of the requirements of this Article for as long as Permittee generally continues such practice of corporate self-insurance with respect to its regular conduct of

business. Permittee covenants to advise the Company when it ceases generally to self-insure with respect to its regular conduct of business.

ARTICLE 6

DISCONTINUATION, RELOCATION, AND RECLAMATION OF SPACE

6.1 DISCONTINUATION

Notwithstanding any provision to the contrary, the Company shall be entitled at any time to discontinue the Company's use of the Company Space and Company Rights-of-Way, and, in such case, Permittee shall immediately remove its Attachments. In the event of any such discontinuation, the Company shall give Permittee advance written notice as soon as reasonably practicable, and the Company may propose alternative Company Space to meet the needs of the Permittee in which case Permittee shall be entitled to a pro rata credit for any Attachment fees paid in advance against future use of the alternative Company Space. If no alternate Company Space is available or acceptable, Permittee shall be entitled to a pro-rata refund of any Attachment fees that were paid in advance. The Company shall allow Permittee to buy the Company's interest in the discontinued Space at the Company's replacement cost new minus depreciation. Permittee shall be responsible for transferring its Attachments at its expense.

6.2 RELOCATION

The Company at any time may relocate all or any portion of its support structures to other locations. In the event of any such relocation, the Company may in its discretion allow Permittee to transfer its Attachments to the new support structure location in accordance with this Agreement. The Company shall provide Permittee sixty (60) days advance written notice, although less notice is permitted if required by the circumstances. The Company shall have the right to proceed with the relocation in accordance with such notice, including, but not limited to, the right, in good faith, to reasonably determine the extent and timing of, and methods to be used for, the relocation of the Company's support structure, provided that the Company shall use commercially reasonable efforts to coordinate such relocation with Permittee. Permittee shall be kept informed of determinations made by the Company in connection with the scheduling of such relocation, and Permittee shall be responsible for transferring its Attachments at its expense in accordance with such schedule.

6.3 RECLAMATION OF SPACE

6.3.1 In the event that the Company, either upon order of the CPUC, or upon the Company's own decision, consistent with legal requirements determines that the Company must commence or resume use of all or a portion of Company Space previously assigned to Permittee, for the purpose of providing utility service to its patrons or customers, and the Company shall evaluate if the Company can accommodate continued use of the Company Space by Permittee through expansion of the subject support structures or other modifications.

6.3.2 If the Company is not able to make such accommodation, the Company shall provide Permittee as much advance written notice of the need for the removal or transfer of Permittee's attachments as is practicable but in no event less than thirty (30) days advance

written notice. Each notice shall specify the portion, if less than all, of the Company Space to which such notice relates. Permittee shall remove its Attachments from the Company Space, at its expense, prior to the expiration of the notice period, and all rights and privileges of Permittee in the Company Space that is the subject of the notice shall terminate upon expiration of the notice period.

6.3.3 In the event of reclamation pursuant to Sections 6.3.1 and 6.3.2 above, Company shall make a good faith effort to assist Permittee in finding alternative routes owned or controlled by Company and to the extent there is Company Space available within or through which any affected Permittee Attachments may be relocated. If an alternative route is located, Permittee shall be responsible for transferring its Attachments at its expense. Permittee shall be entitled to a pro rata credit for any Attachment fees paid in advance against future use of the alternative Company Space. If no alternate Company Space is available or acceptable, Permittee shall be entitled to a pro-rata refund of any Attachment fees that were paid in advance.

ARTICLE 7

RESTORATION OF SERVICE

In the case of any incident whereby both the Company's electrical service capacity and Permittee's telecommunications capacity are adversely affected, restoration of Permittee's Attachments and Permittee's capacity shall at all times be subordinate to restoration of the Company's electrical service capacity, unless otherwise agreed in advance by both Parties. Nonetheless, the Company shall permit Permittee to make repairs to restore its Attachments and its capacity, as long as such restoration efforts do not, in the Company's sole discretion, interfere with the Company's restoration activities, and as long as Permittee complies with Section 3.2, Access to Company Space.

ARTICLE 8

ATTACHMENT FEES

8.1 ANNUAL ATTACHMENT FEES

8.1.1 Prior to placing its Attachments in Company Space, Permittee shall pay to the Company an Attachment fee for each Attachment to be installed in Company Space. The Attachment fee shall be equal to the percentage of the annual cost of ownership of the Company's support structure, computed by dividing the volume or capacity rendered unusable by Permittee's Attachment by the total usable volume or capacity, consistent with the methodology in the CPUC's ROW decisions. For this purpose, "total usable volume or capacity" means all volume or capacity in which the Company's lines, plant, or system could legally be located, including the volume or capacity rendered unusable by Permittee's Attachments and equipment of other licensees using the Company Space.

8.1.2 The current rates for Attachments to conduits and other support structures are set forth in Exhibit B to this Agreement. The Company may revise the unit rates from time to time,

but no more often than annually. The revised unit rates shall be effective following sixty (60) days' notice to Permittee.

8.2 UNAUTHORIZED ATTACHMENTS

8.2.1 Upon request of Company, Permittee shall provide written evidence of Attachment authorization from the Company for any Company Space in which Permittee has an Attachment. If Permittee cannot provide such written evidence of Attachment authorization, Permittee shall pay to the Company Five Hundred Dollars (\$500.00) per block (or portion of a block) per cable for each unauthorized Attachment as an unauthorized attachment fee. The unauthorized Attachment shall then be subject to all the terms of this Agreement. If payment is not received within thirty (30) days of invoice date, the Company may invoke rights under Article 11 "Breach and Termination," and remove Permittee's Attachments from the Company Space.

8.2.2 Notwithstanding Section 8.2.1 above, any unauthorized attachment or unauthorized entry in Company Space or Company ROW is a material and substantial breach of Permittee's obligations under this Agreement and may justify Company's termination of this Agreement.

ARTICLE 9

REMOVAL; ABANDONMENT

9.1 REMOVAL OF ATTACHMENTS

Upon any expiration or termination, Permittee shall relinquish use of the Company Space and remove its Attachments from the Company Space in accordance with this Agreement prior to the effective date of expiration or termination at Permittee's sole expense. If Permittee fails to remove the Attachments by the expiration of this Agreement or as may be required by the Company within the time period designated by notice pursuant to Article 6 or otherwise required by this Agreement, the Company shall be entitled to consider Permittee's Attachments abandoned as set forth in Section 9.2, below.

9.2 ABANDONMENT

If Permittee fails to use its Attachments for any period of one hundred eighty (180) days, the Company shall provide Permittee written notice of its intent to treat such Attachments as abandoned. If Permittee identifies such Attachments as abandoned or fails to respond to such notice within thirty (30) days, Permittee shall be deemed to have abandoned such Attachments which abandonment shall terminate all rights of Permittee as to the abandoned Attachment. Upon abandonment by Permittee, the Company shall have the right to retain such Attachments as the Company's own, or to remove the Attachments at Permittee's sole risk and expense, and Permittee agrees to reimburse the Company for its expense. Company shall also have the right to leave the abandoned Attachments in place. Abandonment shall not relieve Permittee of any obligation, whether of indemnity or otherwise, accruing prior to completion of any removal by the Company or which arises out of an occurrence happening prior thereto.

ARTICLE 10

DISPUTE RESOLUTION

10.1 MEDIATION

10.1.1 The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between a representative designated by the Company Vice President empowered to resolve the dispute and an executive of similar authority of the Permittee. Either Party may give the other Party written notice of any dispute. Within twenty (20) days after delivery of the notice, the executives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute.

10.1.2 If the matter has not been resolved within thirty (30) days of the first meeting, either Party may initiate a mediation of the controversy in accordance with the Commercial Mediation Rules of the American Arbitration Association. All negotiations and any mediation conducted pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and which is incorporated herein by reference.

10.2 CPUC RESOLUTION

If a disputed matter has not been resolved within thirty (30) of the first meeting in accordance with Section 10.1.1, then notwithstanding Section 10.1.2, either Party make seek resolution of any dispute under this Agreement pursuant in a proceeding brought before the CPUC in accordance with CPUC rules and decisions.

10.3 INJUNCTION

Notwithstanding the foregoing provisions, a Party may seek a preliminary injunction or other provisional judicial remedy if in its judgment such action is necessary to avoid irreparable damage.

10.4 CONTINUING PERFORMANCE

Each Party is required to continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

ARTICLE 11

BREACH AND TERMINATION

11.1 BREACH

Permittee and the Company agree that neither shall proceed against the other for breach or default under this Agreement by mediation or otherwise before the offending Party has had notice of and a reasonable time and opportunity to respond to and cure any breach or default.

For purposes of this Agreement, a reasonable time to cure any breach or default shall be deemed to be thirty (30) days after notice. Notwithstanding the above, in the case of safety concerns, legal reasons, or if Permittee's use interferes with the Company's ability to serve utility customers, fewer than thirty (30) days are required. This section does not supersede the rights and obligations of the Parties under Section 3.1.2 for "Hazardous Conditions." If a Party claims that more than thirty (30) days are reasonable to cure a breach, that Party shall have the burden of proving the reasonableness of the claim for more than thirty days. If such breach or default cannot be cured within such thirty (30) day period, and the defaulting party has promptly proceeded to cure the same and to prosecute such cure with due diligence, the time for curing the breach shall be extended for such period of time as may be reasonably necessary to complete such cure.

11.2 TERMINATION

11.2.1 Subject to Section 11.1, if Permittee (a) fails to make any payment due within the time frame specified, (b) fails to obtain or maintain the appropriate CPCN from the CPUC, (c) fails to take reasonable steps to resolve any safety issue, (d) fails to maintain the insurance and bond requirements in compliance with Articles 5 and 12 of this Agreement or (e) otherwise fails to comply with any material term or condition of this Agreement, the Company, at its sole discretion, upon thirty (30) days written notice to Permittee (or such shorter period of time as may be determined by the Company in order to comply with a notice from a Granting Authority or under law, if applicable), may without further liability terminate this Agreement and any permission granted to Permittee as to all or any portion of those facilities which are the subjects of such breach of agreement, and Permittee shall immediately relinquish use of the Company Space and remove its Attachments from the Company Space in accordance with this Agreement prior to the effective date of termination.

11.2.2 This Agreement shall also terminate in whole or in part, upon the occurrence of any of the following events:

(a) at the option of either Party, upon the termination or abandonment by Permittee of the use of all of the Permittee's Attachments. If less than all of Permittee's attachments are abandoned or terminated, the Company shall have the option of terminating its permission under this Agreement for only the Attachments abandoned or terminated;

(b) at the option of the non-defaulting Party and without limiting the rights or remedies of the non-defaulting party, upon a breach or default by the other party of any material obligation hereunder and the continuance thereof following the expiration of the applicable remedy period;

(c) upon the written mutual agreement of the Parties; or

(d) in accordance with the provisions of Section 1.1.3, if the Company or the CPUC invoke the provisions of G.O. 69-C.

11.2.3 Upon termination of this Agreement for all or any portion of the Company Space used by Permittee, Permittee shall immediately relinquish use of the Company Space and

promptly remove its Attachments or the Company may remove Permittee's Attachments from the Company Space at Permittee's expense.

11.3 BANKRUPTCY OF PERMITTEE

11.3.1 The occurrence of any of the following shall constitute a default which may be a basis for termination of this Agreement:

- (a) Permittee files for protection under the Bankruptcy Code of the United States or any similar provision under the laws of the State of California; or
- (b) Permittee has a receiver, trustee, custodian or other similar official appointed for all or substantially all of its business or assets; or
- (c) Permittee makes an assignment for the benefit of its creditors.

11.3.2 Assignment of Agreement

Any person or entity to which this Agreement is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Agreement on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to the Company an instrument confirming such assumption.

ARTICLE 12

FAITHFUL PERFORMANCE BOND; LETTER OF CREDIT

To cover the faithful performance by Permittee of its obligations under this Agreement, Permittee shall be required to furnish (i) a valid performance bond or (ii) an unconditional irrevocable letter of credit issued by a financial institution acceptable to the Company. Said bond or letter of credit shall be in such form approved in writing by the Company and in such amount as the Company shall specify from time to time based on the financial exposure caused by the Permittee's Attachment to the Company to be maintained in full force and effect throughout the term of this Agreement. The amount of said bond or letter of credit shall be initially set at Fifty Thousand Dollars (\$50,000). Permittee shall furnish such performance bond or letter of credit on or before the effective date of this Agreement, and remain in full force thereafter for a period of one year. Said bond or letter of credit shall provide ninety (90) days advance written notice to the Company of expiration, cancellation or material change thereof. Said bond or letter of credit will automatically extend for additional one-year periods from the expiration date, or any future expiration date, unless the surety or financial institution provides to the Company, not less than ninety (90) days' advance written notice, of its intent not to renew such bond or letter of credit. The liability of the surety under said bond or the financial institution under said letter of credit shall not be cumulative and shall in no event exceed the amount as set forth in this bond or letter of credit, in any additions, riders, or endorsements properly issued by the surety or the financial institution as supplements thereto. Failure of Permittee to obtain a bond or letter of credit as specified will be cause to terminate this Agreement. If the surety on the bond or financial institution issuing the letter of credit should

give notice of the termination of said bond or letter of credit and if Permittee does not reinstate the bond or letter of credit or obtain a bond or letter of credit from another surety or financial institution that meets the requirements of this Article 12 within fifteen (15) days after written notice from the Company, the Company may by written notice to Permittee, terminate this Agreement and revoke permission to use the Company Space and Rights-of-Way covered by any or all applications submitted by Permittee hereunder, and Permittee shall remove its Attachments from the Company Space to which said termination applies within thirty (30) days from such notification.

ARTICLE 13

MISCELLANEOUS

13.1 NOTICES

Any notice given pursuant to this Agreement by a Party to the other, shall be in writing and given (with proof of delivery or proof of refusal of receipt) by letter mailed, hand or personal delivery, or overnight courier to the following:

If delivered to the Company by U.S. mail and express mail:

Program Manager, Joint Utility Department
Pacific Gas and Electric Company
1850 Gateway Blvd., 6th Floor
Concord, CA 94520

If delivered to Permittee by U.S. mail and express mail:

or to such other addresses as either Party may, from time to time, designate in writing for that purpose.

Notices shall be deemed given (i) when received in the case of hand or personal delivery, (ii) three days after mailing by United States mail as provided above, or (iii) the next business day in the case of reliable overnight courier. For routine notice changes, proof of delivery is not required. By mutual agreement facsimile notices may be used for routine notice changes.

13.2 APPLICABLE LAW

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of California, exclusive of conflicts of laws provisions.

13.3 CHANGE OF LAW

In the event any change in law or government regulation materially modifies either Party's rights or obligations under law or regulations existing as of the effective date of this Agreement with respect to the right to access, or the obligation to provide access to, utility support structures and rights-of-way, either Party may by providing written notice to the other party, require that this Agreement be renegotiated in good faith and amended to reflect such changes in law or regulations. In the event the Parties fail to reach agreement on such amendment, either Party may invoke the dispute resolution provisions of this Agreement.

13.4 CONFIDENTIAL INFORMATION

If either Party provides confidential information to the other, it shall be in writing and clearly marked as confidential. The receiving Party shall protect the confidential information from disclosure to third parties with the same degree of care afforded its own confidential and proprietary information, except that neither Party shall be required to hold confidential any information which becomes publicly available other than through the recipient, which is required to be disclosed by a governmental or judicial order, which is independently developed by the receiving Party, or which becomes available to the receiving Party without restriction from a third party. Either Party may require the Parties to sign a standard Company Non-Disclosure Agreement prior to receipt of confidential information, including in particular maps, plans and drawings. These obligations shall survive expiration or termination of this Agreement for a period of two (2) years, or longer as set forth in a standard Company Non-Disclosure Agreement.

13.5 FORCE MAJEURE

Neither Party shall be liable for any failure to perform this Agreement when such failure is due to "force majeure." The term "force majeure" means acts of God, strikes, lockouts, civil disturbances, interruptions by government or court orders, present and future valid orders of any regulatory body having proper jurisdiction, acts of the public enemy, wars, riots, inability to secure or delay in securing labor or materials (including delay in securing or inability to secure materials by reason of allocations promulgated by authorized governmental agencies), landslides, lightning, earthquakes, fire, storm, floods, washouts, or any other cause, whether of the kind herein enumerated or otherwise, not reasonably within the control of the Party claiming "force majeure." The "force majeure" shall, so far as possible, be remedied with all reasonable dispatch. The settlement of strikes or lockouts or industrial disputes or disturbances shall be entirely within the discretion of the Party having the difficulty. The Party claiming any failure to perform due to "force majeure" shall provide verbal notification thereof to the other Party as soon as practicable after the occurrence of the "force majeure" event. Force Majeure shall not excuse Permittee's obligation to make payment for its Attachments except that if the event of force majeure remains uncured for a period of thirty (30) days and renders the Attachments unusable, then Permittee shall be excused from its rental payment obligation as to the affected

Attachments throughout the duration of the event of force majeure. If the Company is the party claiming force majeure and the event of force majeure prevents restoration of Permittee's previously authorized attachments within six (6) months of the force majeure event, then the facilities shall be deemed to be discontinued and the provisions of Section 6.1 of this Agreement shall apply.

13.6 SEVERABILITY

The invalidity of one or more clauses, sentences, sections, or articles of this Agreement shall not affect the validity of the remaining portions of the Agreement so long as the material purposes of this Agreement can be determined and effected.

13.7 LIENS

Permittee and its contractors shall keep the Company Space, Rights-of-Way, and Company facilities free from any statutory or common law lien arising out of any work performed, materials furnished, or obligations incurred by Permittee, its agents or contractors. Permittee agrees to defend, indemnify and hold the Company harmless from and against any such liens, claims or actions, together with costs of suit, and reasonable attorneys' fees incurred by the Company in connection with any such claim or action. In the event that there shall be recorded against said Company Space, Rights-of-Way, or Company facilities any claim of lien arising out of any such work performed, materials furnished, or obligations incurred by Permittee or its contractors and such claim of liens not removed within ten (10) days after notice is given by the Company to Permittee to do so, the Company shall have the right to pay and discharge said lien without regard to whether such lien shall be lawful, valid, or correct.

13.8 SURVIVABILITY

Any expiration or termination of Permittee's rights and privileges shall not relieve Permittee of any obligation, whether indemnity or otherwise, that has accrued prior to such termination or completion of removal of Permittee's Attachments.

13.9 CERTIFICATION OF PERMITEE

Permittee warrants that it is a telecommunications carrier that has been granted a certificate of public convenience and necessity (CPCN) from the CPUC. Permittee warrants that its certificate authorizes it to use governmental rights-of-way for the purposes of this Agreement. The Permittee also represents that it is an entity that is governed by CPUC ROW Decisions and as such has the right to nondiscriminatory access to Company Space.

13.10 ASSIGNMENT AND SUBLEASE

13.10.1 This Agreement and the rights, interests and obligations hereunder are being granted in reliance on the financial standing and technical experience of Permittee and are thus granted personally to Permittee and shall not be assigned or delegated, in whole or in part without the prior written consent of the Company, consent for which shall not be unreasonably withheld. Any attempt to assign or delegate without such consent shall be void. Notwithstanding the foregoing, this Agreement may be assigned or delegated in whole or in part

by the Company or Permittee without the other Party's consent for (i) assignments in connection with interests that arise by reason of any deed of trust, mortgage, indenture or security agreement granted or executed by such Party, (ii) assignments to wholly-owned subsidiaries or affiliates under common control with a Party, where, in the absence of the other Party's consent thereto the assigning Party retains responsibility for the payment and performance of all of its obligations and liabilities hereunder, (iii) assignments by operation of law in connection with any merger or consolidation of a Party with or into any Person, whether or not the Party is the surviving or resulting Person, or (iv) assignments to a purchaser of all of the outstanding equity securities of, or substantially all of the assets of, either Party. Any assignment that does not comply with the provisions of this Section 13.10.1 shall be null and void, and the putative assignee shall have no right to maintain or install attachments in the Company Space or to use Company Rights-of-Way.

13.10.2 Permittee shall not sublease any of the Company Space.

13.11 NO THIRD PARTY BENEFICIARIES

All of the terms, conditions, rights and duties provided for in this Agreement are and shall always be, solely for the benefit of the Parties. It is the intent of the Parties that no third party (including customers of either Party) shall ever be the intended beneficiary of any performance, duty, or right created or required pursuant to the terms and conditions of this Agreement.

13.12 HAZARDOUS MATERIALS

The California Health and Safety Code requires businesses to provide warnings prior to exposing individuals to material listed by the Governor as chemicals known to the State of California to cause cancer, birth defects, or reproductive harm. The Company uses chemicals on the Governor's list at many of its facilities and locations. Accordingly, in performing the work or services contemplated in this Agreement, Permittee, its employees, agents and subcontractors may be exposed to chemicals on the Governor's list. Permittee is responsible for notifying its employees, agents, and subcontractors that work performed hereunder may result in exposures to chemicals on the Governor's list. The Company will provide Permittee upon request with a copy of a Materials Safety Data Sheet for every known Hazardous Chemical on or in the Company Rights-of-Way.

13.13 WAIVER

The failure of either Party 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 in full force and effect.

13.14 PAYMENTS

Unless otherwise specified in this Agreement, Permittee shall make all payments to the Company within thirty (30) days of receipt of the invoice to:

For U.S. mail and express mail:

Pacific Gas & Electric Company
P.O. Box 997300
Sacramento, CA 95899-7300

13.15 DEFINITIONS

Capitalized terms used are defined in this Agreement and shall have the meanings set forth herein.

13.16 TITLES AND HEADINGS

The table of contents, titles and headings of Articles and Sections of this Agreement are inserted for the convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

13.17 NO STRICT CONSTRUCTION

The Parties have participated jointly in the negotiation and execution of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement or any of the documents delivered pursuant hereto, this Agreement and such documents shall be construed as if jointly prepared by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement or such documents.

13.18 POWER SUPPLY

The electrical connection for power supplies shall be governed by Company's electric tariffs and not by this Agreement. If any Attachments include metered or unmetered electrical equipment, Permittee shall notify the Company in writing to arrange for electric service and appropriate billing prior to using the Attachment.

13.19 SERVICE CONNECTION/DISCONNECTION

Any electrical service connection or disconnection to Permittee's attachments from Company's electric supply system shall only be performed by the Company in accordance with the Company's rates, applicable tariffs and CPUC Rules and Regulations.

13.20 COMPANY STANDARDS

Any and all references to Company standards or procedures refer to Company standards or procedures as they may be amended, modified or revised by the Company from time to time in its sole discretion, consistent with the Company's legal obligations consistent with the CPUC's ROW decisions and the Company's safety and other legal obligations.

13.21 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments or understanding with respect to the subject matter hereof and may be amended only by a writing signed by both Parties.

[APPLICANT] _____

PACIFIC GAS AND ELECTRIC COMPANY

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A
APPLICATION FOR CONDUIT ACCESS



WM Notification No. _____

PART 1 **REQUEST FOR CONDUIT ACCESS BY APPLICANT (To PG&E)**

PG&E – Joint Utilities Department
850 Stillwater Rd
West Sacramento, CA 95605

Date _____
License Agreement _____
Prior Agreement Number _____
Application Number _____
Applicant Job Number _____

Permittee Company _____

In accordance with the executed agreement between the Permittee and PG&E, we hereby request access to conduits/ducts at the location route _____

_____, in the City of _____, as described in the attached drawings.

Requestor Company _____

Phone _____

Address _____

Requestor Authorization Signature _____

Requestor Authorization Name _____

_____ Title _____

CONDUIT ACCESS INFORMATION APPLIED FOR UNDER THIS APPLICATION

Cable Size and Type _____ Number of Miles _____ Number of Manholes _____

PART 2 **FINAL AUTHORIZATION BY PG&E (To Permittee)**

You are hereby authorized for installation.

PG&E Authorization Signature _____ Date _____

PG&E Authorization Name _____ Title _____

PG&E Job No(s) _____ Contact Permit No. _____

PART 3 **NOTICE OF COMPLETION BY APPLICANT & PG&E**
(To PG&E Project Manager within 10 days after completion)

We hereby notify you that the work authorized above has been completed and is ready for your inspection.

Permittee Authorization Signature _____ Date _____

Permittee Authorization Name _____ Title _____

PG&E Inspector Authorization Signature _____ Date _____

PG&E Inspector Authorization Name _____ Title _____

Notes: _____

1. PART (1) & (3) to be completed by applicant, part (2) and (3) to be completed by PG&E.
2. PG&E's authorization must be secured before the Permittee's facilities are installed.
3. At PG&E request, Permittee shall be able to provide the authorized Contact Permit (this form) for all work performed.
4. The Permittee shall exercise the access rights to conduit(s) within 90 days of the authorization in Part 2.
5. Applicant to provide Contact Permit Number for existing facilities (see Note 4).

04/2016

EXHIBIT B CONDUIT ACCESS RATE

I. CONDUIT ACCESS RATE CALCULATION MODEL

The conduit access rates are calculated based on the depreciation accrual rate schedule submitted to the CPUC, Energy Division annually. The previous year's submittal is used to calculate the conduit access rate for the following year (i.e. 2013 schedule submitted in 2014 determines rental rate for 2015).

A. Historical Net Cost of a Conduit (Account 366 Only, Previous Year):

$$\frac{\text{A\&G Expenses (Electric)}}{\text{Gross Plant - Depr Reserve - Accum Def. Income Taxes (Electric)}}$$

B. Depreciation Expense (Account 366 Only, Previous Year) %:

$$\frac{\text{Deprn. Rate for Gross Conduit Invest.} \times \text{Gross Conduit Invest}}{\text{(Net Conduit Invest - Def. Inc. Tax)}}$$

C. Administrative Expense % (Total Electric, Previous 5 Year Average):

$$\frac{\text{A\&G Expenses (Electric)}}{\text{Gross Plant - Depr Reserve - Accum Def. Income Taxes (Electric)}}$$

D. Maintenance & Operating Expenses % (Electric, Previous 5 Year Average):

$$\frac{\text{Account 584 + Account 594 (Underground Line)}}{\text{Invest - Depr Reserve - Accum Def Income Taxes (Underground Line)}}$$

E. Normalized Taxes % (Company Total, Previous 5 Year Average):

$$\frac{\text{A/C (408.1+409.1) + (410.1+411.4) - 411.1 (Total Company)}}{\text{Gross Plant - Depr Reserve - A/C 190, Def Income Taxes (Total Company)}}$$

F. Total Operating Cost for Conduits:

$$F = A * [B + C + D + E]$$

G. Annual Rental Rate per foot (or one attachment):

$$G = 100.0\% \text{ of Total Operating Cost for Conduits (F) } = 1.0 * F$$

CALCULATION DETAIL:

EXHIBIT B CONDUIT ACCESS RATE

1 Historical Net Cost per Conduit Foot =

Basis - Conduit Account 366 - Only
 Period - Current Year Only (2015)
 Calc.Summary - numerator/denominator:

a. 1,749,743,580
 b. 150,011,136

Proof/ Check:

= \$11.66

A/C 366 - Deprn Reserve - Accum Def Income Taxes

Feet of Conduit

	<u>2,565,753,274</u>	-	795,916,460	-	<u>20,093,234</u>
			28,411.2	X	5,280

ft/mile

\$ 11.66 Net conduit investment per ft.

2 Depreciation Expense =

Basis - Conduit Account 366 - Only
 Period - Current Year Only (2015)
 Calculation Summary:

Gross/net conduit invest. factor: 1.466
 Times: Depr. Rate 2.91%
 Equals Depreciation Factor 4.27%

	X	
Deprn. Rate for Gross Conduit Invest.		Gross Conduit Invest / (Net Conduit Invest - Def. Inc. Tax)

	X	
(2015 rate) 2.91%		<u>2,565,753,274</u>
(Gross plant basis)		<u>1,749,743,580</u>
		(Gross-to-Net factor)

4.27% (Net plant basis)

3 Administrative Expense =

Basis - Electric
 Period - 5 Year Average
 Calc.Summary - numerator/denominator:

a. 936,900,496
 b. 23,618,158,546

Proof/ Check:

= 3.97%

A&G Expenses (Electric)

Gross Plant - Depr Reserve - Accum Def. Income Taxes (Electric)

	<u>936,900,496</u>			
	44,117,206,558	-	19,898,943,466	-
			600,104,546	

3.97% Electric A&G expenses and Electric plant in service.

4 Maintenance & Operating Expenses =

Basis - Numerator:UG Line; Denominator: UG
 Period - 5 Year Average
 Calc.Summary - numerator/denominator:

a. 75,319,480
 b. 4,126,455,467

Proof/ Check:

= 1.83%

Account 584 + Account 594 (Underground Line)

Invest - Depr Reserve - Accum Def Income Taxes (Underground Line)

	<u>36,961,723</u>	+	<u>38,357,758</u>	
	7,878,574,668	-	3,671,789,629	-
			80,329,571	

1.83% Maintenance & Operation Expenses related to conduit.

5 Normalized Taxes =

Basis - Total Company
 Period - 5 Year Average

A/C (408.1+409.1) + (410.1+411.4) - 411.1 (Total Company)

Gross Plant - Depr Reserve - A/C 190, Def Income Taxes (Total Company)

EXHIBIT B CONDUIT ACCESS RATE

Calc. Summary - numerator/denominator:

a.	909,242,709		448,019,067	+	1,329,905,808	-	868,682,165
b.	31,949,827,707		60,944,997,578	-	27,484,900,533	-	1,510,269,338

Proof/ Check:

=	2.85%		2.85%		Company-wide percentage of normalized taxes.		
---	-------	--	--------------	--	--	--	--

6

SUMMARY AND VARIANCE ANALYSIS:		
Expense Item	2015 Pricing Model	
	Rate	Amount
a. Net Conduit Investment (per foot)		\$11.66
b. Depreciation	4.27%	0.50
c. Admin & Gen	3.97%	0.46
d. O&M	1.83%	0.21
e. Tax	2.85%	0.33
f. Return (Utility Authorized)	8.06%	0.94
g. Total Operating Cost per Conduit Foot	20.97%	2.45
h. Usable Space Rate Percent & Cost per Conduit Foot	100.00%	\$2.45
	(NOTE 1)	(NOTE 2)

**EXHIBIT C
UNDERGROUND FACILITIES
ESTIMATED UNIT COST
MAKE READY & REARRANGEMENT WORK**

Labor Cost Description	2016 Hourly Rate Per Person
Construction (Inspection)	\$ 181.34
Engineering and Planning	\$ 186.40
Mapping	\$ 163.12
Project Management	\$ 170.63
Service Planning	\$ 174.22
General and Administration	12% of Labor Costs
Miscellaneous Permit and Fees	Various

EXHIBIT D

COMPANY SAFETY RULES

1. Personnel safety is a primary objective to COMPANY and PERMITTEE. The Parties shall stress SAFETY FIRST to their respective employees and contractors in the performance of their duties. Applicable safety standards and practices of COMPANY and PERMITTEE shall be made available to COMPANY and PERMITTEE personnel and shall be adhered to at all times.

2. All personnel of COMPANY, PERMITTEE, or the contractors of either Party working on or in proximity to any cable route shall be required to comply with COMPANY safety guidelines and shall attend periodic safety training classes provided by their respective companies. The safety classes shall be conducted as needed and shall reflect the latest available concepts and practices. Should COMPANY and PERMITTEE operational personnel agree that any other applicable training is required, this also shall be provided by the appropriate Party. Each Party shall bear its own costs of providing safety training to its employees and/or its contractors' employees, of attending any required safety courses, and of providing any other applicable training that may be required. Any extra-ordinary training costs related to the performance of the Agreement shall be provided at the sole cost of PERMITTEE.

3. Both Parties shall endeavor to assure that all work is performed in a good workmanlike manner in accordance with applicable telecommunications and electric industry standards and in compliance with all applicable laws, ordinances, codes, and regulations of any governmental authority (including Cal-OSHA) having jurisdiction thereof.

4. PERMITTEE'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS SHALL NOT ENTER ANY ENERGIZED VAULT, MAN HOLE OR ENCLOSURE OR PERFORM ANY WORK ON THEM WITHOUT PRIOR CERTIFICATION FROM COMPANY.

5. COMPANY workers shall follow the same safety work rules as PERMITTEE workers when working in the vicinity of any PERMITTEE Attachments provided such rules, at a minimum, comply with the applicable industry standard. PERMITTEE shall inform COMPANY workers of its other internal work practices concerning PERMITTEE Attachments. COMPANY workers shall maintain the safe working distance specified by PERMITTEE.

6. Any COMPANY representative will have the authority to stop any work, including PERMITTEE access and activities, if the COMPANY representative determines that the work cannot be completed safely.

Advice 4978-E
December 15, 2016

Attachment 2

**Redline Comparison Between Revised Form License
Agreement and the Webpass Agreement**

(Public)

**Duct, Conduit, and Other Underground Structure
Space**

License Agreement

between

Pacific Gas and Electric Company

and

**~~Webpass Telecommunications, LLC~~
[Applicant]**

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TABLE OF EXHIBITS

Exhibit A - APPLICATION FOR CONDUIT ATTACHMENT
TELCO CONTACT PERMIT

Exhibit B - CONDUIT ATTACHMENT FEE

Exhibit C - ESTIMATED UNIT COSTS

Exhibit D – COMPANY SAFETY RULES

These Exhibits are part of this Agreement and are attached separately. The exhibits referenced within this Agreement may be revised or converted to an electronic on-line application in the future, which will be deemed an equivalent means of requesting access, providing notification and coordination of the [attachmentsactivities](#). The Permittee shall use the latest issued exhibits identified by the Company when requesting access, providing notification and coordination of their activities.

DUCT, CONDUIT, AND OTHER STRUCTURE SPACE LICENSE AGREEMENT

This Duct, Conduit, and Other Structure Space License Agreement (“Agreement”) is entered into by and between Pacific Gas and Electric Company (“Company”), a California corporation and ~~Webpass Telecommunications, LLC~~ [REDACTED] (“Permittee”), a ~~Limited Liability Company~~ [REDACTED] (together, the Company and Permittee shall be referred to as the “Parties”), and in consideration of the mutual promises and agreements set forth herein, the Parties hereby agree as follows:

ARTICLE 1

GRANT OF LICENSE

1.1 LICENSE

1.1.1 The Company gives Permittee permission, on the terms and conditions stated herein, to install and maintain completely dielectric communications cables (no metallic shield or embedded tracing wire allowed) and related equipment (hereinafter sometimes collectively referred to as “Attachment(s)”) in “Excess Capacity” (as defined in Section 2.1.4) within distribution ducts, conduits, manholes, handholes, and other distribution structures, including above-ground distribution conduit, ducts, or other structures used for ~~services~~ entry to buildings (but excluding space on poles or other aerial facilities) owned, leased, or controlled by, or licensed to the Company for use in the provision of electric service, consistent with General Order (G.O.) 128 of the California Public Utilities Commission (CPUC) and Company standards, as discussed herein, collectively referred to as “Company Space,” along with a license to use such rights-of-way owned, leased, or controlled by, or licensed to the Company (“Company Rights-of-Way”) as are reasonably required to enable Permittee to access Company Space for such purposes. The Company Space to be accessed shall be identified by Permittee and submitted to the Company for authorization in the form set forth in Exhibit A.

1.1.2 This Agreement as a license is given pursuant to the authority of, and upon, and subject to, the conditions prescribed by G.O. 69-C of the CPUC, dated and effective July 10, 1985, which by this reference is incorporated herein. This license is effective the date it is signed and delivered by the Company, and will terminate based on any of the terms and conditions set forth in this Agreement. No Permittee use of any Company Space or Company Rights-of-Way shall create or vest in Permittee any ownership or property rights herein; Permittee’s rights hereunder shall be and remain a mere license, but subject to CPUC Decision (D.) 98-10-058 as amended or superseded (“CPUC ROW Decisions”).

1.1.3 Pursuant to G.O. 69-C this license is conditioned upon the right of the Company, either upon order of the CPUC, or upon the Company’s own decision, consistent with CPUC ROW Decisions, to commence or resume the use of the property in question whenever, in the interest of the Company’s utility service to its patrons or customers, it shall appear necessary or

desirable to do so. In such case, the Company will use commercially reasonable efforts consistent with applicable legal requirements to accommodate relocations, rearrangements, and replacements under Section 6.3.

1.1.4 Notwithstanding anything in this Agreement to the contrary, including Article 10 (“Dispute Resolution”), interpretation of the meaning and effect of G.O. 69-C in this Agreement shall be in the exclusive jurisdiction of the CPUC.

1.2 THE COMPANY DISCLAIMER

Permittee expressly acknowledges that the Company does not represent or warrant that Company Rights-of-Way, whether by easement, franchise, or other form of permission, are broad enough to permit Permittee’s Attachments in the Company Space or for the exercise by Permittee of any other rights set forth in this Agreement. It shall be the sole responsibility and obligation of Permittee to secure any such further rights or permission for the placement and use of the Permittee’s Attachments in Company Space and Company Rights-of-Way as may be necessary, including obtaining any permits [or other approvals](#) required by an authorized permitting agency [under the California Environmental Quality Act](#). Permittee shall obtain any such necessary rights, including any required encroachment permits, from Granting Authorities before installing attachments. “Granting Authority(ies)” means those persons or entities from whom the Company has received the Company Rights-of-Way and includes both governmental and non-governmental entities and persons. This Agreement does not include a conveyance of any interest in real property, the Company Space, or facilities in which Company Space is located, and Permittee agrees to never claim such interest.

1.3 CHALLENGE TO AGREEMENT

1.3.1 If a Granting Authority, in any forum, in any way challenges, disputes, or makes a claim against the Company’s authority to grant this license, the Company shall give Permittee reasonable [written](#) notice of same. The Company reserves the right in its sole discretion to require Permittee to remove from Company Space the Attachments that are the subject of the challenge, dispute, or claim, within thirty (30) days ~~or less (as required by the Granting Authority or statute) of written notice from the Company~~ [of written notice from the Company or such earlier time required by the Granting Authority](#). Permittee shall, upon such [written](#) notice, relinquish use of the Company Space, and remove any Attachments promptly prior to the last date specified in the notice.

1.3.2 Notwithstanding the above, if within the period described above, Permittee obtains an order from a court or regulatory agency with jurisdiction over the challenge, dispute, or claim against the Company’s authority to grant this license, which order allows Permittee’s Attachments to remain in the Company Space, Permittee shall be allowed to maintain the Attachments in the Company Space under the terms of that order, until a final decision or judgment is made at the highest level desired by Permittee. In the event of such contest, Permittee shall indemnify and hold the Company harmless from any expense, legal action, or cost, including reasonable attorneys’ fees, resulting from the exercise of Permittee’s right to contest under this section at Permittee’s sole expense.

|

1.4 INCREMENTAL PROPERTY RIGHTS AND COSTS

1.4.1 If any time during this Agreement a Granting Authority of the Company makes a demand for additional compensation or indicates its intent to reopen, renegotiate, or terminate the Company's franchise, easement, license, or other agreement establishing the Company's rights in any of the Company Rights-of-Way as a direct result of the existence of this Agreement, the Company shall promptly notify Permittee. After conferring with the Company and allowing the Company an opportunity to resolve the issue, Permittee may attempt at Permittee's expense to resolve the issue with the Granting Authority through negotiation or settlement. Any decision to commence litigation on behalf of or in the name of the Company shall be in the sole discretion of the Company, and any subsequent litigation, whether brought by the Company at Permittee's request or by such third party Granting Authority, shall be conducted at Permittee's expense, but under the Company's direction and control with respect to any issues materially affecting the Company's rights in the Company Right-of-Way. If the dispute is resolved through negotiation or settlement approved by Permittee (which approval will not be unreasonably withheld), and such resolution requires the payment of additional consideration by the Company, Permittee shall reimburse the Company for the amount of such additional consideration, to the extent such amount is due to Permittee's presence in the Company Space. If the dispute is resolved through litigation in accordance with the foregoing and the judgment resulting therefrom requires the payment of additional consideration by the Company, Permittee shall reimburse the Company for the amount of such additional consideration to the extent such amount is due to Permittee's presence on or in the Company Space. If Permittee possesses the power of eminent domain within the relevant jurisdiction, Permittee shall have the right, in its sole discretion, independently of the Company to seek resolution of such a dispute by exercising such power of eminent domain, provided that Permittee shall pay all costs of such exercise. Permittee's obligation to reimburse the Company for the amounts of additional compensation due to Granting Authorities shall survive this Agreement.

1.4.2 Notwithstanding the foregoing, the Company after conferring with Permittee at any time and in the Company's sole discretion, may require that Permittee discontinue such attempts to resolve issues with a particular governmental Granting Authority by litigation or otherwise; provided that, such requirement of the Company notwithstanding, Permittee may still continue to attempt to resolve such issues independently of the Company, by litigation or otherwise, so long as the Company is not named, joined, or otherwise included as a party or principal in any such litigation or other attempt; and provided further that the foregoing shall not be deemed to prohibit Permittee from exercising any eminent domain rights that Permittee is authorized to pursue within the relevant jurisdiction.

1.5 TERM OF LICENSE

This Agreement is for a term of five (5) years from the date it is signed by the Company and will thereafter continue in effect for recurring five (5) year periods until terminated, as of the end of the then-current term, by either Party upon one (1) year's [written](#) notice to the other.

1.6 COMMISSION JURISDICTION

Unless otherwise expressly ordered by the CPUC, this Agreement at all times shall be subject to such modifications as the CPUC may direct from time to time in the exercise of its jurisdiction.

ARTICLE 2

PLACING ATTACHMENTS

2.1 PROCESS FOR ATTACHING IN THE COMPANY SPACE

2.1.1 Request For Information

Permittee may, from time to time, submit a written request for information about the availability of Company Space. The request for information must include the proposed route or location of Attachments. Company shall respond in writing to such request for information as quickly as possible using commercially reasonable methods and consistent with applicable legal, safety, and reliability requirements. Availability of Company Space shall be determined in a manner consistent with Sections 2.1.4 and 2.1.5. Subject to the Confidentiality provisions in Section 13.4, the Company shall, within such period, provide Permittee with access to maps, and currently available records such as drawings, plans, and other information that it uses in its daily transaction of business necessary for evaluating the availability of Excess Capacity ~~in support structures for a~~ for the proposed route or location of Attachments specified ~~are~~ by the Permittee in the request. Permittee agrees to pay in advance all of the Company's estimated unit costs currently in effect to respond to the request for information. The total cost for providing the information will be reconciled based on the Company's actual costs at the end of the task. The Company's estimated unit costs for such work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

2.1.2 Request For Access

If Permittee desires to install new Attachments or replace existing Attachments in Company Space, it must submit a request for access using the form attached as Exhibit A, or such other form as the Company may specify from time to time in its reasonable discretion, and identify the facilities and equipment, including their physical characteristics (e.g., material and dimensions), to be placed in the Company Space and a copy of Permittee's property lease or right-of-way document, if any are required.

Permittee agrees to pay in advance all of the Company's estimated unit costs to respond to the request for access. The total cost for responding to the request is reconciled based on the Company's actual costs at the end of the task. The Company's estimated unit costs for such work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

2.1.3 Response to Request for Access

The Company shall provide a written response to the Permittee's request for access as quickly as possible using commercially reasonable methods and consistent with applicable legal, safety, and

reliability requirements. The response shall state whether the request is being granted or denied, and if the request is denied, provide all of the reasons why the request is being denied. In granting a request, the Company will select or approve Permittee's selection of the specific duct, conduit, or innerduct, or other location in the Company Space that Permittee may occupy. If denial of access is proposed, upon request of Permittee the Company will promptly meet with Permittee and explore in good faith reasonable alternatives to accommodate the proposed access. Permittee must request such meeting within ten (10) business days of receipt of a notice of denial.

2.1.4 Space Availability

(a) "Excess Capacity" means volume or capacity in a distribution duct, conduit, manhole, handhole, or other distribution structure, including an above-ground distribution conduit, duct, or other structure used for service entry to a building (but excluding space on poles or other aerial facilities) which can be used for dielectric communications cables and equipment, consistent with General Order 128 and the Company's nondiscriminatory design, engineering and construction standards and safety rules.

(b) Excess Capacity that is not assigned, reserved for Company use or occupied shall be deemed available for use by Permittee.

(c) Excess Capacity shall be deemed assigned if, on a nondiscriminatory basis, another customer, telecommunications carrier or cable TV company has an agreement with Company or other legal right to occupy said Excess Capacity and has requested or reserved access to a particular route or specific distribution conduit or duct or other space containing said Excess Capacity prior to Permittee requesting the use of such particular route or specific distribution conduit or duct or other space containing said Excess Capacity.

(d) Permittee's Attachments shall be permitted to co-occupy, with the Company's electrical cables and other equipment, available Excess Capacity consistent with G.O. 128 and Company's nondiscriminatory standards and safety rules.

(e) A duct, conduit, innerduct, or other location for which there is insufficient Excess Capacity to accommodate Permittee's request for access, or which is already occupied or assigned for use by the Company or another telecommunications carrier, cable TV company or customer shall be deemed unavailable for assignment to Permittee.

(f) No Company Space shall be deemed assigned to, or otherwise reserved for use by, the Company unless (i) prior to Permittee's request for access the Company had a bona fide development plan in place and the specific reservation of the attachment capacity is reasonably and specifically needed for the provision of utility service within such twelve (12) month period; (ii) there is no other feasible solution to the Company's meeting its immediately foreseeable needs; (iii) there is no commercially reasonable available technological means for increasing the capacity of the support structure for additional attachments; and (iv) the Company has attempted to negotiate with Permittee for a cooperative solution to the capacity problem.

2.1.5 Denial Based on Safety, Reliability, Engineering Considerations

In the event the Company denies a request based on reasons of safety or reliability, the Company shall, in the event of dispute, bear the burden of establishing that the proposed Attachment cannot be accommodated without threat to safety or utility service reliability, and that the Company's relevant practices and standards are being applied in a nondiscriminatory manner.

2.1.6 Make Ready Work

(a) Determination of Need

If a request for access is granted, the Company, using the information included in the request and other information as the Company may reasonably require, will conduct engineering evaluations to determine any rearrangement (including replacement, if necessary), modifications, or expansions, or other work to or in the Company Space or any Company or third-party-owned facilities or equipment in the Company Space ("Make Ready Work") that is needed to accommodate the Attachments, and shall provide an estimate of the Company's unit costs for such Make Ready Work. The Company's estimated unit costs for such work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

Alternatively, if Permittee meets the qualifications established by the Company's guidelines, Permittee may at its expense conduct the engineering evaluations to determine and identify the required Make Ready Work. The Company reserves the right to check, at Permittee's expense, the accuracy of the Permittee's engineering evaluations and if relevant errors are found, Permittee shall be notified and advised to resubmit its request with accurate information. If relevant efforts result in a request for access that results in an infraction of applicable codes and standards, Permittee agrees to reimburse the Company for the actual cost of checking the Permittee's initial and resubmitted engineering evaluation.

(b) Performance of Make Ready Work

If it is determined that Make Ready Work will be necessary to accommodate Permittee's Attachments, Permittee will have forty-five (45) days (the "Acceptance Period") to either (i) submit payment for the estimated unit costs authorizing the Company to complete the Make Ready Work, in which case, the Company shall schedule and complete the Make Ready Work on a nondiscriminatory, commercially-reasonable basis without unreasonable delay, following its receipt of such payment; or (ii) advise the Company of its willingness to perform the proposed make-ready work itself if permissible in the application area.

Permittee agrees to pay in advance all of the Company's estimated unit costs to perform Make Ready Work at Permittee's expense. The total cost for such work is reconciled based on the Company's actual costs at the end of the project. The Company's estimated unit costs for such work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

Alternatively, the Company will at its discretion allow Permittee to perform Make Ready Work at Permittee's expense. Make Ready Work performed by Permittee, or by a contractor approved by Company ("Authorized Contractor") and selected by Permittee, shall be performed in

accordance with the Company's specifications and in accordance with the same standards and practices that would be followed if such work were being performed by the Company or the Company's contractors. Neither Permittee nor Authorized Contractors selected by Permitted shall conduct such work in any manner that degrades the integrity of Company Space or any equipment or facilities in such Space or in which such Space is located or that interferes with any existing use of any such equipment, facilities, or Space.

Permittee shall make arrangements with third parties who have facilities occupying Company Space regarding reimbursement for any expenses incurred by such third parties in transferring or rearranging their facilities and equipment to accommodate the placement of Permittee's Attachments in the Company Space.

2.1.7 Occupancy of Company Space After Make Ready Work Completed and Relinquishment of Assignment of Company Space If Not Timely Occupied

(a) Permittee must exercise its access rights and occupy a specific duct, conduit, or innerduct, or other location in the Company Space approved for Permittee's occupation (i) within ninety (90) days after a determination that Make Ready Work is not necessary in accordance with Section 2.1.6(a) above ~~or~~; (ii) within ninety (90) days after the completion of [Make Ready Work if the Company is performing the Make Ready Work pursuant to Section 2.1.6\(b\) above](#); or (iii) within twelve (12) months after Permittee's request for access is granted by the Company if the Permittee advises the Company that the Permittee will perform the Make Ready Work pursuant to Section 2.1.6(b) above.

(b) If Permittee does not exercise its access rights and occupy a specific duct, conduit, or innerduct, or other location in the Company Space approved for Permittee's occupation within the time set forth in subsection (a) above, or if Permittee has elected to make the determination of the necessity for any Make Ready Work itself in accordance with the second paragraph of Section 2.1.6(a) but has failed to complete that determination within ninety (90) days, then the assignment will lapse and the assigned location will be deemed available for use by the Company or another telecommunications carrier.

2.1.8 Installation of Attachments

Under no circumstances shall Permittee enter Company's Rights-of-Way, enter or access Company Space or install any Attachments in Company Space without (a) obtaining any necessary encroachment or street occupation permits from local authorities, (b) receiving all required approvals from Company and (c) being accompanied by Company personnel, as set forth in Section 3.2.

Permittee shall be responsible for the placement of Attachments in the Company Space and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities.

Permittee shall provide the Company with a construction schedule and thereafter keep the Company informed of anticipated changes in the construction schedule.

Permittee's Attachments shall be placed, constructed, maintained, repaired, and removed in full compliance with the requirements, specifications, and standards specified in this Agreement, and the current (as of the date when such work is performed) versions of the following:

- (a) the National Electrical Safety Code ("NESC"), published by the Institute of Electrical and Electronic Engineers, Inc. ("IEEE");
- (b) the National Electrical Code ("NEC"), published by the National Fire Protection Association ("NFPA");
- (c) General Order 128;
- (d) The Company's nondiscriminatory design, engineering and construction standards and safety rules.

Without limitation, Permittee will mechanically and electrically protect Permittee's cables within any Company splice box, vault or enclosure. Permittee shall be permitted to locate ~~communication~~communications splices, coils of communications cable, or other communications equipment within a Company vault or other subsurface enclosure to the extent consistent with the Company's nondiscriminatory standards and practices as applied to other communications splices, coils of communications cable, or other communications equipment, excluding those used by the Company solely for its own internal communications purposes. To the extent practicable, Permittee shall place its own enclosure, if required, adjacent to the Company enclosure for splices, coils of cable or other equipment.

Permittee is solely responsible to maintain safe and efficient working and operating conditions. Notwithstanding the foregoing, any Company representative has the authority to temporarily revoke any Permittee access or stop Permittee activities if the Company representative believes that there is or has been a violation of any safety rule or procedure or that the situation is unsafe.

2.1.9 Inspection

Permittee must notify the Company when Permittee has completed work in the Company Space and Company Rights-of-Way. If the Company has not had the opportunity to complete the review, the Company will attempt to meet with Permittee's contractors to finalize the review. If the Company is not available when Permittee ~~notifies~~provides the Company ~~of its~~with notice of completion then the Company may perform a post-construction inspection as described in this section. Permittee shall reimburse the Company for costs associated with the presence of the Company's authorized employee or representative.

The Company may, at Permittee's expense, conduct a post-construction inspection of the Permittee's installation of Attachments in Company Space for the purpose of determining the conformance of the installation to the access authorization. The Company will provide the Permittee advance ~~written~~ notice of the proposed date and time of the post-construction inspection. Permittee may accompany the Company on the post-construction inspection.

The Company shall have the right, but not the obligation, to make periodic inspections of all Attachments installed in Company Space.

2.1.10 Noncompliance

If an inspection reflects that Permittee's Attachments are not in compliance with the terms of this Agreement, Permittee shall bring the Attachments into compliance within thirty (30) days after being notified of such noncompliance. If any modification work to the Company's facilities or Company Space is required to bring Permittee's Attachments into compliance, Permittee shall provide [written](#) notice to the Company and such modification work will be treated in the same fashion as Make Ready Work in connection with a new request for access. If the violation creates a hazardous condition, Permittee must bring its Attachments into compliance upon notification.

2.1.11 "As-Built" Drawings

Within ninety (90) days following Permittee's installation of any Attachment(s) in Company Space, Permittee shall provide Company with "as-built" drawings (CAD and PDF versions) of the communications cables or other related equipment including fiber cable numbers, fiber cable type and count, tracer wire details, butterfly drawings, splice locations, building POI locations, GPS or latitude & longitude coordinates.

2.2 ADDITIONAL ATTACHMENTS

Permittee shall not install any additional Attachments in Company Space without first securing the Company's written authorization in accordance with Section 2.1 and following the process for a new attachment.

ARTICLE 3

COMPLIANCE WITH LAW AND SAFETY REQUIREMENTS

3.1 APPLICABLE LAW AND REQUIREMENTS

3.1.1 Permittee shall, at its sole expense, install, maintain, operate and keep in good repair the Attachments in conformity with all applicable state and federal laws, including rules, and regulations of state and federal governmental agencies, and other governmental authorities, including, but not limited to, the rules, regulations, and orders of the CPUC, and in conformity with any safety standards or requirements as may be required or specified by the Company in its sole, good faith discretion, ~~and including obtaining any permits required by an authorized permitting agency under the California Environmental Quality Act.~~

3.1.2 Permittee shall be solely responsible for the Attachments and shall take all necessary precautions during installation, and maintenance on or near the Company's facilities and the Company's Rights-of-Way so as to protect all persons and the property of the Company and others from injury and damage. Without limiting the foregoing and without assuming any obligation to maintain or monitor the Attachments, if the Company believes that Permittee's Attachments are in any way endangering any person or property or are in noncompliance with any requirement referenced in Sections 3.1.1 (a "Hazardous Condition"), the Company may, in its sole discretion, take any steps it deems necessary to remedy the Hazardous Condition; in

which case Permittee shall be required to reimburse the Company for its actual costs of doing so. Notwithstanding the above, the Company shall take reasonable action to notify Permittee of any Hazardous Condition that does not require immediate attention, and where feasible, allow Permittee to correct the Hazardous Condition prior to any corrective action taken by the Company. In addition, if the Company notifies Permittee of any Hazardous Condition, Permittee shall remedy such condition promptly and in no case later than ten (10) days after receipt of such notice.

~~3.1.23.1.3~~ access to company space OR RIGHTS OF WAY

~~3.1.33.1.4~~ The following requirements apply to any access to and any work performed in Company Space and Rights-of-Way:

(a) Except for emergencies or service restoration, Permittee shall notify the Company not less than five (5) business days in advance before entering Company Space ~~to perform non-emergency work operations. Such operations. The notice shall state the general nature of the work to be performed. All such activities~~ shall be conducted during normal business hours except as otherwise agreed by the Parties. ~~The notice shall state the general nature of the work to be performed.~~ or required by a government agency. For emergencies or service restoration, Permittee shall provide Company with as much notice as reasonably possible under the circumstances, and Company shall make commercially reasonable efforts to provide an authorized employee or agent of Company present to enable Permittee to enter Company Space. If an electric service shutdown is required, the Permittee shall arrange a specific schedule with the Company prior to performing any work in the proximity of energized electrical conductors or equipment.

(b) ~~—~~ Notwithstanding any other provision of this Agreement, an authorized employee or representative of the Company must be present when Permittee or personnel acting on Permittee's behalf enter or perform work within the Company's Space and Company Rights-of-Way. Permittee shall pay Company for Company's employee or representative based upon Company's current fully loaded labor rate.

3.2 ~~ACCESS TO COMPANY SPACE~~

3.2.1 Access to Company Space used for electrical equipment and cable shall be undertaken subject to the following conditions: (a) Access shall be in accordance with CPUC General Order ~~128;~~ (b) 128.

3.2.2 Any access by Permittee, whether for initial installation, maintenance, repairs or service restoration shall be performed by using "qualified" personnel, as such term is defined in the California Code of Regulations Title 8, division 4, Chapter 4, under the supervision of a qualified electrical worker licensed in the State of California and whose qualifications have been verified in advance by Company; ~~(e)~~ All work under this Agreement to be performed in the proximity of energized electrical conductors or equipment shall only be performed by qualified electrical workers in accordance with Title 8 -- State of California High Voltage Safety Orders as amended. Permittee (including any Authorized Contractor selected by Permittee) must satisfy the qualifications required by the Company of its own personnel and the Company's contractors

who perform such work as set forth on https://www.pge.com/en_US/for-our-business-partners/purchasing-program/suppliers/suppliers.page.

3.2.3 Permittee shall not make any physical contact with Company's cables or other elements of Company's electrical system; (d) Permittee's employees, agents, or contractors will be permitted to enter or work in Company Space only when an authorized employee or agent of Company is present and Permittee agrees to pay Company for Company's employee based upon Company's current fully loaded labor rate.

3.2.4 Permittee shall comply with Company's established safety rules, a copy of which is attached to and incorporated by reference in this Agreement as Exhibit D, when working around electric cables or other elements of the Company electric system.

3.2.5 Permittee shall comply with any conditions legally imposed by the owner of the property on which the Right of Way is located.

3.2.6 Permittee shall indemnify Company as further provided in Section 4.1 of this Agreement with respect to such entry as specified in Section 3.2.

3.2.1—Company's authorized employee or agent shall have the authority, without subjecting Company to any liability, to suspend Permittee's work in and around Company Space or Company facilities if, in the sole discretion of that employee or agent, any Hazardous Conditions arise or any unsafe practices (including unsafe practices which may threaten the integrity of Company's facilities) are being followed by Permittee's employees, agents or contractors. The presence of Company's authorized employee or agent shall not relieve Permittee of its responsibility to conduct all of its work and operations in and around Company Space or Company facilities in a safe and workmanlike manner.

~~3.2.23.2.7~~ Permittee shall notify Company at least five (5) business days in advance by calling Company's designated construction representative before any routine repair or maintenance of Permittee's attachments. For emergencies or service restoration, Permittee shall provide Company with as much notice as reasonably possible under the circumstances, and Company shall make commercially reasonable efforts to provide have an authorized employee or agent of Company present to enable Permittee to enter Company Space.

~~3.2.3~~—Entry Conditions. Company, from time to time by written notice to Permittee, may specify additional reasonable and necessary entry conditions or requirements, ~~including, but not limited to entry only through a specific route. Permittee's right of entry to Company Space and Company Rights of Way is further subject to the conditions that:~~ (a) Permittee shall comply with Company's established safety rules, a copy of which is attached to and incorporated by reference in this Agreement as Exhibit D, when working around electric cables or other elements of the Company electric power distribution and transmission system; (b) Permittee shall comply with any conditions legally imposed by the owner of the property on which the Right of Way is located; and (c) Permittee shall indemnify Company with respect to such entry as further provided in Section 4.1 of this Agreement. If entry by Permittee is scheduled to last more than one consecutive day, a single notice describing the scope and duration of the entry shall be sufficient notice— in addition to the requirements set forth in this Agreement.

~~3.3 WORK IN PROXIMITY TO ENERGIZED FACILITIES~~

~~All work under this Agreement to be performed in the proximity of energized electrical conductors or equipment shall only be performed by qualified electrical workers in accordance with Title 8—State of California High Voltage Safety Orders as amended. Permittee shall provide the Company five (5) business days advance notice by calling the Company’s designated representative before any work in the proximity of energized electrical conductors or equipment is performed when an electric service shutdown is not required. If an electric service shutdown is required, the Permittee shall arrange a specific schedule with the Company prior to performing any work in the proximity of energized electrical conductors or equipment.~~

~~3.43.3 WORK PRIORITY~~

~~Permittee’s workers shall conduct their work so as not to interfere or delay any other work performed or scheduled to be performed by the Company or its authorized agents on or near the Company Space or the Company Rights-of-Way, or to interfere with Company’s utility services or operations. The Company and its authorized agents shall have priority to access the Company Space and the Company Rights-of-Way at any time and Permittee’s Workers must adhere to any requests made by the Company to modify or interrupt the work of Permittee’s workers.~~

~~3.53.4 IDENTIFICATION TAGS~~

~~Permittee shall identify its Attachments in accordance with Company’s Labeling Standard (ISTS 2014).~~

~~3.63.5 MARK AND LOCATE RESPONSIBILITY~~

~~Permittee shall be responsible for marking and locating its underground Attachments in accordance with California Government Code § 4216 and shall become a member of U.S.A (Underground Service Alert) and shall maintain membership for the duration of this Agreement.~~

ARTICLE 4

INDEMNIFICATION AND LIABILITY

4.1 INDEMNIFICATION

4.1.1 The Parties agree to bear any and all Losses (defined below) that arise out of or are in any way connected with the performance of this Agreement as set forth in this section. All losses, fines, penalties, claims, demands, legal liability, damages, attorneys’ fees, costs of investigation and litigation, expenses, settlements, verdicts, awards or judgments (collectively, “Losses”) connected with or resulting from injury to or death of any person (including employees of the Parties), damage to or destruction of any property (including property of the Parties), damage to the environment or any natural resources, or violation of any local, state or federal law, rule or regulation, including but not limited to environmental laws and regulations, however caused on either Party shall be borne as follows:

(a) Any Losses arising from injury to or death of an employee, contractor, subcontractor, or agent of a Party or arising from damage to or destruction of any property of a Party shall be borne by such Party, and such Party shall defend, indemnify and hold harmless the other Party and each of its officers, directors, partners, employees, and agents (“Indemnitees”) against such Losses, excepting only Losses as may be caused by the sole negligence or willful misconduct of the Indemnitees.

(b) Excepting Losses arising from injury to or death of an employee, contractor, subcontractor, an agent of a Party or arising from damage to or destruction of any property of a Party, any Losses caused by the joint or concurrent negligence of the Parties or their respective contractors or agents, or by the failure of the Parties to observe or perform any obligation hereunder, shall be borne by the Parties according to their degree of fault.

(c) Any Loss caused by entering the Company Space or Company Rights-of-Way by the employee, agent, contractor or subcontractor of a Party shall be borne solely by such Party.

(d) Any Loss caused by the sole act or omission of a Party shall be the responsibility of that Party.

If either Party, as the result of any claim for Losses, is compelled to pay damages to a greater extent than specified in this section, such Party shall have, to the extent of the excess so paid by it, the right of contribution from the other Party.

4.1.2 Notwithstanding the foregoing, Permittee shall indemnify, defend and hold harmless the Company, its officers, directors, partners, agents, and employees (collectively, “the Company Indemnitees”) from and against all claims, demands, losses, damages, expenses, and legal liability connected with or resulting from (i) interruption, discontinuance or interference with Permittee’s service to any of its customers or any economic or commercial loss of Permittee’s customers, resulting therefrom (but only to the extent of Permittees customers’ claims, not those of the Company), with the exception of claims, demands, losses, damages, expenses, and legal liability arising solely from the gross negligence or willful misconduct of the Company or the Company’s agents, employees or independent contractors who are directly responsible to the Company; (ii) Permittee’s failure to comply with applicable rules, regulations or safety standards; and (iii) any and all claims or assessments of any kind or nature, including increased franchise fees, right-of-way or easement fees, made or asserted against the Company Indemnitees by any third party, including any Granting Authority, franchise authority, governmental authority or other property owner as a result of Permittee’s use of, or failure to relinquish use of the Company Space or Company Rights-of-Way or remove any Attachments as may be required by the Company pursuant to Section 1.3 or Section 11.2. Regardless of fault on behalf of Permittee, the Company shall exercise reasonable commercial effort toward restoring the Company’s service to its customers in accordance with the Company’s customary procedures and priorities, to enable Permittee to restore Permittee’s Attachments in the Company Space and to resume service to Permittee’s customers so as to minimize any and all losses once an interruption, discontinuance, or interference with a Party’s service to its customers occurs. Nothing in this Article 4 shall affect the application of the provisions of Section 13.11 “No Third

Party Beneficiaries.” Under no circumstance shall either Party have the authority to admit any liability on behalf of the other.

4.1.3 Any Party seeking indemnification hereunder (“Indemnitee”) shall notify the other party (“Indemnitor”) of the nature and amount of such claim and the method and means proposed by the Indemnitee for defending or satisfying such claim within a reasonable time after the Indemnitee receives written notification of the claim. The Indemnitee shall consult with the Indemnitor respecting the defense and satisfaction of such claim, and the Indemnitee shall not pay or settle any such claim without the prior written consent of the Indemnitor, which consent shall not be unreasonably withheld or delayed; provided, however, that the Indemnitee’s failure to give such notice shall not impair or otherwise affect the Indemnitor’s obligation to indemnify against such [Claimclaim](#) except to the extent that the Indemnitor demonstrates actual damage caused by such failure.

4.2 AD VALOREM INDEMNITY

If the ad valorem property taxes, special assessments, local improvement district levies, or other levies or taxes (collectively, “Ad Valorem Taxes”) or bases for ad valorem taxation payable by the Company with respect to the Company facilities increase as a result of Permittee’s Attachments, or the Ad Valorem Taxes increase or change due to any construction, installation, or improvements provided pursuant to this Agreement, the Company shall deliver to Permittee copies of the relevant tax bills and supporting materials along with a detailed calculation of such taxes to be paid by Permittee only to the extent such Ad Valorem Tax exceeds the amount which the Company would otherwise pay. Within thirty (30) days Permittee shall pay or reimburse the Company for such amounts. Permittee may make such reimbursements or payments under protest, in which event Permittee and the Company shall attempt to agree upon a calculation of the amount payable by Permittee. If agreement cannot be reached, either party may refer the dispute to mediation in accordance with the provisions of Article 10. Permittee also shall be responsible for timely payment of any Ad Valorem Taxes or other taxes and fees levied against the Permittee’s Attachments or other of Permittee’s property or equipment located in the Company Space or the Company Rights-of-Way that are billed directly to Permittee by the taxing authority. However, in the event the same property or interests are assessed an Ad Valorem Tax or sales or use tax in the same year to both the Company and Permittee, each Party agrees to promptly notify the other upon becoming aware thereof to cooperate with the other in seeking appropriate redress from the authority or authorities assessing the property or imposing the tax; and, provided the Company has notice of such potential double taxation, the Company agrees at Permittee’s request, not to pay such tax and seek reimbursement from Permittee without having first protested, at Permittee’s expense, the assessment at the appropriate administrative level.

4.3 DEFENSE OF CLAIMS

Both parties shall, on request, defend any suit asserting one or more claims covered by the indemnities set forth in Section 4.1.1. Permittee shall, on the Company’s request, defend any suit asserting one or more claims covered by the indemnities set forth in Sections 4.1.2 and 4.2. The indemnifying party shall pay any costs that may be incurred by the Indemnitee in enforcing such indemnity provisions, including reasonable attorney’s fees.

4.4 LIMITATION OF LIABILITY

In no event shall the total cumulative liability of the Company, arising out of or in connection with the use of the Company Space or Company Rights-of-Way or relating to this Agreement, exceed the sum of the attachment fees received, and forecasted to be received, by the Company under the current Agreement with Permittee, whether based on contract, tort, including negligence, or otherwise. The above limitations of liability shall not apply to any willful misconduct on the part of the Company or to the Company's liability for contribution under Section 4.1.1 if Permittee, as the result of any claim for Losses, is compelled to pay damages to a greater extent than specified in that section.

4.5 NO WARRANTIES

Except as specifically and expressly provided herein, the Company makes no warranty, express or implied with respect to the Company Space or Company Rights-of-Way or the use of the Company Space or Company Rights-of-Way by Permittee. The Company Space is "as is." The Company disclaims all warranties express or implied including the warranties of merchantability and fitness for particular purposes.

4.6 CONSEQUENTIAL DAMAGES

Notwithstanding anything in this Agreement to the contrary, neither Party nor its contractors or subcontractors shall be liable to the other Party for the other Party's own special, consequential or indirect damages, including without limitation, loss of use, loss of profits or revenue, loss of capital or increased operating costs, arising out of this transaction or from breach of this Agreement, even if either Party is negligent, grossly negligent, or willful.

ARTICLE 5

INSURANCE

With the written consent of the Company, and until Permittee has demonstrated to the Company's satisfaction adequate financial strength to support self-insurance, Permittee shall maintain the following insurance coverage or self-insurance and be responsible for its contractors and subcontractors maintaining sufficient limits of the same insurance coverage.

5.1 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

5.1.1 Workers' Compensation insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal, where Permittee performs any work in the Company Space or the Company Rights-Of-Way.

5.1.2 Employers' Liability insurance shall not be less than \$1,000,000 for injury or death each accident.

5.2 COMMERCIAL GENERAL LIABILITY

5.2.1 Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage “occurrence” form, with no coverage deletions.

5.2.2 The limit shall not be less than \$10,000,000 each occurrence for bodily injury, property damage, personal injury, and completed operations, [with no exclusions for collapse, explosions, and underground hazards](#). Defense costs shall be provided as an additional benefit and not included within the limits of liability. Coverage limits may be satisfied using an umbrella or excess liability policy.

5.2.3 Coverage shall: (1) by “Additional Insured” endorsement add as additional insured the Company, its directors, officers, agents and employees with respect to liability arising out of the work performed by or for the Permittee for ongoing operations as well as completed operations. If the Permittee has been approved to self-insure, Permittee shall, at all times, extend coverage to the Company in the same position as if the Company were an “Additional Insured” under a policy; (2) be endorsed to specify the Permittee's insurance is primary and that any insurance or self-insurance maintained by the Company shall not contribute with it.

5.3 BUSINESS AUTO

5.3.1 Coverage shall be at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, code 1 “any auto.”

5.3.2 The limit shall not be less \$3,000,000 each accident for bodily injury and property damage.

5.4 POLLUTION LIABILITY

5.4.1 Coverage for bodily injury, property damage, including clean up costs and defense costs resulting from sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, hydrocarbons, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water.

5.4.2 The limit shall not be less than \$1,000,000 each occurrence for bodily injury and property damage.

5.4.3 The Company shall be named as additional insured.

5.5 ADDITIONAL INSURANCE PROVISIONS

5.5.1 Before commencing any work in the Company Space or Company Right-Of-Way, Permittee shall furnish the Company with certificates of insurance and Additional Insured endorsement of all required insurance for Permittee.

5.5.2 The ~~certificate policies~~ shall state that ~~coverage insurers~~ shall ~~not be canceled~~ ~~except after provide~~ thirty (30) days prior written notice ~~has been given~~ to the Company ~~prior to cancellation~~.

5.5.3 The certificate must be signed by a person authorized by that insurer to bind coverage on its behalf and shall be submitted to:

Pacific Gas and Electric Company
Joint Utility Department
1850 Gateway Blvd, Room 6032
Concord, CA 94520

A copy of all such insurance certificates and the Additional Insured endorsement shall be sent to the Company's Contract Negotiator and/or Contract Administrator.

5.5.4 The Company may require Permittee to furnish to the Company certificates of insurance or other evidence thereof attesting that the insurance required by Article 5 is in effect.

5.5.5 Upon request, Permittee shall furnish the Company the same evidence of insurance for its contractors and subcontractors, as the Company requires of Permittee.

~~5.5.5.5.6~~ 5.5.6 Permittee shall provide Company with written notice of cancellation within five (5) business days of Permittee's receipt of notice of cancellation from insurer.

~~5.5.6.5.7~~ 5.5.7 If Permittee claims to self-insure then this section applies. Notwithstanding any provisions in this Article to the contrary, Permittee represents that its customary practice, as of the date of this Agreement, is to self-insure for all or a portion of the insurance required of it under this Agreement. Accordingly the parties agree that such self-insurance shall constitute compliance with all or some of the requirements of this Article for as long as Permittee generally continues such practice of corporate self-insurance with respect to its regular conduct of business. Permittee covenants to advise the Company when it ceases generally to self-insure with respect to its regular conduct of business.

ARTICLE 6

DISCONTINUATION, RELOCATION, AND RECLAMATION OF SPACE

6.1 DISCONTINUATION

Notwithstanding any provision to the contrary, the Company shall be entitled at any time to discontinue the Company's use of the Company Space and Company Rights-of-Way, and, in such case, Permittee shall immediately remove its Attachments. In the event of any such discontinuation, the Company shall give Permittee advance written notice as soon as reasonably practicable, and the Company may propose alternative Company Space to meet the needs of the Permittee in which case Permittee shall be entitled to a pro rata credit for any Attachment fees paid in advance against future use of the alternative Company Space. If no alternate Company Space is available or acceptable, Permittee shall be entitled to a pro-rata refund of any Attachment fees that were paid in advance. The Company shall allow Permittee to buy the

Company's interest in the discontinued Space at the Company's replacement cost new minus depreciation. Permittee shall be responsible for transferring its Attachments at its expense.

6.2 RELOCATION

The Company at any time may relocate all or any portion of its support structures to other locations. In the event of any such relocation, the Company may in its discretion allow Permittee to transfer its Attachments to the new support structure location in accordance with this Agreement. The Company shall provide Permittee sixty (60) days advance written notice, although less notice is permitted if required by the circumstances. The Company shall have the right to proceed with the relocation in accordance with such notice, including, but not limited to, the right, in good faith, to reasonably determine the extent and timing of, and methods to be used for, the relocation of the Company's support structure, provided that the Company shall use commercially reasonable efforts to coordinate such relocation with Permittee. Permittee shall be kept informed of determinations made by the Company in connection with the scheduling of such relocation, and Permittee shall be responsible for transferring its Attachments at its expense in accordance with such schedule.

6.3 RECLAMATION OF SPACE

6.3.1 In the event that the Company, either upon order of the CPUC, or upon the Company's own decision, consistent with legal requirements determines that the Company must commence or resume use of all or a portion of Company Space previously assigned to Permittee, for the purpose of providing utility service to its patrons or customers, and the Company shall evaluate if the Company can accommodate continued use of the Company Space by Permittee through expansion of the subject support structures or other modifications.

6.3.2 If the Company is not able to make such accommodation, the Company shall provide Permittee as much advance written notice of the need for the removal or transfer of Permittee's attachments as is practicable but in no event less than thirty (30) days advance written notice. Each notice shall specify the portion, if less than all, of the Company Space to which such notice relates. Permittee shall remove its Attachments from the Company Space at its expense, prior to the expiration of the notice period, and all rights and privileges of Permittee in the Company Space that is the subject of the notice shall terminate upon expiration of the notice period.

6.3.3 In the event of reclamation pursuant to Sections 6.3.1 and 6.3.2 above, Company shall make a good faith effort to assist Permittee in finding alternative routes owned or controlled by Company and to the extent there is Company Space available within or through which any affected Permittee Attachments may be relocated. If an alternative route is located, Permittee shall be responsible for transferring its Attachments at its expense. Permittee shall be entitled to a pro rata credit for any Attachment fees paid in advance against future use of the alternative Company Space. If no alternate Company Space is available or acceptable, Permittee shall be entitled to a pro-rata refund of any Attachment fees that were paid in advance.

ARTICLE 7

RESTORATION OF SERVICE

In the case of any incident whereby both the Company's electrical service capacity and Permittee's telecommunications capacity are adversely affected, restoration of Permittee's Attachments and Permittee's capacity shall at all times be subordinate to restoration of the Company's electrical service capacity, unless otherwise agreed in advance by both Parties. Nonetheless, the Company shall permit Permittee to make repairs to restore its Attachments and its capacity, as long as such restoration efforts do not, in the Company's sole discretion, interfere with the Company's restoration activities, and as long as Permittee complies with Section 3.2, Access to Company Space.

ARTICLE 8

ATTACHMENT FEES

8.1 ANNUAL ATTACHMENT FEES

8.1.1 Prior to placing its Attachments in Company Space, Permittee shall pay to the Company an Attachment fee for each Attachment to be installed in Company Space. The Attachment fee shall be equal to the percentage of the annual cost of ownership of the Company's support structure, computed by dividing the volume or capacity rendered unusable by Permittee's Attachment by the total usable volume or capacity, consistent with the methodology in the CPUC's ROW decisions. For this purpose, "total usable volume or capacity" means all volume or capacity in which the Company's lines, plant, or system could legally be located, including the volume or capacity rendered unusable by Permittee's Attachments and equipment of other licensees using the Company Space.

8.1.2 The current rates for Attachments to conduits and other support structures are set forth in Exhibit B to this Agreement. The Company may revise the unit rates from time to time, but no more often than annually. The revised unit rates shall be effective following sixty (60) days' notice to Permittee.

8.2 UNAUTHORIZED ATTACHMENTS

8.2.1 Upon request of Company, Permittee shall provide written evidence of Attachment authorization [from the Company](#) for any Company Space in which Permittee has an Attachment. If Permittee cannot provide such written evidence of Attachment authorization, Permittee shall pay to the Company Five Hundred Dollars (\$500.00) per block (or portion of a block) per cable for each unauthorized Attachment as an unauthorized attachment fee. The unauthorized Attachment shall then be subject to all the terms of this Agreement. If payment is not received within thirty (30) days of invoice date, the Company may invoke rights under Article 11 "Breach and Termination," and remove Permittee's Attachments from the Company Space.

8.2.2 Notwithstanding Section 8.2.1 above, any unauthorized attachment or unauthorized entry in Company Space or Company ROW is a material and substantial breach of Permittee's obligations under this Agreement and may justify Company's termination of this Agreement.

ARTICLE 9

REMOVAL; ABANDONMENT

9.1 REMOVAL OF ATTACHMENTS

Upon any expiration or termination, Permittee shall relinquish use of the Company Space and remove its Attachments from the Company Space in accordance with this Agreement prior to the effective date of expiration or termination at Permittee's sole expense. If Permittee fails to remove the Attachments by the expiration of this Agreement or as may be required by the Company within the time period designated by notice pursuant to Article 6 or otherwise required by this Agreement, the Company shall be entitled to consider Permittee's Attachments abandoned as set forth in Section 9.2, below.

9.2 ABANDONMENT

If Permittee fails to use its Attachments for any period of one hundred eighty (180) days, the Company shall provide Permittee written notice of its intent to treat such Attachments as abandoned. If Permittee identifies such Attachments as abandoned or fails to respond to such notice within thirty (30) days, Permittee shall be deemed to have abandoned such Attachments which abandonment shall terminate all rights of Permittee as to the abandoned Attachment. Upon abandonment by Permittee, the Company shall have the right to retain such Attachments as the Company's own, or to remove the Attachments at Permittee's sole risk and expense, and Permittee agrees to reimburse the Company for its expense. Company shall also have the right to leave the abandoned Attachments in place. Abandonment shall not relieve Permittee of any obligation, whether of indemnity or otherwise, accruing prior to completion of any removal by the Company or which arises out of an occurrence happening prior thereto.

ARTICLE 10

DISPUTE RESOLUTION

10.1 MEDIATION

10.1.1 The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between a representative designated by the Company Vice President empowered to resolve the dispute and an executive of similar authority of the Permittee. Either Party may give the other Party written notice of any dispute. Within twenty (20) days after delivery of the notice, the executives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute.

10.1.2 If the matter has not been resolved within thirty (30) days of the first meeting, either Party may initiate a mediation of the controversy in accordance with the Commercial Mediation Rules of the American Arbitration Association. All negotiations and any mediation conducted pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and which is incorporated herein by reference.

10.2 CPUC RESOLUTION

If a ~~dispute~~ disputed matter has not been resolved within thirty (30) of the first meeting in accordance with Section 10.1.1, then notwithstanding Section 10.1.2, either Party make seek resolution of any dispute under this Agreement pursuant in a proceeding brought before the CPUC in accordance with CPUC rules and decisions.

10.3 INJUNCTION

Notwithstanding the foregoing provisions, a Party may seek a preliminary injunction or other provisional judicial remedy if in its judgment such action is necessary to avoid irreparable damage.

10.4 CONTINUING PERFORMANCE

Each Party is required to continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

ARTICLE 11

BREACH AND TERMINATION

11.1 BREACH

Permittee and the Company agree that neither shall proceed against the other for breach or default under this Agreement by mediation or otherwise before the offending Party has had notice of and a reasonable time and opportunity to respond to and cure any breach or default. For purposes of this Agreement, a reasonable time to cure any breach or default shall be deemed to be thirty (30) days after notice, ~~unless for~~ Notwithstanding the above, in the case of safety concerns, ~~or~~ legal reasons, or if Permittee's use interferes with the Company's ability to serve utility customers, ~~and~~ fewer than thirty (30) days are required. This section does not supersede the rights and obligations of the Parties under Section 3.1.2 for "Hazardous Conditions." If a Party claims that more than thirty (30) days are reasonable to cure a breach, that Party shall have the burden of proving the reasonableness of the claim for more than thirty days. If such breach or default cannot be cured within such thirty (30) day period, and the defaulting party has promptly proceeded to cure the same and to prosecute such cure with due diligence, the time for curing the breach shall be extended for such period of time as may be reasonably necessary to complete such cure.

11.2 TERMINATION

11.2.1 Subject to Section 11.1, if Permittee (a) fails to make any payment due within the time frame specified, (b) fails to obtain or maintain the appropriate CPCN from the CPUC, (c) fails to take reasonable steps to resolve any safety issue, (d) fails to maintain the insurance and bond requirements in compliance with Articles 5 and 12 of this Agreement or (e) otherwise fails to comply with any material term or condition of this Agreement, the Company, at its sole discretion, upon thirty (30) days written notice to Permittee (or such shorter period of time as may be determined by the Company in order to comply with a notice from a Granting Authority or under law, if applicable), may without further liability terminate this Agreement and any permission granted to Permittee as to all or any portion of those facilities which are the subjects of such breach of agreement, and Permittee shall immediately relinquish use of the Company Space and remove its Attachments from the Company Space in accordance with this Agreement prior to the effective date of termination.

11.2.2 This Agreement shall also terminate in whole or in part, upon the [happening occurrence](#) of any of the following events:

(a) at the option of either Party, upon the termination or abandonment by Permittee of the use of all of the Permittee's Attachments. If less than all of Permittee's attachments are abandoned or terminated, the Company shall have the option of terminating its permission under this Agreement for only the Attachments abandoned or terminated;

(b) at the option of the non-defaulting Party and without limiting the rights or remedies of the non-defaulting party, upon a breach or default by the other party of any material obligation hereunder and the continuance thereof following the expiration of the applicable remedy period;

(c) upon the written mutual agreement of the Parties; or

(d) in accordance with the provisions of Section 1.1.3, if the Company or the CPUC invoke the provisions of G.O. 69-C.

11.2.3 Upon termination of this Agreement for all or any portion of the Company Space used by Permittee, Permittee shall immediately relinquish use of the Company Space and promptly remove its Attachments or the Company may remove Permittee's Attachments from the Company Space at Permittee's expense.

11.3 BANKRUPTCY OF PERMITTEE

11.3.1 The occurrence of any of the following shall constitute a default which may be a basis for termination of this Agreement:

(a) Permittee files for protection under the Bankruptcy Code of the United States or any similar provision under the laws of the State of California; or

(b) Permittee has a receiver, trustee, custodian or other similar official appointed for all or substantially all of its business or assets; or

- (c) Permittee makes an assignment for the benefit of its creditors.

11.3.2 Assignment of Agreement

Any person or entity to which this Agreement is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Agreement on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to the Company an instrument confirming such assumption.

ARTICLE 12

FAITHFUL PERFORMANCE BOND; LETTER OF CREDIT

To cover the faithful performance by Permittee of its obligations under this Agreement, Permittee shall be required to furnish (i) a valid performance bond or (ii) an unconditional irrevocable letter of credit issued by a financial institution acceptable to the Company. Said bond or letter of credit shall be in such form approved in writing by the Company and in such amount as the Company shall specify from time to time based on the financial exposure caused by the Permittee's Attachment to the Company to be maintained in full force and effect throughout the term of this Agreement. The amount of said bond or letter of credit shall be initially set at Fifty Thousand Dollars (\$50,000). Permittee shall furnish such performance bond or letter of credit on or before the effective date of this Agreement, and remain in full force thereafter for a period of one year. Said bond or letter of credit shall provide ninety (90) days advance written notice to the Company of expiration, cancellation or material change thereof. Said bond or letter of credit will automatically extend for additional one-year periods from the expiration date, or any future expiration date, unless the surety or financial institution provides to the Company, not less ~~that~~ [than](#) ninety (90) days' advance written notice, of its intent not to renew such bond or letter of credit. The liability of the surety under said bond or the financial institution under said letter of credit shall not be cumulative and shall in no event exceed the amount as set forth in this bond or letter of credit, in any additions, riders, or endorsements properly issued by the surety or the financial institution as supplements thereto. Failure of Permittee to obtain a bond or letter of credit as specified will be cause to terminate this Agreement. If the surety on the bond or financial institution issuing the letter of credit should give notice of the termination of said bond or letter of credit and if Permittee does not reinstate the bond or letter of credit or obtain a bond or letter of credit from another surety or financial institution that meets the requirements of this Article 12 within fifteen (15) days after written notice from the Company, the Company may by written notice to Permittee, terminate this Agreement and revoke permission to use the Company Space and Rights-of-Way covered by any or all applications submitted by Permittee hereunder, and Permittee shall remove its Attachments from the Company Space to which said termination applies within thirty (30) days from such notification.

ARTICLE 13

MISCELLANEOUS

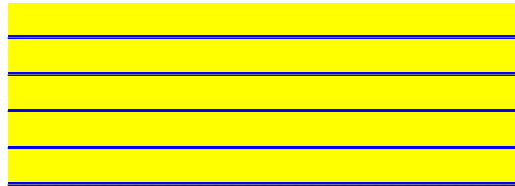
13.1 NOTICES

Any notice given pursuant to this Agreement ~~given~~ by a Party to the other, shall be in writing and given (with proof of delivery or proof of refusal of receipt) by letter mailed, hand or personal delivery, or overnight courier to the following:

If delivered to the Company by U.S. mail and express mail:

~~Supervisor~~Program Manager, Joint Utility Department
Pacific Gas and Electric Company 1850 Gateway Blvd., 6th Floor Concord, CA
94520
~~3401 Crow Canyon, Bldg 414, 207H~~
~~San Ramon, CA 94583~~

If delivered to Permittee by U.S. mail and express mail:



~~Charles Barr~~
~~Webpass Telecommunications, LLC~~
~~267 8th St.~~
~~San Francisco, CA 94103~~

or to such other addresses as either Party may, from time to time, designate in writing for that purpose.

Notices shall be deemed given (i) when received in the case of hand or personal delivery, (ii) three days after mailing by United States mail as provided above, or (iii) the next business day in the case of reliable overnight courier. For routine notice changes, proof of delivery is not required. By mutual agreement facsimile notices may be used for routine notice changes.

13.2 APPLICABLE LAW

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of California, exclusive of conflicts of laws provisions.

13.3 CHANGE OF LAW

In the event any change in law or government regulation materially modifies either Party's rights or obligations under law or regulations existing as of the effective date of this Agreement with respect to the right to access, or the obligation to provide access to, utility support structures and rights-of-way, either Party may by providing written notice to the other party, require that this Agreement be renegotiated in good faith and amended to reflect such changes in law or regulations. In the event the Parties fail to reach agreement on such amendment, either Party may invoke the dispute resolution provisions of this Agreement.

13.4 CONFIDENTIAL INFORMATION

If either Party provides confidential information to the other, it shall be in writing and clearly marked as confidential. The receiving Party shall protect the confidential information from disclosure to third parties with the same degree of care afforded its own confidential and proprietary information, except that neither Party shall be required to hold confidential any information which becomes publicly available other than through the recipient, which is required to be disclosed by a governmental or judicial order, which is independently developed by the receiving Party, or which becomes available to the receiving Party without restriction from a third party. ~~Company~~ Either Party may require ~~Permittee~~ the Parties to sign a standard Company Non-Disclosure Agreement prior to receipt of confidential information, including in particular maps, plans and drawings. These obligations shall survive expiration or termination of this Agreement for a period of two (2) years, or longer as set forth in a standard Company Non-Disclosure Agreement.

13.5 FORCE MAJEURE

Neither Party shall be liable for any failure to perform this Agreement when such failure is due to "force majeure." The term "force majeure" means acts of God, strikes, lockouts, civil disturbances, interruptions by government or court orders, present and future valid orders of any regulatory body having proper jurisdiction, acts of the public enemy, wars, riots, inability to secure or delay in securing labor or materials (including delay in securing or inability to secure materials by reason of allocations promulgated by authorized governmental agencies), landslides, lightning, earthquakes, fire, storm, floods, washouts, or any other cause, whether of the kind herein enumerated or otherwise, not reasonably within the control of the Party claiming "force majeure." The "force majeure" shall, so far as possible, be remedied with all reasonable dispatch. The settlement of strikes or lockouts or industrial disputes or disturbances shall be entirely within the discretion of the Party having the difficulty. The Party claiming any failure to perform due to "force majeure" shall provide verbal notification thereof to the other Party as soon as practicable after the occurrence of the "force majeure" event. Force Majeure shall not excuse Permittee's obligation to make payment for its Attachments except that if the event of force majeure remains uncured for a period of thirty (30) days and renders the Attachments unusable, then Permittee shall be excused from its rental payment obligation as to the affected Attachments throughout the duration of the event of force majeure. If the Company is the party claiming force majeure and the event of force majeure prevents restoration of Permittee's previously authorized attachments within six (6) months of the force majeure event, then the

facilities shall be deemed to be discontinued and the provisions of Section 6.1 of this Agreement shall apply.

13.6 SEVERABILITY

The invalidity of one or more clauses, sentences, sections, or articles of this Agreement shall not affect the validity of the remaining portions of the Agreement so long as the material purposes of this Agreement can be determined and effected.

13.7 LIENS

Permittee and its contractors shall keep the Company Space, Rights-of-Way, and Company facilities free from any statutory or common law lien arising out of any work performed, materials furnished, or obligations incurred by Permittee, its agents or contractors. Permittee agrees to defend, indemnify and hold the Company harmless from and against any such liens, claims or actions, together with costs of suit, and reasonable attorneys' fees incurred by the Company in connection with any such claim or action. In the event that there shall be recorded against said Company Space, Rights-of-Way, or Company facilities any claim of lien arising out of any such work performed, materials furnished, or obligations incurred by Permittee or its contractors and such claim of liens not removed within ten (10) days after notice is given by the Company to Permittee to do so, the Company shall have the right to pay and discharge said lien without regard to whether such lien shall be lawful, valid, or correct.

13.8 SURVIVABILITY

Any expiration or termination of Permittee's rights and privileges shall not relieve Permittee of any obligation, whether indemnity or otherwise, that has accrued prior to such termination or completion of removal of Permittee's Attachments.

13.9 CERTIFICATION OF PERMITEE

Permittee warrants that it is a telecommunications carrier that has been granted a certificate of public convenience and necessity (CPCN) from the CPUC. Permittee warrants that its certificate authorizes it to use governmental rights-of-way for the purposes of this Agreement. The Permittee also represents that it is an entity that is governed by CPUC ROW Decisions and as such has the right to nondiscriminatory access to Company Space.

13.10 ASSIGNMENT AND SUBLEASE

13.10.1 This Agreement and the rights, interests and obligations hereunder are being granted in reliance on the financial standing and technical experience of Permittee and are thus granted personally to Permittee and shall not be assigned or delegated, in whole or in part without the prior written consent of the Company, consent for which shall not be unreasonably withheld. Any attempt to assign or delegate without such consent shall be void. Notwithstanding the foregoing, this Agreement may be assigned or delegated in whole or in part by the Company or Permittee without the other Party's consent for (i) assignments in connection with interests that arise by reason of any deed of trust, mortgage, indenture or security agreement granted or executed by such Party, (ii) assignments to wholly-owned subsidiaries or affiliates

under common control with a Party, where, in the absence of the other Party's consent thereto the assigning Party retains responsibility for the payment and performance of all of its obligations and liabilities hereunder, (iii) assignments by operation of law in connection with any merger or consolidation of a Party with or into any Person, whether or not the Party is the surviving or resulting Person, or (iv) assignments to a purchaser of all of the outstanding equity securities of, or substantially all of the assets of, either Party. Any assignment that does not comply with the provisions of this Section 13.10.1 shall be null and void, and the putative assignee shall have no right to maintain or install attachments in the Company Space or to use Company Rights-of-Way.

13.10.2 Permittee shall not sublease any of the Company Space.

13.11 NO THIRD PARTY BENEFICIARIES

All of the terms, conditions, rights and duties provided for in this Agreement are and shall always be, solely for the benefit of the Parties. It is the intent of the Parties that no third party (including customers of either Party) shall ever be the intended beneficiary of any performance, duty, or right created or required pursuant to the terms and conditions of this Agreement.

13.12 HAZARDOUS MATERIALS

The California Health and Safety Code requires businesses to provide warnings prior to exposing individuals to material listed by the Governor as chemicals known to the State of California to cause cancer, birth defects, or reproductive harm. The Company uses chemicals on the Governor's list at many of its facilities and locations. Accordingly, in performing the work or services contemplated in this Agreement, Permittee, its employees, agents and subcontractors may be exposed to chemicals on the Governor's list. Permittee is responsible for notifying its employees, agents, and subcontractors that work performed hereunder may result in exposures to chemicals on the Governor's list. The Company will provide Permittee upon request with a copy of a Materials Safety Data Sheet for every known Hazardous Chemical on or in the Company Rights-of-Way.

13.13 WAIVER

The failure of either Party 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 in full force and effect.

13.14 PAYMENTS

Unless otherwise specified in this Agreement, Permittee shall make all payments to the Company within thirty (30) days of receipt of the invoice to:

For U.S. mail and express mail:

Pacific Gas & Electric Company
P.O. Box 997300

13.15 DEFINITIONS

Capitalized terms used are defined in this Agreement and shall have the meanings set forth herein.

13.16 TITLES AND HEADINGS

The table of contents, titles and headings of Articles and Sections of this Agreement are inserted for the convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

13.17 NO STRICT CONSTRUCTION

The Parties have participated jointly in the negotiation and execution of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement or any of the documents delivered pursuant hereto, this Agreement and such documents shall be construed as if jointly prepared by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement or such documents.

13.18 POWER SUPPLY

The electrical connection for power supplies shall be governed by Company's electric tariffs and not by this Agreement. If any Attachments include metered or unmetered electrical equipment, Permittee shall notify the Company in writing to arrange for electric service and appropriate billing prior to using the Attachment.

13.19 SERVICE CONNECTION/DISCONNECTION

Any electrical service connection or disconnection to Permittee's attachments from Company's electric supply system shall only be performed by the Company in accordance with the Company's rates, applicable tariffs and CPUC Rules and Regulations.

13.20 COMPANY STANDARDS

Any and all references to Company standards or procedures refer to Company standards or procedures as they may be amended, modified or revised by the Company from time to time in its sole discretion, consistent with the Company's legal obligations consistent with the CPUC's ROW decisions and the Company's safety and other legal obligations.

13.21 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments or understanding with respect to the subject matter hereof and may be amended only by a writing signed by both Parties.

**WEBPASS
TELECOMMUNICATIONS,
INC.** [APPLICANT]
—

**PACIFIC GAS AND ELECTRIC
COMPANY**

By: _____
CHARLES BARR

By: _____
MANHO YEUNG

Title: President

Title: ~~Senior Director Electric Systems
Planning & Reliability~~

Date: _____

Date: _____

EXHIBIT B CONDUIT ACCESS RATE

I. CONDUIT ACCESS RATE CALCULATION MODEL

The conduit access rates are calculated based on the depreciation accrual rate schedule submitted to the CPUC, Energy Division annually. The previous year's submittal is used to calculate the conduit access rate for the following year (i.e. 2013 schedule submitted in 2014 determines rental rate for 2015).

A. Historical Net Cost of a Conduit (Account 366 Only, Previous Year):

$$\frac{\text{A\&G Expenses (Electric)}}{\text{Gross Plant - Depr Reserve - Accum Def. Income Taxes (Electric)}}$$

B. Depreciation Expense (Account 366 Only, Previous Year) %:

$$\frac{\text{Deprn. Rate for Gross Conduit Invest.} \times \text{Gross Conduit Invest}}{\text{(Net Conduit Invest - Def. Inc. Tax)}}$$

C. Administrative Expense % (Total Electric, Previous 5 Year Average):

$$\frac{\text{A\&G Expenses (Electric)}}{\text{Gross Plant - Depr Reserve - Accum Def. Income Taxes (Electric)}}$$

D. Maintenance & Operating Expenses % (Electric, Previous 5 Year Average):

$$\frac{\text{Account 584 + Account 594 (Underground Line)}}{\text{Invest - Depr Reserve - Accum Def Income Taxes (Underground Line)}}$$

E. Normalized Taxes % (Company Total, Previous 5 Year Average):

$$\frac{\text{A/C (408.1+409.1) + (410.1+411.4) - 411.1 (Total Company)}}{\text{Gross Plant - Depr Reserve - A/C 190, Def Income Taxes (Total Company)}}$$

F. Total Operating Cost for Conduits:

$$F = A * [B + C + D + E]$$

G. Annual Rental Rate per foot (or one attachment):

$$G = 100.0\% \text{ of Total Operating Cost for Conduits (F)} = 1.0 * F$$

CALCULATION DETAIL:

EXHIBIT B CONDUIT ACCESS RATE

1 Historical Net Cost per Conduit Foot =

Basis - Conduit Account 366 - Only
 Period - Current Year Only (2015)
 Calc.Summary - numerator/denominator:

a. 1,749,743,580
 b. 150,011,136

Proof/ Check:

= \$11.66

A/C 366 - Deprn Reserve - Accum Def Income Taxes

Feet of Conduit

	<u>2,565,753,274</u>	-	795,916,460	-	<u>20,093,234</u>
			28,411.2	X	5,280

ft/mile

\$ 11.66

 Net conduit investment per ft.

2 Depreciation Expense =

Basis - Conduit Account 366 - Only
 Period - Current Year Only (2015)
 Calculation Summary:

Gross/net conduit invest. factor: 1.466
 Times: Depr. Rate 2.91%
 Equals Depreciation Factor 4.27%

Deprn. Rate for Gross Conduit Invest.	X	Gross Conduit Invest / (Net Conduit Invest - Def. Inc. Tax)
---------------------------------------	---	---

(2015 rate)		
2.91%	X	<u>2,565,753,274</u>
(Gross plant basis)		<u>1,749,743,580</u>
		(Gross-to-Net factor)

4.27%

 (Net plant basis)

3 Administrative Expense =

Basis - Electric
 Period - 5 Year Average
 Calc.Summary - numerator/denominator:

a. 936,900,496
 b. 23,618,158,546

Proof/ Check:

= 3.97%

A&G Expenses (Electric)

Gross Plant - Depr Reserve - Accum Def. Income Taxes (Electric)

	<u>936,900,496</u>		<u>936,900,496</u>		
	44,117,206,558	-	19,898,943,466	-	<u>600,104,546</u>

3.97%

 Electric A&G expenses and Electric plant in service.

4 Maintenance & Operating Expenses =

Basis - Numerator:UG Line; Denominator: UG
 Period - 5 Year Average
 Calc.Summary - numerator/denominator:

a. 75,319,480
 b. 4,126,455,467

Proof/ Check:

= 1.83%

Account 584 + Account 594 (Underground Line)

Invest - Depr Reserve - Accum Def Income Taxes (Underground Line)

	<u>36,961,723</u>	+	<u>38,357,758</u>		
	7,878,574,668	-	3,671,789,629	-	<u>80,329,571</u>

1.83%

 Maintenance & Operation Expenses related to conduit.

5 Normalized Taxes =

Basis - Total Company
 Period - 5 Year Average

A/C (408.1+409.1) + (410.1+411.4) - 411.1 (Total Company)

Gross Plant - Depr Reserve - A/C 190, Def Income Taxes (Total Company)

EXHIBIT B CONDUIT ACCESS RATE

Calc. Summary - numerator/denominator:

a.	909,242,709	+	448,019,067	-	1,329,905,808	-	868,682,165
b.	31,949,827,707		60,944,997,578		27,484,900,533		1,510,269,338
Proof/ Check:							
=	2.85%		2.85%		Company-wide percentage of normalized taxes.		

6

SUMMARY AND VARIANCE ANALYSIS:			
	Expense Item	2015 Pricing Model	
		Rate	Amount
a.	Net Conduit Investment (per foot)		\$11.66
b.	Depreciation	4.27%	0.50
c.	Admin & Gen	3.97%	0.46
d.	O&M	1.83%	0.21
e.	Tax	2.85%	0.33
f.	Return (Utility Authorized)	8.06%	0.94
g.	Total Operating Cost per Conduit Foot	20.97%	2.45
h.	Usable Space Rate Percent & Cost per Conduit Foot	100.00%	\$2.45
		(NOTE 1)	(NOTE 2)

**EXHIBIT C
UNDERGROUND FACILITIES
ESTIMATED UNIT COST
MAKE READY & REARRANGEMENT WORK**

Labor Cost Description	2016 Hourly Rate Per Person
Construction (Inspection)	\$ 181.34
Engineering and Planning	\$ 186.40
Mapping	\$ 163.12
Project Management	\$ 170.63
Service Planning	\$ 174.22
General and Administration	12% of Labor Costs
Miscellaneous Permit and Fees	Various

EXHIBIT D

COMPANY SAFETY RULES

1. Personnel safety is a primary objective to COMPANY and PERMITTEE. The Parties shall stress SAFETY FIRST to their respective employees and contractors in the performance of their duties. Applicable safety standards and practices of COMPANY and PERMITTEE shall be made available to COMPANY and PERMITTEE personnel and shall be adhered to at all times.

2. All personnel of COMPANY, PERMITTEE, or the contractors of either Party working on or in proximity to any cable route shall be required to comply with COMPANY safety guidelines and shall attend periodic safety training classes provided by their respective companies. The safety classes shall be conducted as needed and shall reflect the latest available concepts and practices. Should COMPANY and PERMITTEE operational personnel agree that any other applicable training is required, this also shall be provided by the appropriate Party. Each Party shall bear its own costs of providing safety training to its employees and/or its contractors' employees, of attending any required safety courses, and of providing any other applicable training that may be required. Any extra-ordinary training costs related to the performance of the Agreement shall be provided at the sole cost of PERMITTEE.

3. Both Parties shall endeavor to assure that all work is performed in a good workmanlike manner in accordance with applicable telecommunications and electric industry standards and in compliance with all applicable laws, ordinances, codes, and regulations of any governmental authority (including Cal-OSHA) having jurisdiction thereof.

4. PERMITTEE'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS SHALL NOT ENTER ANY ENERGIZED VAULT, MAN HOLE OR ENCLOSURE OR PERFORM ANY WORK ON THEM WITHOUT PRIOR CERTIFICATION FROM COMPANY.

5. COMPANY workers shall follow the same safety work rules as PERMITTEE workers when working in the vicinity of any PERMITTEE Attachments provided such rules, at a minimum, comply with the applicable industry standard. PERMITTEE shall inform COMPANY workers of its other internal work practices concerning PERMITTEE Attachments. COMPANY workers shall maintain the safe working distance specified by PERMITTEE.

6. Any COMPANY representative will have the authority to stop any work, including PERMITTEE access and activities, if the COMPANY representative determines that the work cannot be completed safely.

Advice 4978-E
December 15, 2016

Attachment 3

Crown Castle Agreement

(Confidential)

Advice 4978-E
December 15, 2016

Attachment 4

Astound Agreement

(Confidential)

Advice 4978-E
December 15, 2016

Attachment 5

Modus Agreement

(Public)

**Duct, Conduit, and Other Underground
Structure Space License Agreement**

between

Pacific Gas and Electric Company

and

Modus, Inc. (dba Modus Rex, Inc.)

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TABLE OF EXHIBITS

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TELCO CONTACT PERMIT

Exhibit B - CONDUIT ATTACHMENT FEE

Exhibit C - ESTIMATED UNIT COSTS

Exhibit D – COMPANY SAFETY RULES

These Exhibits are part of this Agreement and are attached separately. The exhibits referenced within this Agreement may be revised or converted to an electronic on-line application in the future, which will be deemed an equivalent means of requesting access, providing notification and coordination of the activities. The Permittee shall use the latest issued exhibits identified by the Company when requesting access, providing notification and coordination of their activities.

DUCT, CONDUIT, AND OTHER STRUCTURE SPACE LICENSE AGREEMENT

This Duct, Conduit, and Other Structure Space License Agreement (“Agreement”) is entered into by and between Pacific Gas and Electric Company (“Company”), a California corporation and Modus, Inc. (dba Modus Rex, Inc.) (“Permittee”), a Delaware corporation (together, the Company and Permittee shall be referred to as the “Parties”), and in consideration of the mutual promises and agreements set forth herein, the Parties hereby agree as follows:

ARTICLE 1

GRANT OF LICENSE

1.1 LICENSE

1.1.1 The Company gives Permittee permission, on the terms and conditions stated herein, to install and maintain completely dielectric communications cables (no metallic shield or embedded tracing wire allowed) and related equipment (hereinafter sometimes collectively referred to as “Attachment(s)”) in “Excess Capacity” (as defined in Section 2.1.4) within distribution ducts, conduits, manholes, handholes, and other distribution structures, including above-ground distribution conduit, ducts, or other structures used for services entry to buildings (but excluding space on poles or other aerial facilities) owned, leased, or controlled by, or licensed to the Company for use in the provision of electric service, consistent with General Order (G.O.) 128 of the California Public Utilities Commission (CPUC) and Company standards, as discussed herein, collectively referred to as “Company Space,” along with a license to use such rights-of-way owned, leased, or controlled by, or licensed to the Company (“Company Rights-of-Way”) as are reasonably required to enable Permittee to access Company Space for such purposes. The Company Space to be accessed shall be identified by Permittee and submitted to the Company for authorization in the form set forth in Exhibit A.

1.1.2 This Agreement as a license is given pursuant to the authority of, and upon, and subject to, the conditions prescribed by G.O. 69-C of the CPUC, dated and effective July 10, 1985, which by this reference is incorporated herein. This license is effective the date it is signed and delivered by the Company, and will terminate based on any of the terms and conditions set forth in this Agreement. No Permittee use of any Company Space or Company Rights-of-Way shall create or vest in Permittee any ownership or property rights herein; Permittee’s rights hereunder shall be and remain a mere license, but subject to CPUC Decision (D.) 98-10-058 as amended or superseded (“CPUC ROW Decisions”).

1.1.3 Pursuant to G.O. 69-C this license is conditioned upon the right of the Company, either upon order of the CPUC, or upon the Company’s own decision, consistent with CPUC ROW Decisions, to commence or resume the use of the property in question whenever, in the interest of the Company’s utility service to its patrons or customers, it shall appear necessary or

desirable to do so. In such case, the Company will use commercially reasonable efforts consistent with applicable legal requirements to accommodate relocations, rearrangements, and replacements under Section 6.3.

1.1.4 Notwithstanding anything in this Agreement to the contrary, including Article 10 (“Dispute Resolution”), interpretation of the meaning and effect of G.O. 69-C in this Agreement shall be in the exclusive jurisdiction of the CPUC.

1.2 THE COMPANY DISCLAIMER

Permittee expressly acknowledges that the Company does not represent or warrant that Company Rights-of-Way, whether by easement, franchise, or other form of permission, are broad enough to permit Permittee’s Attachments in the Company Space or for the exercise by Permittee of any other rights set forth in this Agreement. It shall be the sole responsibility and obligation of Permittee to secure any such further rights or permission for the placement and use of the Permittee’s Attachments in Company Space and Company Rights-of-Way as may be necessary, including obtaining any permits or other approvals required by an authorized permitting agency. Permittee shall obtain any such necessary rights, including any required encroachment permits, from Granting Authorities before installing attachments. “Granting Authority(ies)” means those persons or entities from whom the Company has received the Company Rights-of-Way and includes both governmental and non-governmental entities and persons. This Agreement does not include a conveyance of any interest in real property, the Company Space, or facilities in which Company Space is located, and Permittee agrees to never claim such interest.

1.3 CHALLENGE TO AGREEMENT

1.3.1 If a Granting Authority, in any forum, in any way challenges, disputes, or makes a claim against the Company’s authority to grant this license, the Company shall give Permittee reasonable written notice of same. The Company reserves the right in its sole discretion to require Permittee to remove from Company Space the Attachments that are the subject of the challenge, dispute, or claim, within thirty (30) days of written notice from the Company or such earlier time required by the Granting Authority. Permittee shall, upon such written notice, relinquish use of the Company Space, and remove any Attachments promptly prior to the last date specified in the notice.

1.3.2 Notwithstanding the above, if within the period described above, Permittee obtains an order from a court or regulatory agency with jurisdiction over the challenge, dispute, or claim against the Company’s authority to grant this license, which order allows Permittee’s Attachments to remain in the Company Space, Permittee shall be allowed to maintain the Attachments in the Company Space under the terms of that order, until a final decision or judgment is made at the highest level desired by Permittee. In the event of such contest, Permittee shall indemnify and hold the Company harmless from any expense, legal action, or cost, including reasonable attorneys’ fees, resulting from the exercise of Permittee’s right to contest under this section at Permittee’s sole expense.

1.4 INCREMENTAL PROPERTY RIGHTS AND COSTS

1.4.1 If any time during this Agreement a Granting Authority of the Company makes a demand for additional compensation or indicates its intent to reopen, renegotiate, or terminate the Company's franchise, easement, license, or other agreement establishing the Company's rights in any of the Company Rights-of-Way as a direct result of the existence of this Agreement, the Company shall promptly notify Permittee. After conferring with the Company and allowing the Company an opportunity to resolve the issue, Permittee may attempt at Permittee's expense to resolve the issue with the Granting Authority through negotiation or settlement. Any decision to commence litigation on behalf of or in the name of the Company shall be in the sole discretion of the Company, and any subsequent litigation, whether brought by the Company at Permittee's request or by such third party Granting Authority, shall be conducted at Permittee's expense, but under the Company's direction and control with respect to any issues materially affecting the Company's rights in the Company Right-of-Way. If the dispute is resolved through negotiation or settlement approved by Permittee (which approval will not be unreasonably withheld), and such resolution requires the payment of additional consideration by the Company, Permittee shall reimburse the Company for the amount of such additional consideration, to the extent such amount is due to Permittee's presence in the Company Space. If the dispute is resolved through litigation in accordance with the foregoing and the judgment resulting there from requires the payment of additional consideration by the Company, Permittee shall reimburse the Company for the amount of such additional consideration to the extent such amount is due to Permittee's presence on or in the Company Space. If Permittee possesses the power of eminent domain within the relevant jurisdiction, Permittee shall have the right, in its sole discretion, independently of the Company to seek resolution of such a dispute by exercising such power of eminent domain, provided that Permittee shall pay all costs of such exercise. Permittee's obligation to reimburse the Company for the amounts of additional compensation due to Granting Authorities shall survive this Agreement.

1.4.2 Notwithstanding the foregoing, the Company after conferring with Permittee at any time and in the Company's sole discretion, may require that Permittee discontinue such attempts to resolve issues with a particular governmental Granting Authority by litigation or otherwise; provided that, such requirement of the Company notwithstanding, Permittee may still continue to attempt to resolve such issues independently of the Company, by litigation or otherwise, so long as the Company is not named, joined, or otherwise included as a party or principal in any such litigation or other attempt; and provided further that the foregoing shall not be deemed to prohibit Permittee from exercising any eminent domain rights that Permittee is authorized to pursue within the relevant jurisdiction.

1.5 TERM OF LICENSE

This Agreement is for a term of five (5) years from the date it is signed by the Company and will thereafter continue in effect for recurring five (5) year periods until terminated, as of the end of the then-current term, by either Party upon one (1) year's written notice to the other.

1.6 COMMISSION JURISDICTION

Unless otherwise expressly ordered by the CPUC, this Agreement at all times shall be subject to such modifications as the CPUC may direct from time to time in the exercise of its jurisdiction.

ARTICLE 2

PLACING ATTACHMENTS

2.1 PROCESS FOR ATTACHING IN THE COMPANY SPACE

2.1.1 Request For Information

Permittee may, from time to time, submit a written request for information about the availability of Company Space. The request for information must include the proposed route or location of Attachments. Company shall respond in writing to such request for information as quickly as possible using commercially reasonable methods and consistent with applicable legal, safety, and reliability requirements. Availability of Company Space shall be determined in a manner consistent with Sections 2.1.4 and 2.1.5. Subject to the Confidentiality provisions in Section 13.4, the Company shall, within such period, provide Permittee with access to maps, and currently available records such as drawings, plans, and other information that it uses in its daily transaction of business necessary for evaluating the availability of Excess Capacity for the proposed route or location of Attachments specified by the Permittee in the request. Permittee agrees to pay in advance all of the Company's estimated unit costs currently in effect to respond to the request for information. The total cost for providing the information will be reconciled based on the Company's actual costs at the end of the task. The Company's estimated unit costs for such work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

2.1.2 Request For Access

If Permittee desires to install new Attachments or replace existing Attachments in Company Space, it must submit a request for access using the form attached as Exhibit A, or such other form as the Company may specify from time to time in its reasonable discretion, and identify the facilities and equipment, including their physical characteristics (e.g., material and dimensions), to be placed in the Company Space and a copy of Permittee's property lease or right-of-way document, if any are required.

Permittee agrees to pay in advance all of the Company's estimated unit costs to respond to the request for access. The total cost for responding to the request is reconciled based on the Company's actual costs at the end of the task. The Company's estimated unit costs for such work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

2.1.3 Response to Request for Access

The Company shall provide a written response to the Permittee's request for access as quickly as possible using commercially reasonable methods and consistent with applicable legal, safety, and reliability requirements. The response shall state whether the request is being granted or denied, and if the request is denied, provide all of the reasons why the request is being denied. In granting a request, the Company will select or approve Permittee's selection of the specific duct, conduit, or innerduct, or other location in the Company Space that Permittee may occupy. If denial of access is proposed, upon request of Permittee the Company will promptly meet with Permittee and explore in good faith reasonable alternatives to accommodate the proposed access. Permittee must request such meeting within ten (10) business days of receipt of a notice of denial.

2.1.4 Space Availability

(a) "Excess Capacity" means volume or capacity in a distribution duct, conduit, manhole, handhole, or other distribution structure, including an above-ground distribution conduit, duct, or other structure used for service entry to a building (but excluding space on poles or other aerial facilities) which can be used for dielectric communications cables and equipment, consistent with General Order 128 and the Company's nondiscriminatory design, engineering and construction standards and safety rules.

(b) Excess Capacity that is not assigned, reserved for Company use or occupied shall be deemed available for use by Permittee.

(c) Excess Capacity shall be deemed assigned if, on a nondiscriminatory basis, another customer, telecommunications carrier or cable TV company has an agreement with Company or other legal right to occupy said Excess Capacity and has requested or reserved access to a particular route or specific distribution conduit or duct or other space containing said Excess Capacity prior to Permittee requesting the use of such particular route or specific distribution conduit or duct or other space containing said Excess Capacity.

(d) Permittee's Attachments shall be permitted to co-occupy, with the Company's electrical cables and other equipment, available Excess Capacity consistent with G.O. 128 and Company's nondiscriminatory standards and safety rules.

(e) A duct, conduit, innerduct, or other location for which there is insufficient Excess Capacity to accommodate Permittee's request for access, or which is already occupied or assigned for use by the Company or another telecommunications carrier, cable TV company or customer shall be deemed unavailable for assignment to Permittee.

(f) No Company Space shall be deemed assigned to, or otherwise reserved for use by, the Company unless (i) prior to Permittee's request for access the Company had a bona fide development plan in place and the specific reservation of the attachment capacity is reasonably and specifically needed for the provision of utility service within such twelve (12) month period; (ii) there is no other feasible solution to the Company's meeting its immediately foreseeable needs; (iii) there is no commercially reasonable available technological means for

increasing the capacity of the support structure for additional attachments; and (iv) the Company has attempted to negotiate with Permittee for a cooperative solution to the capacity problem.

2.1.5 Denial Based on Safety, Reliability, Engineering Considerations

In the event the Company denies a request based on reasons of safety or reliability, the Company shall, in the event of dispute, bear the burden of establishing that the proposed Attachment cannot be accommodated without threat to safety or utility service reliability, and that the Company's relevant practices and standards are being applied in a nondiscriminatory manner.

2.1.6 Make Ready Work

(a) Determination of Need

If a request for access is granted, the Company, using the information included in the request and other information as the Company may reasonably require, will conduct engineering evaluations to determine any rearrangement (including replacement, if necessary), modifications, or expansions, or other work to or in the Company Space or any Company or third-party-owned facilities or equipment in the Company Space ("Make Ready Work") that is needed to accommodate the Attachments, and shall provide an estimate of the Company's unit costs for such Make Ready Work. The Company's estimated unit costs for such work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

Alternatively, if Permittee meets the qualifications established by the Company's guidelines, Permittee may at its expense conduct the engineering evaluations to determine and identify the required Make Ready Work. The Company reserves the right to check, at Permittee's expense, the accuracy of the Permittee's engineering evaluations and if relevant errors are found, Permittee shall be notified and advised to resubmit its request with accurate information. If relevant efforts result in a request for access that results in an infraction of applicable codes and standards, Permittee agrees to reimburse the Company for the actual cost of checking the Permittee's initial and resubmitted engineering evaluation.

(b) Performance of Make Ready Work

If it is determined that Make Ready Work will be necessary to accommodate Permittee's Attachments, Permittee will have forty-five (45) days (the "Acceptance Period") to either (i) submit payment for the estimated unit costs authorizing the Company to complete the Make Ready Work, in which case, the Company shall schedule and complete the Make Ready Work on a nondiscriminatory, commercially-reasonable basis without unreasonable delay, following its receipt of such payment; or (ii) advise the Company of its willingness to perform the proposed make-ready work itself if permissible in the application area.

Permittee agrees to pay in advance all of the Company's estimated unit costs to perform Make Ready Work at Permittee's expense. The total cost for such work is reconciled based on the Company's actual costs at the end of the project. The Company's estimated unit costs for such

work are set forth in Exhibit C. The Company may revise such estimated unit costs, from time to time, upon sixty (60) days' written notice to Permittee.

Alternatively, the Company will at its discretion allow Permittee to perform Make Ready Work at Permittee's expense. Make Ready Work performed by Permittee, or by a contractor approved by Company ("Authorized Contractor") and selected by Permittee, shall be performed in accordance with the Company's specifications and in accordance with the same standards and practices that would be followed if such work were being performed by the Company or the Company's contractors. Neither Permittee nor Authorized Contractors selected by Permitted shall conduct such work in any manner that degrades the integrity of Company Space or any equipment or facilities in such Space or in which such Space is located or that interferes with any existing use of any such equipment, facilities, or Space.

Permittee shall make arrangements with third parties who have facilities occupying Company Space regarding reimbursement for any expenses incurred by such third parties in transferring or rearranging their facilities and equipment to accommodate the placement of Permittee's Attachments in the Company Space.

2.1.7 Occupancy of Company Space After Make Ready Work Completed and Relinquishment of Assignment of Company Space If Not Timely Occupied

(a) Permittee must exercise its access rights and occupy a specific duct, conduit, or innerduct, or other location in the Company Space approved for Permittee's occupation (i) within ninety (90) days after a determination that Make Ready Work is not necessary in accordance with Section 2.1.6(a) above; (ii) within ninety (90) days after the completion of Make Ready Work if the Company is performing the Make Ready Work pursuant to Section 2.1.6(b) above; or (iii) within twelve (12) months after Permittee's request for access is granted by the Company if the Permittee advises the Company that the Permittee will perform the Make Ready Work pursuant to Section 2.1.6(b) above.

(b) If Permittee does not exercise its access rights and occupy a specific duct, conduit, or innerduct, or other location in the Company Space approved for Permittee's occupation within the time set forth in subsection (a) above, or if Permittee has elected to make the determination of the necessity for any Make Ready Work itself in accordance with the second paragraph of Section 2.1.6(a) but has failed to complete that determination within ninety (90) days, then the assignment will lapse and the assigned location will be deemed available for use by the Company or another telecommunications carrier.

2.1.8 Installation of Attachments

Under no circumstances shall Permittee enter Company's Rights-of-Way, enter or access Company Space or install any Attachments in Company Space without (a) obtaining any necessary encroachment or street occupation permits from local authorities, (b) receiving all required approvals from Company and (c) being accompanied by Company personnel, as set forth in Section 3.2.

Permittee shall be responsible for the placement of Attachments in the Company Space and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities.

Permittee shall provide the Company with a construction schedule and thereafter keep the Company informed of anticipated changes in the construction schedule.

Permittee's Attachments shall be placed, constructed, maintained, repaired, and removed in full compliance with the requirements, specifications, and standards specified in this Agreement, and the current (as of the date when such work is performed) versions of the following:

(a) the National Electrical Safety Code ("NESC"), published by the Institute of Electrical and Electronic Engineers, Inc. ("IEEE");

(b) the National Electrical Code ("NEC"), published by the National Fire Protection Association ("NFPA");

(c) General Order 128;

(d) The Company's nondiscriminatory design, engineering and construction standards and safety rules.

Without limitation, Permittee will mechanically and electrically protect Permittee's cables within any Company splice box, vault or enclosure. Permittee shall be permitted to locate communications splices, coils of communications cable, or other communications equipment within a Company vault or other subsurface enclosure to the extent consistent with the Company's nondiscriminatory standards and practices as applied to other communications splices, coils of communications cable, or other communications equipment, excluding those used by the Company solely for its own internal communications purposes. To the extent practicable, Permittee shall place its own enclosure, if required, adjacent to the Company enclosure for splices, coils of cable or other equipment.

Permittee is solely responsible to maintain safe and efficient working and operating conditions. Notwithstanding the foregoing, any Company representative has the authority to temporarily revoke any Permittee access or stop Permittee activities if the Company representative believes that there is or has been a violation of any safety rule or procedure or that the situation is unsafe.

2.1.9 Inspection

Permittee must notify the Company when Permittee has completed work in the Company Space and Company Rights-of-Way. If the Company has not had the opportunity to complete the review, the Company will attempt to meet with Permittee's contractors to finalize the review. If the Company is not available when Permittee provides the Company with notice of completion then the Company may perform a post-construction inspection as described in this section. Permittee shall reimburse the Company for costs associated with the presence of the Company's authorized employee or representative.

The Company may, at Permittee' expense, conduct a post-construction inspection of the Permittee' installation of Attachments in Company Space for the purpose of determining the conformance of the installation to the access authorization. The Company will provide the Permittee advance notice of the proposed date and time of the post-construction inspection. Permittee may accompany the Company on the post-construction inspection.

The Company shall have the right, but not the obligation, to make periodic inspections of all Attachments installed in Company Space.

2.1.10 Noncompliance

If an inspection reflects that Permittee's Attachments are not in compliance with the terms of this Agreement, Permittee shall bring the Attachments into compliance within thirty (30) days after being notified of such noncompliance. If any modification work to the Company's facilities or Company Space is required to bring Permittee's Attachments into compliance, Permittee shall provide written notice to the Company and such modification work will be treated in the same fashion as Make Ready Work in connection with a new request for access. If the violation creates a hazardous condition, Permittee must bring its Attachments into compliance upon notification.

2.1.11 "As-Built" Drawings

Within ninety (90) days following Permittee's installation of any Attachment(s) in Company Space, Permittee shall provide Company with "as-built" drawings (CAD and PDF versions) of the communications cables or other related equipment including fiber cable numbers, fiber cable type and count, tracer wire details, butterfly drawings, splice locations, building POI locations, GPS or latitude & longitude coordinates.

2.2 ADDITIONAL ATTACHMENTS

Permittee shall not install any additional Attachments in Company Space without first securing the Company's written authorization in accordance with Section 2.1 and following the process for a new attachment.

ARTICLE 3

COMPLIANCE WITH LAW AND SAFETY REQUIREMENTS

3.1 APPLICABLE LAW AND REQUIREMENTS

3.1.1 Permittee shall, at its sole expense, install, maintain, operate and keep in good repair the Attachments in conformity with all applicable state and federal laws, including rules, and regulations of state and federal governmental agencies, and other governmental authorities, including, but not limited to, the rules, regulations, and orders of the CPUC, and in conformity with any safety standards or requirements as may be required or specified by the Company in its sole, good faith discretion.

3.1.2 Permittee shall be solely responsible for the Attachments and shall take all necessary precautions during installation, and maintenance on or near the Company's facilities and the Company's Rights-of-Way so as to protect all persons and the property of the Company and others from injury and damage. Without limiting the foregoing and without assuming any obligation to maintain or monitor the Attachments, if the Company believes that Permittee's Attachments are in any way endangering any person or property or are in noncompliance with any requirement referenced in Sections 3.1.1 (a "Hazardous Condition"), the Company may, in its sole discretion, take any steps it deems necessary to remedy the Hazardous Condition; in which case Permittee shall be required to reimburse the Company for its actual costs of doing so. Notwithstanding the above, the Company shall take reasonable action to notify Permittee of any Hazardous Condition that does not require immediate attention, and where feasible, allow Permittee to correct the Hazardous Condition prior to any corrective action taken by the Company. In addition, if the Company notifies Permittee of any Hazardous Condition, Permittee shall remedy such condition promptly and in no case later than ten (10) days after receipt of such notice.

3.2 ACCESS TO COMPANY SPACE OR RIGHTS OF WAY

3.2.1 The following requirements apply to any access to and any work performed in Company Space and Rights-of-Way:

(a) Except for emergencies or service restoration, Permittee shall notify the Company not less than five (5) business days in advance before entering Company Space. The notice shall state the general nature of the work to be performed. All such activities shall be conducted during normal business hours except as otherwise agreed by the Parties or required by a government agency. For emergencies or service restoration, Permittee shall provide Company with as much notice as reasonably possible under the circumstances, and Company shall make commercially reasonable efforts to provide an authorized employee or agent of Company present to enable Permittee to enter Company Space. If an electric service shutdown is required, the Permittee shall arrange a specific schedule with the Company prior to performing any work in the proximity of energized electrical conductors or equipment.

(b) Notwithstanding any other provision of this Agreement, an authorized employee or representative of the Company must be present when Permittee or personnel acting on Permittee's behalf enter or perform work within the Company Space and Company Rights-of-Way. Permittee shall pay Company for Company's employee or representative based upon Company's current fully loaded labor rate.

(c) Access shall be in accordance with CPUC General Order 128.

(d) Any access by Permittee, whether for initial installation, maintenance, repairs or service restoration shall be performed by using "qualified" personnel, as such term is defined in the California Code of Regulations Title 8, division 4, Chapter 4, under the supervision of a qualified electrical worker licensed in the State of California and whose qualifications have been verified in advance by Company. All work under this Agreement to be performed in the proximity of energized electrical conductors or equipment shall only be performed by qualified electrical workers in accordance with Title 8 -- State of California High

Voltage Safety Orders as amended. Permittee (including any Authorized Contractor selected by Permittee) must satisfy the qualifications required by the Company of its own personnel and the Company's contractors who perform such work as set forth on https://www.pge.com/en_US/for-our-business-partners/purchasing-program/suppliers/suppliers.page.

(e) Permittee shall not make any physical contact with Company's cables or other elements of Company's electrical system.

(f) Permittee shall comply with Company's established safety rules, a copy of which is attached to and incorporated by reference in this Agreement as Exhibit D, when working around electric cables or other elements of the Company electric system.

(g) Permittee shall comply with any conditions legally imposed by the owner of the property on which the Right of Way is located.

(h) Permittee shall indemnify Company as further provided in Section 4.1 of this Agreement with respect to such entry as specified in Section 3.2.

3.2.2 Company's authorized employee or agent shall have the authority, without subjecting Company to any liability, to suspend Permittee's work in and around Company Space or Company facilities if, in the sole discretion of that employee or agent, any Hazardous Conditions arise or any unsafe practices (including unsafe practices which may threaten the integrity of Company's facilities) are being followed by Permittee's employees, agents or contractors. The presence of Company's authorized employee or agent shall not relieve Permittee of its responsibility to conduct all of its work and operations in and around Company Space or Company facilities in a safe and workmanlike manner.

3.2.3 Company, from time to time by written notice to Permittee, may specify additional reasonable and necessary entry conditions or requirements in addition to the requirements set forth in this Agreement.

3.3 WORK PRIORITY

Permittee's workers shall conduct their work so as not to interfere or delay any other work performed or scheduled to be performed by the Company or its authorized agents on or near the Company Space or the Company Rights-of-Way, or to interfere with Company's utility services or operations. The Company and its authorized agents shall have priority to access the Company Space and the Company Rights-of-Way at any time and Permittee's Workers must adhere to any requests made by the Company to modify or interrupt the work of Permittee's workers.

3.4 IDENTIFICATION TAGS

Permittee shall identify its Attachments in accordance with Company's Labeling Standard (ISTS 2014).

3.5 MARK AND LOCATE RESPONSIBILITY

Permittee shall be responsible for marking and locating its underground Attachments in accordance with California Government Code § 4216 and shall become a member of U.S.A (Underground Service Alert) and shall maintain membership for the duration of this Agreement.

ARTICLE 4

INDEMNIFICATION AND LIABILITY

4.1 INDEMNIFICATION

4.1.1 The Parties agree to bear any and all Losses (defined below) that arise out of or are in any way connected with the performance of this Agreement as set forth in this section. All losses, fines, penalties, claims, demands, legal liability, damages, attorneys' fees, costs of investigation and litigation, expenses, settlements, verdicts, awards or judgments (collectively, "Losses") connected with or resulting from injury to or death of any person (including employees of the Parties), damage to or destruction of any property (including property of the Parties), damage to the environment or any natural resources, or violation of any local, state or federal law, rule or regulation, including but not limited to environmental laws and regulations, however caused on either Party shall be borne as follows:

(a) Any Losses arising from injury to or death of an employee, contractor, subcontractor, or agent of a Party or arising from damage to or destruction of any property of a Party shall be borne by such Party, and such Party shall defend, indemnify and hold harmless the other Party and each of its officers, directors, partners, employees, and agents ("Indemnitees") against such Losses, excepting only Losses as may be caused by the sole negligence or willful misconduct of the Indemnitees.

(b) Excepting Losses arising from injury to or death of an employee, contractor, subcontractor, an agent of a Party or arising from damage to or destruction of any property of a Party, any Losses caused by the joint or concurrent negligence of the Parties or their respective contractors or agents, or by the failure of the Parties to observe or perform any obligation hereunder, shall be borne by the Parties according to their degree of fault.

(c) Any Loss caused by entering the Company Space or Company Rights-of-Way by the employee, agent, contractor or subcontractor of a Party shall be borne solely by such Party.

(d) Any Loss caused by the sole act or omission of a Party shall be the responsibility of that Party.

If either Party, as the result of any claim for Losses, is compelled to pay damages to a greater extent than specified in this section, such Party shall have, to the extent of the excess so paid by it, the right of contribution from the other Party.

4.1.2 Notwithstanding the foregoing, Permittee shall indemnify, defend and hold harmless the Company, its officers, directors, partners, agents, and employees (collectively, "the

Company Indemnitees”) from and against all claims, demands, losses, damages, expenses, and legal liability connected with or resulting from (i) interruption, discontinuance or interference with Permittee’s service to any of its customers or any economic or commercial loss of Permittee’s customers, resulting therefrom (but only to the extent of Permittees customers’ claims, not those of the Company), with the exception of claims, demands, losses, damages, expenses, and legal liability arising solely from the gross negligence or willful misconduct of the Company or the Company’s agents, employees or independent contractors who are directly responsible to the Company; (ii) Permittee’s failure to comply with applicable rules, regulations or safety standards; and (iii) any and all claims or assessments of any kind or nature, including increased franchise fees, right-of-way or easement fees, made or asserted against the Company Indemnitees by any third party, including any Granting Authority, franchise authority, governmental authority or other property owner as a result of Permittee’s use of, or failure to relinquish use of the Company Space or Company Rights-of-Way or remove any Attachments as may be required by the Company pursuant to Section 1.3 or Section 11.2. Regardless of fault on behalf of Permittee, the Company shall exercise reasonable commercial effort toward restoring the Company’s service to its customers in accordance with the Company’s customary procedures and priorities, to enable Permittee to restore Permittee’s Attachments in the Company Space and to resume service to Permittee’s customers so as to minimize any and all losses once an interruption, discontinuance, or interference with a Party’s service to its customers occurs. Nothing in this Article 4 shall affect the application of the provisions of Section 13.11 “No Third Party Beneficiaries.” Under no circumstance shall either Party have the authority to admit any liability on behalf of the other.

4.1.3 Any Party seeking indemnification hereunder (“Indemnitee”) shall notify the other party (“Indemnitor”) of the nature and amount of such claim and the method and means proposed by the Indemnitee for defending or satisfying such claim within a reasonable time after the Indemnitee receives written notification of the claim. The Indemnitee shall consult with the Indemnitor respecting the defense and satisfaction of such claim, and the Indemnitee shall not pay or settle any such claim without the prior written consent of the Indemnitor, which consent shall not be unreasonably withheld or delayed; provided, however, that the Indemnitee’s failure to give such notice shall not impair or otherwise affect the Indemnitor’s obligation to indemnify against such claim except to the extent that the Indemnitor demonstrates actual damage caused by such failure.

4.2 AD VALOREM INDEMNITY

If the ad valorem property taxes, special assessments, local improvement district levies, or other levies or taxes (collectively, “Ad Valorem Taxes”) or bases for ad valorem taxation payable by the Company with respect to the Company facilities increase as a result of Permittee’s Attachments, or the Ad Valorem Taxes increase or change due to any construction, installation, or improvements provided pursuant to this Agreement, the Company shall deliver to Permittee copies of the relevant tax bills and supporting materials along with a detailed calculation of such taxes to be paid by Permittee only to the extent such Ad Valorem Tax exceeds the amount which the Company would otherwise pay. Within thirty (30) days Permittee shall pay or reimburse the Company for such amounts. Permittee may make such reimbursements or payments under protest, in which event Permittee and the Company shall attempt to agree upon a calculation of the amount payable by Permittee. If agreement cannot be reached, either party may refer the

dispute to mediation in accordance with the provisions of Article 10. Permittee also shall be responsible for timely payment of any Ad Valorem Taxes or other taxes and fees levied against the Permittee's Attachments or other of Permittee's property or equipment located in the Company Space or the Company Rights-of-Way that are billed directly to Permittee by the taxing authority. However, in the event the same property or interests are assessed an Ad Valorem Tax or sales or use tax in the same year to both the Company and Permittee, each Party agrees to promptly notify the other upon becoming aware thereof to cooperate with the other in seeking appropriate redress from the authority or authorities assessing the property or imposing the tax; and, provided the Company has notice of such potential double taxation, the Company agrees at Permittee's request, not to pay such tax and seek reimbursement from Permittee without having first protested, at Permittee's expense, the assessment at the appropriate administrative level.

4.3 DEFENSE OF CLAIMS

Both parties shall, on request, defend any suit asserting one or more claims covered by the indemnities set forth in Section 4.1.1. Permittee shall, on the Company's request, defend any suit asserting one or more claims covered by the indemnities set forth in Sections 4.1.2 and 4.2. The indemnifying party shall pay any costs that may be incurred by the Indemnitee in enforcing such indemnity provisions, including reasonable attorney's fees.

4.4 LIMITATION OF LIABILITY

In no event shall the total cumulative liability of the Company, arising out of or in connection with the use of the Company Space or Company Rights-of-Way or relating to this Agreement, exceed the sum of the attachment fees received, and forecasted to be received, by the Company under the current Agreement with Permittee whether based on contract, tort, including negligence, or otherwise. The above limitations of liability shall not apply to any willful misconduct on the part of the Company or to the Company's liability for contribution under Section 4.1.1 if Permittee, as the result of any claim for Losses, is compelled to pay damages to a greater extent than specified in that section.

4.5 NO WARRANTIES

Except as specifically and expressly provided herein, the Company makes no warranty, express or implied with respect to the Company Space or Company Rights-of-Way or the use of the Company Space or Company Rights-of-Way by Permittee. The Company Space is "as is." The Company disclaims all warranties express or implied including the warranties of merchantability and fitness for particular purposes.

4.6 CONSEQUENTIAL DAMAGES

Notwithstanding anything in this Agreement to the contrary, neither Party nor its contractors or subcontractors shall be liable to the other Party for the other Party's own special, consequential or indirect damages, including without limitation, loss of use, loss of profits or revenue, loss of capital or increased operating costs, arising out of this transaction or from breach of this Agreement, even if either Party is negligent, grossly negligent, or willful.

ARTICLE 5

INSURANCE

With the written consent of the Company, and until Permittee has demonstrated to the Company's satisfaction adequate financial strength to support self-insurance, Permittee shall maintain the following insurance coverage or self-insurance and be responsible for its contractors and subcontractors maintaining sufficient limits of the same insurance coverage.

5.1 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

5.1.1 Workers' Compensation insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal, where Permittee performs any work in the Company Space or the Company Rights-Of-Way.

5.1.2 Employers' Liability insurance shall not be less than \$1,000,000 for injury or death each accident.

5.2 COMMERCIAL GENERAL LIABILITY

5.2.1 Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions.

5.2.2 The limit shall not be less than \$10,000,000 each occurrence for bodily injury, property damage, personal injury, and completed operations, with no exclusions for collapse, explosions, and underground hazards. Defense costs shall be provided as an additional benefit and not included within the limits of liability. Coverage limits may be satisfied using an umbrella or excess liability policy.

5.2.3 Coverage shall: (1) by "Additional Insured" endorsement add as additional insured the Company, its directors, officers, agents and employees with respect to liability arising out of the work performed by or for the Permittee for ongoing operations as well as completed operations. If the Permittee has been approved to self-insure, Permittee shall, at all times, extend coverage to the Company in the same position as if the Company were an "Additional Insured" under a policy; (2) be endorsed to specify the Permittee's insurance is primary and that any insurance or self-insurance maintained by the Company shall not contribute with it.

5.3 BUSINESS AUTO

5.3.1 Coverage shall be at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, code 1 "any auto."

5.3.2 The limit shall not be less \$3,000,000 each accident for bodily injury and property damage.

5.4 POLLUTION LIABILITY

5.4.1 Coverage for bodily injury, property damage, including clean up costs and defense costs resulting from sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, hydrocarbons, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water.

5.4.2 The limit shall not be less than \$1,000,000 each occurrence for bodily injury and property damage.

5.4.3 The Company shall be named as additional insured.

5.5 ADDITIONAL INSURANCE PROVISIONS

5.5.1 Before commencing any work in the Company Space or Company Right-Of-Way, Permittee shall furnish the Company with certificates of insurance and Additional Insured endorsement of all required insurance for Permittee.

5.5.2 The policies shall state that insurers shall provide thirty (30) days prior written notice to the Company prior to cancellation.

5.5.3 The certificate must be signed by a person authorized by that insurer to bind coverage on its behalf and shall be submitted to:

Pacific Gas and Electric Company
Joint Utility Department
1850 Gateway Blvd, Room 6032
Concord, CA 94520

A copy of all such insurance certificates and the Additional Insured endorsement shall be sent to the Company's Contract Negotiator and/or Contract Administrator.

5.5.4 The Company may require Permittee to furnish to the Company certificates of insurance or other evidence thereof attesting that the insurance required by Article 5 is in effect.

5.5.5 Upon request, Permittee shall furnish the Company the same evidence of insurance for its contractors and subcontractors, as the Company requires of Permittee.

5.5.6 Permittee shall provide Company with written notice of cancellation within five (5) business days of Permittee's receipt of notice of cancellation from insurer.

5.5.7 If Permittee claims to self-insure then this section applies. Notwithstanding any provisions in this Article to the contrary, Permittee represents that its customary practice, as of the date of this Agreement, is to self-insure for all or a portion of the insurance required of it under this Agreement. Accordingly the parties agree that such self-insurance shall constitute compliance with all or some of the requirements of this Article for as long as Permittee generally continues such practice of corporate self-insurance with respect to its regular conduct of

business. Permittee covenants to advise the Company when it ceases generally to self-insure with respect to its regular conduct of business.

ARTICLE 6

DISCONTINUATION, RELOCATION, AND RECLAMATION OF SPACE

6.1 DISCONTINUATION

Notwithstanding any provision to the contrary, the Company shall be entitled at any time to discontinue the Company's use of the Company Space and Company Rights-of-Way, and, in such case, Permittee shall immediately remove its Attachments. In the event of any such discontinuation, the Company shall give Permittee advance written notice as soon as reasonably practicable, and the Company may propose alternative Company Space to meet the needs of the Permittee in which case Permittee shall be entitled to a pro rata credit for any Attachment fees paid in advance against future use of the alternative Company Space. If no alternate Company Space is available or acceptable, Permittee shall be entitled to a pro-rata refund of any Attachment fees that were paid in advance. The Company shall allow Permittee to buy the Company's interest in the discontinued Space at the Company's replacement cost new minus depreciation. Permittee shall be responsible for transferring its Attachments at its expense.

6.2 RELOCATION

The Company at any time may relocate all or any portion of its support structures to other locations. In the event of any such relocation, the Company may in its discretion allow Permittee to transfer its Attachments to the new support structure location in accordance with this Agreement. The Company shall provide Permittee sixty (60) days advance written notice, although less notice is permitted if required by the circumstances. The Company shall have the right to proceed with the relocation in accordance with such notice, including, but not limited to, the right, in good faith, to reasonably determine the extent and timing of, and methods to be used for, the relocation of the Company's support structure, provided that the Company shall use commercially reasonable efforts to coordinate such relocation with Permittee. Permittee shall be kept informed of determinations made by the Company in connection with the scheduling of such relocation, and Permittee shall be responsible for transferring its Attachments at its expense in accordance with such schedule.

6.3 RECLAMATION OF SPACE

6.3.1 In the event that the Company, either upon order of the CPUC, or upon the Company's own decision, consistent with legal requirements determines that the Company must commence or resume use of all or a portion of Company Space previously assigned to Permittee, for the purpose of providing utility service to its patrons or customers, and the Company shall evaluate if the Company can accommodate continued use of the Company Space by Permittee through expansion of the subject support structures or other modifications.

6.3.2 If the Company is not able to make such accommodation, the Company shall provide Permittee as much advance written notice of the need for the removal or transfer of Permittee's attachments as is practicable but in no event less than thirty (30) days advance

written notice. Each notice shall specify the portion, if less than all, of the Company Space to which such notice relates. Permittee shall remove its Attachments from the Company Space, at its expense, prior to the expiration of the notice period, and all rights and privileges of Permittee in the Company Space that is the subject of the notice shall terminate upon expiration of the notice period.

6.3.3 In the event of reclamation pursuant to Sections 6.3.1 and 6.3.2 above, Company shall make a good faith effort to assist Permittee in finding alternative routes owned or controlled by Company and to the extent there is Company Space available within or through which any affected Permittee Attachments may be relocated. If an alternative route is located, Permittee shall be responsible for transferring its Attachments at its expense. Permittee shall be entitled to a pro rata credit for any Attachment fees paid in advance against future use of the alternative Company Space. If no alternate Company Space is available or acceptable, Permittee shall be entitled to a pro-rata refund of any Attachment fees that were paid in advance.

ARTICLE 7

RESTORATION OF SERVICE

In the case of any incident whereby both the Company's electrical service capacity and Permittee's telecommunications capacity are adversely affected, restoration of Permittee's Attachments and Permittee's capacity shall at all times be subordinate to restoration of the Company's electrical service capacity, unless otherwise agreed in advance by both Parties. Nonetheless, the Company shall permit Permittee to make repairs to restore its Attachments and its capacity, as long as such restoration efforts do not, in the Company's sole discretion, interfere with the Company's restoration activities, and as long as Permittee complies with Section 3.2, Access to Company Space.

ARTICLE 8

ATTACHMENT FEES

8.1 ANNUAL ATTACHMENT FEES

8.1.1 Prior to placing its Attachments in Company Space, Permittee shall pay to the Company an Attachment fee for each Attachment to be installed in Company Space. The Attachment fee shall be equal to the percentage of the annual cost of ownership of the Company's support structure, computed by dividing the volume or capacity rendered unusable by Permittee's Attachment by the total usable volume or capacity, consistent with the methodology in the CPUC's ROW decisions. For this purpose, "total usable volume or capacity" means all volume or capacity in which the Company's lines, plant, or system could legally be located, including the volume or capacity rendered unusable by Permittee's Attachments and equipment of other licensees using the Company Space.

8.1.2 The current rates for Attachments to conduits and other support structures are set forth in Exhibit B to this Agreement. The Company may revise the unit rates from time to time,

but no more often than annually. The revised unit rates shall be effective following sixty (60) days' notice to Permittee.

8.2 UNAUTHORIZED ATTACHMENTS

8.2.1 Upon request of Company, Permittee shall provide written evidence of Attachment authorization from the Company for any Company Space in which Permittee has an Attachment. If Permittee cannot provide such written evidence of Attachment authorization, Permittee shall pay to the Company Five Hundred Dollars (\$500.00) per block (or portion of a block) per cable for each unauthorized Attachment as an unauthorized attachment fee. The unauthorized Attachment shall then be subject to all the terms of this Agreement. If payment is not received within thirty (30) days of invoice date, the Company may invoke rights under Article 11 "Breach and Termination," and remove Permittee's Attachments from the Company Space.

8.2.2 Notwithstanding Section 8.2.1 above, any unauthorized attachment or unauthorized entry in Company Space or Company ROW is a material and substantial breach of Permittee's obligations under this Agreement and may justify Company's termination of this Agreement.

ARTICLE 9

REMOVAL; ABANDONMENT

9.1 REMOVAL OF ATTACHMENTS

Upon any expiration or termination, Permittee shall relinquish use of the Company Space and remove its Attachments from the Company Space in accordance with this Agreement prior to the effective date of expiration or termination at Permittee's sole expense. If Permittee fails to remove the Attachments by the expiration of this Agreement or as may be required by the Company within the time period designated by notice pursuant to Article 6 or otherwise required by this Agreement, the Company shall be entitled to consider Permittee's Attachments abandoned as set forth in Section 9.2, below.

9.2 ABANDONMENT

If Permittee fails to use its Attachments for any period of one hundred eighty (180) days, the Company shall provide Permittee written notice of its intent to treat such Attachments as abandoned. If Permittee identifies such Attachments as abandoned or fails to respond to such notice within thirty (30) days, Permittee shall be deemed to have abandoned such Attachments which abandonment shall terminate all rights of Permittee as to the abandoned Attachment. Upon abandonment by Permittee, the Company shall have the right to retain such Attachments as the Company's own, or to remove the Attachments at Permittee's sole risk and expense, and Permittee agrees to reimburse the Company for its expense. Company shall also have the right to leave the abandoned Attachments in place. Abandonment shall not relieve Permittee of any obligation, whether of indemnity or otherwise, accruing prior to completion of any removal by the Company or which arises out of an occurrence happening prior thereto.

ARTICLE 10

DISPUTE RESOLUTION

10.1 MEDIATION

10.1.1 The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between a representative designated by the Company Vice President empowered to resolve the dispute and an executive of similar authority of the Permittee. Either Party may give the other Party written notice of any dispute. Within twenty (20) days after delivery of the notice, the executives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute.

10.1.2 If the matter has not been resolved within thirty (30) days of the first meeting, either Party may initiate a mediation of the controversy in accordance with the Commercial Mediation Rules of the American Arbitration Association. All negotiations and any mediation conducted pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and which is incorporated herein by reference.

10.2 CPUC RESOLUTION

If a disputed matter has not been resolved within thirty (30) of the first meeting in accordance with Section 10.1.1, then notwithstanding Section 10.1.2, either Party make seek resolution of any dispute under this Agreement pursuant in a proceeding brought before the CPUC in accordance with CPUC rules and decisions.

10.3 INJUNCTION

Notwithstanding the foregoing provisions, a Party may seek a preliminary injunction or other provisional judicial remedy if in its judgment such action is necessary to avoid irreparable damage.

10.4 CONTINUING PERFORMANCE

Each Party is required to continue to perform its obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

ARTICLE 11

BREACH AND TERMINATION

11.1 BREACH

Permittee and the Company agree that neither shall proceed against the other for breach or default under this Agreement by mediation or otherwise before the offending Party has had notice of and a reasonable time and opportunity to respond to and cure any breach or default.

For purposes of this Agreement, a reasonable time to cure any breach or default shall be deemed to be thirty (30) days after notice. Notwithstanding the above, in the case of safety concerns, legal reasons, or if Permittee's use interferes with the Company's ability to serve utility customers, fewer than thirty (30) days are required. This section does not supersede the rights and obligations of the Parties under Section 3.1.2 for "Hazardous Conditions." If a Party claims that more than thirty (30) days are reasonable to cure a breach, that Party shall have the burden of proving the reasonableness of the claim for more than thirty days. If such breach or default cannot be cured within such thirty (30) day period, and the defaulting party has promptly proceeded to cure the same and to prosecute such cure with due diligence, the time for curing the breach shall be extended for such period of time as may be reasonably necessary to complete such cure.

11.2 TERMINATION

11.2.1 Subject to Section 11.1, if Permittee (a) fails to make any payment due within the time frame specified, (b) fails to obtain or maintain the appropriate CPCN from the CPUC, (c) fails to take reasonable steps to resolve any safety issue, (d) fails to maintain the insurance and bond requirements in compliance with Articles 5 and 12 of this Agreement or (e) otherwise fails to comply with any material term or condition of this Agreement, the Company, at its sole discretion, upon thirty (30) days written notice to Permittee (or such shorter period of time as may be determined by the Company in order to comply with a notice from a Granting Authority or under law, if applicable), may without further liability terminate this Agreement and any permission granted to Permittee as to all or any portion of those facilities which are the subjects of such breach of agreement, and Permittee shall immediately relinquish use of the Company Space and remove its Attachments from the Company Space in accordance with this Agreement prior to the effective date of termination.

11.2.2 This Agreement shall also terminate in whole or in part, upon the occurrence of any of the following events:

(a) at the option of either Party, upon the termination or abandonment by Permittee of the use of all of the Permittee's Attachments. If less than all of Permittee's attachments are abandoned or terminated, the Company shall have the option of terminating its permission under this Agreement for only the Attachments abandoned or terminated;

(b) at the option of the non-defaulting Party and without limiting the rights or remedies of the non-defaulting party, upon a breach or default by the other party of any material obligation hereunder and the continuance thereof following the expiration of the applicable remedy period;

(c) upon the written mutual agreement of the Parties; or

(d) in accordance with the provisions of Section 1.1.3, if the Company or the CPUC invoke the provisions of G.O. 69-C.

11.2.3 Upon termination of this Agreement for all or any portion of the Company Space used by Permittee, Permittee shall immediately relinquish use of the Company Space and

promptly remove its Attachments or the Company may remove Permittee's Attachments from the Company Space at Permittee's expense.

11.3 BANKRUPTCY OF PERMITTEE

11.3.1 The occurrence of any of the following shall constitute a default which may be a basis for termination of this Agreement:

- (a) Permittee files for protection under the Bankruptcy Code of the United States or any similar provision under the laws of the State of California; or
- (b) Permittee has a receiver, trustee, custodian or other similar official appointed for all or substantially all of its business or assets; or
- (c) Permittee makes an assignment for the benefit of its creditors.

11.3.2 Assignment of Agreement

Any person or entity to which this Agreement is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Agreement on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to the Company an instrument confirming such assumption.

ARTICLE 12

FAITHFUL PERFORMANCE BOND; LETTER OF CREDIT

To cover the faithful performance by Permittee of its obligations under this Agreement, Permittee shall be required to furnish (i) a valid performance bond or (ii) an unconditional irrevocable letter of credit issued by a financial institution acceptable to the Company. Said bond or letter of credit shall be in such form approved in writing by the Company and in such amount as the Company shall specify from time to time based on the financial exposure caused by the Permittee's Attachment to the Company to be maintained in full force and effect throughout the term of this Agreement. The amount of said bond or letter of credit shall be initially set at Fifty Thousand Dollars (\$50,000). Permittee shall furnish such performance bond or letter of credit on or before the effective date of this Agreement, and remain in full force thereafter for a period of one year. Said bond or letter of credit shall provide ninety (90) days advance written notice to the Company of expiration, cancellation or material change thereof. Said bond or letter of credit will automatically extend for additional one-year periods from the expiration date, or any future expiration date, unless the surety or financial institution provides to the Company, not less than ninety (90) days' advance written notice, of its intent not to renew such bond or letter of credit. The liability of the surety under said bond or the financial institution under said letter of credit shall not be cumulative and shall in no event exceed the amount as set forth in this bond or letter of credit, in any additions, riders, or endorsements properly issued by the surety or the financial institution as supplements thereto. Failure of Permittee to obtain a bond or letter of credit as specified will be cause to terminate this Agreement. If the surety on the bond or financial institution issuing the letter of credit should

give notice of the termination of said bond or letter of credit and if Permittee does not reinstate the bond or letter of credit or obtain a bond or letter of credit from another surety or financial institution that meets the requirements of this Article 12 within fifteen (15) days after written notice from the Company, the Company may by written notice to Permittee, terminate this Agreement and revoke permission to use the Company Space and Rights-of-Way covered by any or all applications submitted by Permittee hereunder, and Permittee shall remove its Attachments from the Company Space to which said termination applies within thirty (30) days from such notification.

ARTICLE 13

MISCELLANEOUS

13.1 NOTICES

Any notice given pursuant to this Agreement by a Party to the other, shall be in writing and given (with proof of delivery or proof of refusal of receipt) by letter mailed, hand or personal delivery, or overnight courier to the following:

If delivered to the Company by U.S. mail and express mail:

Program Manager, Joint Utility Department
Pacific Gas and Electric Company
1850 Gateway Blvd., 6th Floor
Concord, CA 94520

If delivered to Permittee by U.S. mail and express mail:

Modus, Inc.
Attn: Legal
240 Stockton St., 3rd Floor
San Francisco, CA 94108

or to such other addresses as either Party may, from time to time, designate in writing for that purpose.

Notices shall be deemed given (i) when received in the case of hand or personal delivery, (ii) three days after mailing by United States mail as provided above, or (iii) the next business day in the case of reliable overnight courier. For routine notice changes, proof of delivery is not required. By mutual agreement facsimile notices may be used for routine notice changes.

13.2 APPLICABLE LAW

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of California, exclusive of conflicts of laws provisions.

13.3 CHANGE OF LAW

In the event any change in law or government regulation materially modifies either Party's rights or obligations under law or regulations existing as of the effective date of this Agreement with respect to the right to access, or the obligation to provide access to, utility support structures and rights-of-way, either Party may by providing written notice to the other party, require that this Agreement be renegotiated in good faith and amended to reflect such changes in law or regulations. In the event the Parties fail to reach agreement on such amendment, either Party may invoke the dispute resolution provisions of this Agreement.

13.4 CONFIDENTIAL INFORMATION

If either Party provides confidential information to the other, it shall be in writing and clearly marked as confidential. The receiving Party shall protect the confidential information from disclosure to third parties with the same degree of care afforded its own confidential and proprietary information, except that neither Party shall be required to hold confidential any information which becomes publicly available other than through the recipient, which is required to be disclosed by a governmental or judicial order, which is independently developed by the receiving Party, or which becomes available to the receiving Party without restriction from a third party. Either Party may require the Parties to sign a standard Company Non-Disclosure Agreement prior to receipt of confidential information, including in particular maps, plans and drawings. These obligations shall survive expiration or termination of this Agreement for a period of two (2) years, or longer as set forth in a standard Company Non-Disclosure Agreement.

13.5 FORCE MAJEURE

Neither Party shall be liable for any failure to perform this Agreement when such failure is due to "force majeure." The term "force majeure" means acts of God, strikes, lockouts, civil disturbances, interruptions by government or court orders, present and future valid orders of any regulatory body having proper jurisdiction, acts of the public enemy, wars, riots, inability to secure or delay in securing labor or materials (including delay in securing or inability to secure materials by reason of allocations promulgated by authorized governmental agencies), landslides, lightning, earthquakes, fire, storm, floods, washouts, or any other cause, whether of the kind herein enumerated or otherwise, not reasonably within the control of the Party claiming "force majeure." The "force majeure" shall, so far as possible, be remedied with all reasonable dispatch. The settlement of strikes or lockouts or industrial disputes or disturbances shall be entirely within the discretion of the Party having the difficulty. The Party claiming any failure to perform due to "force majeure" shall provide verbal notification thereof to the other Party as soon as practicable after the occurrence of the "force majeure" event. Force Majeure shall not excuse Permittee's obligation to make payment for its Attachments except that if the event of force majeure remains uncured for a period of thirty (30) days and renders the Attachments unusable, then Permittee shall be excused from its rental payment obligation as to the affected Attachments throughout the duration of the event of force majeure. If the Company is the party claiming force majeure and the event of force majeure prevents restoration of Permittee's previously authorized attachments within six (6) months of the force majeure event, then the facilities shall be deemed to be discontinued and the provisions of Section 6.1 of this Agreement shall apply.

13.6 SEVERABILITY

The invalidity of one or more clauses, sentences, sections, or articles of this Agreement shall not affect the validity of the remaining portions of the Agreement so long as the material purposes of this Agreement can be determined and effected.

13.7 LIENS

Permittee and its contractors shall keep the Company Space, Rights-of-Way, and Company facilities free from any statutory or common law lien arising out of any work performed, materials furnished, or obligations incurred by Permittee, its agents or contractors. Permittee agrees to defend, indemnify and hold the Company harmless from and against any such liens, claims or actions, together with costs of suit, and reasonable attorneys' fees incurred by the Company in connection with any such claim or action. In the event that there shall be recorded against said Company Space, Rights-of-Way, or Company facilities any claim of lien arising out of any such work performed, materials furnished, or obligations incurred by Permittee or its contractors and such claim of liens not removed within ten (10) days after notice is given by the Company to Permittee to do so, the Company shall have the right to pay and discharge said lien without regard to whether such lien shall be lawful, valid, or correct.

13.8 SURVIVABILITY

Any expiration or termination of Permittee's rights and privileges shall not relieve Permittee of any obligation, whether indemnity or otherwise, that has accrued prior to such termination or completion of removal of Permittee's Attachments.

13.9 CERTIFICATION OF PERMITEE

Permittee warrants that it is a telecommunications carrier that has been granted a certificate of public convenience and necessity (CPCN) from the CPUC. Permittee warrants that its certificate authorizes it to use governmental rights-of-way for the purposes of this Agreement. The Permittee also represents that it is an entity that is governed by CPUC ROW Decisions and as such has the right to nondiscriminatory access to Company Space.

13.10 ASSIGNMENT AND SUBLEASE

13.10.1 This Agreement and the rights, interests and obligations hereunder are being granted in reliance on the financial standing and technical experience of Permittee and are thus granted personally to Permittee and shall not be assigned or delegated, in whole or in part without the prior written consent of the Company, consent for which shall not be unreasonably withheld. Any attempt to assign or delegate without such consent shall be void. Notwithstanding the foregoing, this Agreement may be assigned or delegated in whole or in part by the Company or Permittee without the other Party's consent for (i) assignments in connection with interests that arise by reason of any deed of trust, mortgage, indenture or security agreement granted or executed by such Party, (ii) assignments to wholly-owned subsidiaries or affiliates under common control with a Party, where, in the absence of the other Party's consent thereto the assigning Party retains responsibility for the payment and performance of all of its obligations and liabilities hereunder, (iii) assignments by operation of law in connection with any

merger or consolidation of a Party with or into any Person, whether or not the Party is the surviving or resulting Person, or (iv) assignments to a purchaser of all of the outstanding equity securities of, or substantially all of the assets of, either Party. Any assignment that does not comply with the provisions of this Section 13.10.1 shall be null and void, and the putative assignee shall have no right to maintain or install attachments in the Company Space or to use Company Rights-of-Way.

13.10.2 Permittee shall not sublease any of the Company Space.

13.11 NO THIRD PARTY BENEFICIARIES

All of the terms, conditions, rights and duties provided for in this Agreement are and shall always be, solely for the benefit of the Parties. It is the intent of the Parties that no third party (including customers of either Party) shall ever be the intended beneficiary of any performance, duty, or right created or required pursuant to the terms and conditions of this Agreement.

13.12 HAZARDOUS MATERIALS

The California Health and Safety Code requires businesses to provide warnings prior to exposing individuals to material listed by the Governor as chemicals known to the State of California to cause cancer, birth defects, or reproductive harm. The Company uses chemicals on the Governor's list at many of its facilities and locations. Accordingly, in performing the work or services contemplated in this Agreement, Permittee, its employees, agents and subcontractors may be exposed to chemicals on the Governor's list. Permittee is responsible for notifying its employees, agents, and subcontractors that work performed hereunder may result in exposures to chemicals on the Governor's list. The Company will provide Permittee upon request with a copy of a Materials Safety Data Sheet for every known Hazardous Chemical on or in the Company Rights-of-Way.

13.13 WAIVER

The failure of either Party 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 in full force and effect.

13.14 PAYMENTS

Unless otherwise specified in this Agreement, Permittee shall make all payments to the Company within thirty (30) days of receipt of the invoice to:

For U.S. mail and express mail:

Pacific Gas & Electric Company
P.O. Box 997300
Sacramento, CA 95899-7300

13.15 DEFINITIONS

Capitalized terms used are defined in this Agreement and shall have the meanings set forth herein.

13.16 TITLES AND HEADINGS

The table of contents, titles and headings of Articles and Sections of this Agreement are inserted for the convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

13.17 NO STRICT CONSTRUCTION

The Parties have participated jointly in the negotiation and execution of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement or any of the documents delivered pursuant hereto, this Agreement and such documents shall be construed as if jointly prepared by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement or such documents.

13.18 POWER SUPPLY

The electrical connection for power supplies shall be governed by Company's electric tariffs and not by this Agreement. If any Attachments include metered or unmetered electrical equipment, Permittee shall notify the Company in writing to arrange for electric service and appropriate billing prior to using the Attachment.

13.19 SERVICE CONNECTION/DISCONNECTION

Any electrical service connection or disconnection to Permittee's attachments from Company's electric supply system shall only be performed by the Company in accordance with the Company's rates, applicable tariffs and CPUC Rules and Regulations.

13.20 COMPANY STANDARDS

Any and all references to Company standards or procedures refer to Company standards or procedures as they may be amended, modified or revised by the Company from time to time in its sole discretion, consistent with the Company's legal obligations consistent with the CPUC's ROW decisions and the Company's safety and other legal obligations.

13.21 ENTIRE AGREEMENT


This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, commitments or understanding with respect to the subject matter hereof and may be amended only by a writing signed by both Parties.

MODUS, INC., dba Modus Rex, Inc.

PACIFIC GAS AND ELECTRIC COMPANY

By: 

Erik Corkery

By: 

Sandra Lee

Title: Managing Director

Title: Interim Director,
Electric Generation Interconnection

Date: NOVEMBER 21, 2016

Date: 12/1/2016

EXHIBIT A
APPLICATION FOR CONDUIT ACCESS



WM Notification No. _____

PART 1 **REQUEST FOR CONDUIT ACCESS BY APPLICANT (To PG&E)**

PG&E – Joint Utilities Department
850 Stillwater Rd
West Sacramento, CA 95605

Date _____
License Agreement _____
Prior Agreement Number _____
Application Number _____
Applicant Job Number _____

Permittee Company _____

In accordance with the executed agreement between the Permittee and PG&E, we hereby request access to conduits/ducts at the location route _____

_____, in the City of _____, as described in the attached drawings.

Requestor Company _____

Phone _____

Address _____

Requestor Authorization Signature _____

Requestor Authorization Name _____

Title _____

CONDUIT ACCESS INFORMATION APPLIED FOR UNDER THIS APPLICATION

Cable Size and Type _____ Number of Miles _____ Number of Manholes _____

PART 2 **FINAL AUTHORIZATION BY PG&E (To Permittee)**

You are hereby authorized for installation.

PG&E Authorization Signature _____ Date _____

PG&E Authorization Name _____ Title _____

PG&E Job No(s) _____ Contact Permit No. _____

PART 3 **NOTICE OF COMPLETION BY APPLICANT & PG&E**
(To PG&E Project Manager within 10 days after completion)

We hereby notify you that the work authorized above has been completed and is ready for your inspection.

Permittee Authorization Signature _____ Date _____

Permittee Authorization Name _____ Title _____

PG&E Inspector Authorization Signature _____ Date _____

PG&E Inspector Authorization Name _____ Title _____

Notes: _____

1. PART (1) & (3) to be completed by applicant, part (2) and (3) to be completed by PG&E.
2. PG&E's authorization must be secured before the Permittee's facilities are installed.
3. At PG&E request, Permittee shall be able to provide the authorized Contact Permit (this form) for all work performed.
4. The Permittee shall exercise the access rights to conduit(s) within 90 days of the authorization in Part 2.
5. Applicant to provide Contact Permit Number for existing facilities (see Note 4).

04/2016

EXHIBIT B CONDUIT ACCESS RATE

I. CONDUIT ACCESS RATE CALCULATION MODEL

The conduit access rates are calculated based on the depreciation accrual rate schedule submitted to the CPUC, Energy Division annually. The previous year's submittal is used to calculate the conduit access rate for the following year (i.e. 2013 schedule submitted in 2014 determines rental rate for 2015).

A. Historical Net Cost of a Conduit (Account 366 Only, Previous Year):

$$\frac{\text{A\&G Expenses (Electric)}}{\text{Gross Plant - Depr Reserve - Accum Def. Income Taxes (Electric)}}$$

B. Depreciation Expense (Account 366 Only, Previous Year) %:

$$\frac{\text{Deprn. Rate for Gross Conduit Invest.} \times \text{Gross Conduit Invest}}{\text{(Net Conduit Invest - Def. Inc. Tax)}}$$

C. Administrative Expense % (Total Electric, Previous 5 Year Average):

$$\frac{\text{A\&G Expenses (Electric)}}{\text{Gross Plant - Depr Reserve - Accum Def. Income Taxes (Electric)}}$$

D. Maintenance & Operating Expenses % (Electric, Previous 5 Year Average):

$$\frac{\text{Account 584 + Account 594 (Underground Line)}}{\text{Invest - Depr Reserve - Accum Def Income Taxes (Underground Line)}}$$

E. Normalized Taxes % (Company Total, Previous 5 Year Average):

$$\frac{\text{A/C (408.1+409.1) + (410.1+411.4) - 411.1 (Total Company)}}{\text{Gross Plant - Depr Reserve - A/C 190, Def Income Taxes (Total Company)}}$$

F. Total Operating Cost for Conduits:

$$F = A * [B + C + D + E]$$

G. Annual Rental Rate per foot (or one attachment):

$$G = 100.0\% \text{ of Total Operating Cost for Conduits (F) } = 1.0 * F$$

CALCULATION DETAIL:

EXHIBIT B CONDUIT ACCESS RATE

1 Historical Net Cost per Conduit Foot =

Basis - Conduit Account 366 - Only
 Period - Current Year Only (2015)
 Calc.Summary - numerator/denominator:

a. 1,749,743,580
 b. 150,011,136

Proof/ Check:

= \$11.66

A/C 366 - Deprn Reserve - Accum Def Income Taxes

Feet of Conduit

	<u>2,565,753,274</u>	-	795,916,460	-	<u>20,093,234</u>
			28,411.2	X	5,280

ft/mile

\$ 11.66 Net conduit investment per ft.

2 Depreciation Expense =

Basis - Conduit Account 366 - Only
 Period - Current Year Only (2015)
 Calculation Summary:

Gross/net conduit invest. factor: 1.466
 Times: Depr. Rate 2.91%
 Equals Depreciation Factor 4.27%

Deprn. Rate for
Gross Conduit
Invest.

X

Gross Conduit
Invest
/ (Net Conduit
Invest - Def. Inc.
Tax)

(2015 rate)
2.91%

X

2,565,753,274
1,749,743,580
(Gross-to-Net
factor)

4.27% (Net plant basis)

3 Administrative Expense =

Basis - Electric
 Period - 5 Year Average
 Calc.Summary - numerator/denominator:

a. 936,900,496
 b. 23,618,158,546

Proof/ Check:

= 3.97%

A&G Expenses (Electric)

Gross Plant - Depr Reserve - Accum Def. Income Taxes (Electric)

	<u>936,900,496</u>		936,900,496		
	44,117,206,558	-	19,898,943,466	-	<u>600,104,546</u>

3.97% Electric A&G expenses and Electric plant in service.

4 Maintenance & Operating Expenses =

Basis - Numerator:UG Line; Denominator: UG
 Period - 5 Year Average
 Calc.Summary - numerator/denominator:

a. 75,319,480
 b. 4,126,455,467

Proof/ Check:

= 1.83%

Account 584 + Account 594 (Underground Line)

Invest - Depr Reserve - Accum Def Income Taxes (Underground Line)

	<u>36,961,723</u>	+	<u>38,357,758</u>		
	7,878,574,668	-	3,671,789,629	-	<u>80,329,571</u>

1.83% Maintenance & Operation Expenses related to conduit.

5 Normalized Taxes =

Basis - Total Company
 Period - 5 Year Average

A/C (408.1+409.1) + (410.1+411.4) - 411.1 (Total Company)

Gross Plant - Depr Reserve - A/C 190, Def Income Taxes (Total Company)

EXHIBIT B CONDUIT ACCESS RATE

Calc. Summary - numerator/denominator:

a.	909,242,709		448,019,067	+	1,329,905,808	-	868,682,165
b.	31,949,827,707		60,944,997,578	-	27,484,900,533	-	1,510,269,338

Proof/ Check:

=	2.85%		2.85%				Company-wide percentage of normalized taxes.
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6

SUMMARY AND VARIANCE ANALYSIS:		
Expense Item	2015 Pricing Model	
	Rate	Amount
a. Net Conduit Investment (per foot)	\$11.66	
b. Depreciation	4.27%	0.50
c. Admin & Gen	3.97%	0.46
d. O&M	1.83%	0.21
e. Tax	2.85%	0.33
f. Return (Utility Authorized)	8.06%	0.94
g. Total Operating Cost per Conduit Foot	20.97%	2.45
h. Usable Space Rate Percent & Cost per Conduit Foot	100.00%	\$2.45
	(NOTE 1)	(NOTE 2)

**EXHIBIT C
UNDERGROUND FACILITIES
ESTIMATED UNIT COST
MAKE READY & REARRANGEMENT WORK**

Labor Cost Description	2016 Hourly Rate Per Person
Construction (Inspection)	\$ 181.34
Engineering and Planning	\$ 186.40
Mapping	\$ 163.12
Project Management	\$ 170.63
Service Planning	\$ 174.22
General and Administration	12% of Labor Costs
Miscellaneous Permit and Fees	Various

EXHIBIT D

COMPANY SAFETY RULES

1. Personnel safety is a primary objective to COMPANY and PERMITTEE. The Parties shall stress SAFETY FIRST to their respective employees and contractors in the performance of their duties. Applicable safety standards and practices of COMPANY and PERMITTEE shall be made available to COMPANY and PERMITTEE personnel and shall be adhered to at all times.

2. All personnel of COMPANY, PERMITTEE, or the contractors of either Party working on or in proximity to any cable route shall be required to comply with COMPANY safety guidelines and shall attend periodic safety training classes provided by their respective companies. The safety classes shall be conducted as needed and shall reflect the latest available concepts and practices. Should COMPANY and PERMITTEE operational personnel agree that any other applicable training is required, this also shall be provided by the appropriate Party. Each Party shall bear its own costs of providing safety training to its employees and/or its contractors' employees, of attending any required safety courses, and of providing any other applicable training that may be required. Any extra-ordinary training costs related to the performance of the Agreement shall be provided at the sole cost of PERMITTEE.

3. Both Parties shall endeavor to assure that all work is performed in a good workmanlike manner in accordance with applicable telecommunications and electric industry standards and in compliance with all applicable laws, ordinances, codes, and regulations of any governmental authority (including Cal-OSHA) having jurisdiction thereof.

4. PERMITTEE'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS SHALL NOT ENTER ANY ENERGIZED VAULT, MAN HOLE OR ENCLOSURE OR PERFORM ANY WORK ON THEM WITHOUT PRIOR CERTIFICATION FROM COMPANY.

5. COMPANY workers shall follow the same safety work rules as PERMITTEE workers when working in the vicinity of any PERMITTEE Attachments provided such rules, at a minimum, comply with the applicable industry standard. PERMITTEE shall inform COMPANY workers of its other internal work practices concerning PERMITTEE Attachments. COMPANY workers shall maintain the safe working distance specified by PERMITTEE.

6. Any COMPANY representative will have the authority to stop any work, including PERMITTEE access and activities, if the COMPANY representative determines that the work cannot be completed safely.

Advice 4978-E
December 15, 2016

Attachment 6

Declaration for Confidential Treatment

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

**PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
ADVICE LETTER 4978-E**

**DECLARATION SUPPORTING
CONFIDENTIAL DESIGNATION
ON BEHALF OF
PACIFIC GAS AND ELECTRIC COMPANY**

1. I, Dave Gabbard, am the Director, Electric Generation Interconnection, of Pacific Gas and Electric Company ("PG&E"), a California corporation. Kevin Dasso, the Vice-President, Electric Asset Management of PG&E, delegated authority to me to sign this declaration. My business office is located at:

Pacific Gas and Electric Company
245 Market Street, Mailstop B23H
San Francisco, CA 94105

2. PG&E will produce the information identified in paragraph 3 of this Declaration to the California Public Utilities Commission ("CPUC") or departments within or contractors retained by the CPUC in response to a CPUC audit, data request, proceeding, or other CPUC request.

Name or Docket No. of CPUC Proceeding (if applicable): Advice Letter E-4978.
3. Title and description of document(s): 1. Duct, Conduit, and Other Underground Structure Space License Agreement between Pacific Gas and Electric Company and Crown Castle NG West LLC; 2. Duct, Conduit, and Other Underground Structure Space License Agreement between Pacific Gas and Electric Company and Astound Broadband LLC
4. These documents contain confidential information that, based on my information and belief, has not been publicly disclosed. These documents have been marked as confidential, and the

basis for confidential treatment and where the confidential information is located on the documents are identified on the following chart:

Check	Basis for Confidential Treatment	Where Confidential Information is located on the documents
<input type="checkbox"/>	<p>Customer-specific data, which may include demand, loads, names, addresses, and billing data</p> <p>(Protected under PUC § 8380; Civ. Code §§ 1798 <i>et seq.</i>; Govt. Code § 6254; Public Util. Code § 8380; Decisions (D.) 14-05-016, 04-08-055, 06-12-029; and General Order (G.O.) 77-M)</p>	
<input type="checkbox"/>	<p>Personal information that identifies or describes an individual (including employees), which may include home address or phone number; SSN, driver's license, or passport numbers; education; financial matters; medical or employment history (not including PG&E job titles); and statements attributed to the individual</p> <p>(Protected under Civ. Code §§ 1798 <i>et seq.</i> and G.O. 66-C)</p>	
<input type="checkbox"/>	<p>Physical facility, cyber-security sensitive, or critical energy infrastructure data, including without limitation critical energy infrastructure information (CEII) as defined by the regulations of the Federal Energy Regulatory Commission at 18 C.F.R. § 388.113</p> <p>(Protected under Govt Code § 6254(k), (ab); 6 U.S.C. § 131; 6 CFR §29.2)</p>	
<input type="checkbox"/>	<p>Accident reports</p> <p>(Protected under PUC § 315 and G.O. 66-C, 2.1)</p>	
<input checked="" type="checkbox"/>	<p>Commercial records that, if revealed, would place PG&E at an unfair business disadvantage, including market-sensitive data; business plans and strategies; long-term fuel buying and hedging plans; price, load, or demand forecasts; power purchase agreements within three years of execution; and internal financial information</p> <p>(Protected under Govt Code §§ 6254, 6276.44; Evid Code § 1060; Civ. Code § 3426 <i>et seq.</i>; and G.O. 66-C, 2.2 (b))</p>	<p>Entirety of both agreements.</p>
<input type="checkbox"/>	<p>Proprietary and trade secret information or other intellectual property</p>	

(Protected under Civ. Code § 3426 *et seq.*; Govt Code § 6254.15)

Corporate financial records
(Protected under Govt Code § 6254.15)

Third-Party information subject to non-disclosure or confidentiality agreements
(*See, eg.*, D.11-01-036)

Other basis: These agreements were negotiated between PG&E and each counterparty and contain terms and provisions that vary from the revised form License Agreement and thus reflect commercially sensitive information. Pursuant to CPUC Decisions 16-10-043 and 98-10-058, these agreements should be kept confidential. Where the agreements are consistent with the revised form License Agreement (and therefore are not confidential), those terms and conditions are publicly disclosed through the filing of the revised form License Agreement.

Entirety of both agreements.

5. The importance of maintaining the confidentiality of this information outweighs any public interest in disclosure of this information. This information should be exempt from the public disclosure requirements under the Public Records Act.
6. I declare under penalty of perjury that the foregoing is true, correct, and complete to the best of my knowledge.
7. Executed on this 15th day of December 2016 at SAN FRANCISCO California.



Dave Gabbard
Director, Electric Generation
Interconnection
Pacific Gas and Electric
Company

**PG&E Gas and Electric
Advice Filing List
General Order 96-B, Section IV**

AT&T	Division of Ratepayer Advocates	Office of Ratepayer Advocates
Albion Power Company	Don Pickett & Associates, Inc.	OnGrid Solar
Alcantar & Kahl LLP	Douglass & Liddell	Pacific Gas and Electric Company
Anderson & Poole	Downey & Brand	Praxair
Atlas ReFuel	Ellison Schneider & Harris LLP	Regulatory & Cogeneration Service, Inc.
BART	Evaluation + Strategy for Social Innovation	SCD Energy Solutions
Barkovich & Yap, Inc.	G. A. Krause & Assoc.	SCE
Bartle Wells Associates	GenOn Energy Inc.	SDG&E and SoCalGas
Braun Blaising McLaughlin & Smith, P.C.	GenOn Energy, Inc.	SPURR
Braun Blaising McLaughlin, P.C.	Goodin, MacBride, Squeri, Schlotz & Ritchie	San Francisco Water Power and Sewer
CENERGY POWER	Green Charge Networks	Seattle City Light
CPUC	Green Power Institute	Sempra Energy (Socal Gas)
California Cotton Ginners & Growers Assn	Hanna & Morton	Sempra Utilities
California Energy Commission	ICF	SoCalGas
California Public Utilities Commission	International Power Technology	Southern California Edison Company
California State Association of Counties	Intestate Gas Services, Inc.	Southern California Gas Company (SoCalGas)
Calpine	Kelly Group	Spark Energy
Casner, Steve	Ken Bohn Consulting	Sun Light & Power
Center for Biological Diversity	Leviton Manufacturing Co., Inc.	Sunshine Design
City of Palo Alto	Linde	Tecogen, Inc.
City of San Jose	Los Angeles County Integrated Waste Management Task Force	TerraVerde Renewable Partners
Clean Power	Los Angeles Dept of Water & Power	TerraVerde Renewable Partners, LLC
Clean Power Research	MRW & Associates	Tiger Natural Gas, Inc.
Coast Economic Consulting	Manatt Phelps Phillips	TransCanada
Commercial Energy	Marin Energy Authority	Troutman Sanders LLP
Cool Earth Solar, Inc.	McKenna Long & Aldridge LLP	Utility Cost Management
County of Tehama - Department of Public Works	McKenzie & Associates	Utility Power Solutions
Crossborder Energy	Modesto Irrigation District	Utility Specialists
Crown Road Energy, LLC	Morgan Stanley	Verizon
Davis Wright Tremaine LLP	NLine Energy, Inc.	Water and Energy Consulting
Day Carter Murphy	NRG Solar	Wellhead Electric Company
Defense Energy Support Center	Nexant, Inc.	Western Manufactured Housing Communities Association (WMA)
Dept of General Services	ORA	YEP Energy