

**LIGHT POLE LICENSE AGREEMENT
FOR WIRELESS ATTACHMENT
BETWEEN
THE CITY OF Moreno Valley
AND
SOUTHERN CALIFORNIA EDISON**

This No-Fee Light Pole License Agreement (“Agreement”) is made as of _____, 2016 (“Effective Date”), by and between the City of Moreno Valley, a Municipal Corporation (“Licensor”), and Southern California Edison Company, a California corporation (“Licensee”), individually “Party” and collectively “Parties.”

Licensor herein provides Licensee a no-fee license to attach certain wireless communication equipment to light poles that are owned by Licensor and used by Licensor to provide street lighting services to customers.

The terms and conditions of this Agreement are as follows:

1. DEFINITIONS

Terms with the initial letter or letters capitalized, whether in the singular or plural, shall have the following meanings:

a. Applicable Requirement: Any law, code, regulation, ordinance, statute or requirement of a governmental or quasi-governmental authority, regulatory agency or any other similar authority with jurisdiction or control over access to or use of the Light Pole, an Attachment, Work on a Light Pole or operation of an Attachment.

b. Attachment: A wireless communicating device and all of its associated ancillary equipment which are owned and used by Licensee and serve the purpose(s) presently served by those fixtures identified in Exhibit A hereto, specifically the collection and relay of data from meters and the collection, relay, and communication with SCE distribution systems.

c. Custom Light Pole: A specialized light pole, owned and installed by Licensor and paid for by Licensee, for the purposes of accommodating Licensee’s Attachment and for Licensor to provide street lighting services.

d. Equipment: All ancillary equipment owned and utilized by Licensee in connection with an Attachment, and installed on third party property.

e. Light Pole: A Licensor Light Pole or a Custom Light Pole.

f. Licensor Light Pole: A standard light pole owned by Licensor used to provide street lighting services.

g. Work: Any work performed by Licensee relating to an Attachment, including the installation, repair, removal or replacement of the Attachment or Equipment.

2. TERM

The initial term of this Agreement shall be ten (10) years, with automatic renewal terms of three (3) years each, provided, however, that either Party may terminate this Agreement by written notice to the other Party ("Termination Notice"). During the initial ten (10) year term the Termination Notice must be given not more than two (2) years and not less than one hundred eighty (180) days prior to the expiration of the initial term. During each subsequent renewal term the Termination Notice must be given not less than two (2) years prior to the expiration of any succeeding term. Upon the issuance of a Termination Notice by either Party, only Licensee's rights to install Future Attachments as described in this Agreement shall terminate, but Licensee's rights under this Agreement with regard to then-installed Attachments and Upgraded Attachments shall not terminate.

3. ATTACHMENTS

The installed Attachments are listed in Exhibit A hereto. During the term hereof, Licensee shall have the right (i) to upgrade Attachments to new technology that serves the same purpose as the Attachments listed on Exhibit A ("Upgraded Attachments"), and (ii) to install new Attachments that are not listed in Exhibit A ("Future Attachments"), so long as such Upgraded Attachments and Future Attachments serve the same purpose as the Attachments listed on Exhibit A and do not interfere in any manner with any then-existing Licensor equipment. All installations of Upgraded Attachments and Future Attachments shall be performed in in a good and workmanlike manner.

4. LICENSEE'S ATTACHMENT RIGHTS

Licensee shall have a no-fee license to use the Attachment for the wireless communications purposes described in the definition of Attachment, and to maintain, remove, repair or replace the Attachment, as described herein (collectively, the "Attachment Rights"). All costs and expenses incurred by Licensee as a result of Licensee's exercise of its Attachment rights hereunder shall be the sole responsibility of Licensee.

5. CONDITIONS AND RESTRICTIONS ON LICENSE RIGHTS

In addition to the other terms and conditions of this Agreement, Licensee's exercise of its Attachment Rights shall be subject to the following conditions and restrictions:

a. Licensee shall operate its Attachment for wireless communication equipment, with the purposes described in the definition of Attachment.

b. Licensee shall be solely responsible for separately obtaining any electric utility or other services required for operation of its Attachment, if secondary power from the streetlight is inaccessible.

c. Except as set forth in Section 5(f), Licensor shall not be required to modify the Light Pole or its use of the Light Pole to accommodate use by the Licensee.

d. Licensor shall not install any Equipment for the Licensee, Licensee shall be solely responsible for the installation of any Equipment.

e. Except as set forth in Section 5(f), Licensee's rights regarding Upgraded Attachments and/or Future Attachments shall not interfere with Licensor's use of the Light Pole. If an Attachment made under this Agreement interferes with Licensor's ability to use a Light Pole for its purposes, then Licensor will inform the Licensee and Licensee shall remedy the interference in a reasonably prompt period of time after receiving notice of the interference from Licensor.

f. Licensor shall not install any devices, and Licensor shall not allow third parties to install any devices that interfere with Licensee's then existing Attachment. If Licensor interferes with Licensee's wireless communication, then Licensor shall remedy the interference in a reasonably prompt period of time after receiving notice of the interference from Licensee.

g. Prior to commencing any work or activity affecting any Light Pole, Licensee shall provide Licensor with not less than three (3) business days prior notice.

6. ATTACHMENT

a. Licensee shall be allowed to install Future Attachments at additional locations under this Agreement upon written approval of Licensor which shall not be unreasonably withheld provided however, ten (10) business days' notice has been provided to Licensor; provided, however, Licensor may disapprove proposed Future Attachments in the event Licensor reasonably determines the proposed Future Attachments may interfere with any existing or planned municipal operations or Licensor equipment. Licensee shall provide Licensor the structure number and address or location description where the Attachment will be installed. For purposes of this paragraph, "planned" shall mean that the City has taken steps towards the identification of future municipal needs relating to attachments on light poles as evidenced by (1) City Council adoption of a plan, program or budget, (2) active negotiations with third parties for the implementation of an administrative plan or program, or (3) expenditure of City resources towards the implementation of any plan or program. City plans or programs that are merely conceptual and for which the City has not expended City resources shall not be considered "planned" for purposes of this paragraph.

b. Licensee shall use commercially reasonable efforts to perform any Work in a manner which will not cause any interruption of Licensor's street-lighting services or

other equipment, or damage Light Poles or Licensor's existing Light Pole attachments or equipment, or damage or interfere with any existing third party Light Pole attachments.

c. All Work shall be performed at Licensee's sole risk and cost and shall be performed in a good and workmanlike manner and Licensee shall indemnify, defend and hold harmless Licensor, its elected officials, staff, directors, invitees, employees, agents, contractors, successors and assigns, from any and all costs, liabilities, claims and expenses, including those from death or injury to any person or from a loss or damage to any real, personal or other property, to the extent arising out of or pertaining to any Work, or any act or failure to act by any of Licensee's employees, agents, or contractors in relation to the Upgraded Attachments and Future Attachments.

d. The performance of any Work shall comply with the requirements for such Work as contained in applicable industry standards, specific work requirements imposed by Licensor or a third party, or in any Applicable Requirements associated with the Work.

e. Upon written notification from Licensor or a government authority that the Attachment or any Equipment is out of compliance with any Applicable Requirement or is unsafe or hazardous, Licensee shall promptly take whatever actions are necessary to come into full compliance with such Applicable Requirements or to remedy the unsafe or hazardous condition, as the case may be. Notwithstanding any other provision of this Agreement, if at any time, in Licensor's sole judgment, an unsafe or dangerous condition exists, Licensor shall immediately notify Licensee and Licensee shall have twenty-four (24) hours from such notice to remedy the unsafe or dangerous condition. If Licensee does not remedy the unsafe or dangerous condition within such twenty-four (24) hour period, then Licensor may correct such condition and notify Licensee of such correction within three (3) business days. If at any time, in Licensor's sole judgment, an imminent threat to human life or safety exists, Licensor may correct such condition and notify Licensee of such correction within three (3) business days.

f. Licensee shall not drill, burn or punch any holes in a Light Pole, without first obtaining written consent from Licensor, which consent shall not be unreasonably withheld. Licensee shall reimburse Licensor for any damage to any Licensor Light Pole in connection with the use, repair, restoration or replacement of a Light Pole by Licensee.

g. Licensee shall follow Licensor's established procedures to request Licensor to replace a Licensor Light Pole with a Custom Light Pole, and Licensee shall be solely responsible for all costs of such request and any resulting replacement.

h. Notwithstanding the foregoing, if Licensee requests to place Attachments, including Attachments, Upgraded Attachments, and Future Attachments, on Licensor's Light Poles during the term of this Agreement that would exceed three percent (3%) of the total number of Licensor's Light Poles, the Parties will meet and use good faith efforts to agree on increasing the number of Future Attachments allowed under this Agreement.

7. REMOVAL OF AN ATTACHMENT FROM A LIGHT POLE

a. Licensee may at any time remove an Attachment from any Light Pole. Notice of any such removal shall be provided to Licensor within sixty (60) business days after such removal and Licensor's Light Pole shall be repaired and restored to its original condition.

b. Nothing in this Agreement shall be construed to limit Licensor's rights, at any time, to remove a Light Pole from service or to require Licensee to remove its Attachment from a Light Pole that is being removed from service. In the event Licensor requires Licensee to remove its Attachment from a Light Pole that is being removed from service, then Licensor will notify Licensee ninety (90) days prior to the removal and use reasonable efforts to supply Licensee with an alternative Light Pole for such Attachment. Licensee shall complete removal of its Attachment within ninety (90) days of Licensor's request to do so.

c. Whenever Licensee removes an Attachment, Licensee shall restore the Light Pole to its original condition, reasonable wear and tear excepted, except where Licensor notifies Licensee that restoration is unnecessary because the Light Pole is being removed from service or Licensor agrees otherwise.

d. When a Light Pole that contains an existing Attachment is relocated or replaced by Licensor, and there is a suitable other location for a new Light Pole or an existing Light Pole which could be used by Licensee for its Attachment, then Licensor and the Licensee may agree that Licensee may so use the other location or Light Pole and amend Exhibit A to reflect the transfer of Licensee's Attachment Rights. Except in emergency situations, Licensor will notify Licensee ninety (90) days prior to relocation or replacement of Light Pole.

8. RISK OF LOSS; RESTORATION OR REPAIR OF LIGHT POLE

In the event a Light Pole is damaged or destroyed, restoration of Licensor's use of a Light Pole shall take priority over Licensee's restoration of its use; provided, however, that Licensor shall not unreasonably delay Licensee's opportunity to restore the use of its Attachment. Licensor shall permit Licensee to make repairs to restore use of the Attachment, as long as such restoration efforts do not interfere with Licensor's restoration activities. In addition, Licensee shall fully cooperate with Licensor if Licensor performs any repairs or other work on the Light Pole, which work may require a temporary shutdown of Licensee's Attachment. The Licensor shall notify the Licensee at least 48 hours prior to planned repairs that will require a shutdown of the Licensee's Attachment.

9. REGULATORY MATTERS

To the extent that this Agreement is subject to the jurisdiction of any regulatory authority, Licensor and Licensee acknowledge that this Agreement may be subject to such

changes, modifications or termination as that regulatory authority may direct from time to time in the exercise of its jurisdiction.

10. INDEMNIFICATION AND LIMITATION OF LIABILITY

a. Licensee shall indemnify, defend and hold harmless Licensor, its elected officials, staff, directors, invitees, employees, agents, contractors, successors and assigns, from any and all costs, liabilities, claims and expenses, including those from death or injury to any person or from a loss or damage to any real, personal or other property, to the extent arising from any negligent act or omission by Licensee, or by any of Licensee's employees, agents, or contractors in performing this Agreement.

b. Intentionally Omitted.

c. Licensor shall promptly notify the Licensee of the existence of any matters to which Licensee's indemnity obligations apply. Upon demand by Licensor, the Licensee shall defend at its own expense with mutually acceptable counsel any such matter; provided that Licensor shall at all times also have the right to fully participate in the defense and consent to any settlement or compromise.

d. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES (INCLUDING LOSS OF THE OTHER PARTY'S CUSTOMERS OR GOOD WILL, OR LOST REVENUE OR PROFITS), FOR ANY CAUSE OF ACTION, WHETHER IN CONTRACT OR TORT, ARISING IN ANY MANNER FROM THIS AGREEMENT OR THE PERFORMANCE OR NON -PERFORMANCE OF OBLIGATIONS HEREUNDER, REGARDLESS OF THE CAUSE OR FORESEEABILITY THEREOF.

11. TITLE AND RISK OF LOSS

a. Licensor shall have and retain sole and exclusive ownership of all Light Poles, and Licensor's ownership shall not be affected by Licensee's Attachment to the Light Pole.

b. Except as otherwise provided for herein, Licensee shall retain its ownership of the Attachment and any Equipment at all times.

12. INSURANCE

At all times during the term of this Agreement, Licensee shall maintain and shall require its subcontractors that perform any Work pursuant to this Agreement to maintain insurance coverage as described below:

a. Worker's Compensation Insurance with statutory limits, in accordance with the laws of the State of California, and Employer's Liability Insurance with limits of not

less than one million dollars (\$1,000,000). Licensee shall require its insurer to waive all rights of subrogation against Licensor, its officers, agents and employees.

b. Commercial General Liability Insurance, including coverage for bodily injury, property damage, products/completed operations liability and contractual liability, with a per occurrence limit of not less than two million dollars (\$2,000,000). Such insurance shall (i) name the City of Moreno Valley, Community Services District of Moreno Valley ("CSD") and the Moreno Valley Housing Authority, its officers, agents, and employees as additional insureds, but only for Licensee's negligent acts or omissions; (ii) be primary for all purposes; and (iii) contain standard cross-liability provisions.

c. Liability and Property Damage Insurance coverage for owned and non-owned automotive equipment operated on City of Moreno Valley/CSD/Moreno Valley Housing Authority premises. Such coverage limits shall not be less than \$1,000,000 combined single limit.

Written proof of compliance with the requirements of this Section, consisting of Certificates of Insurance and a copy of the Additional Insured Endorsement for the Commercial General Liability insurance policy, in a form acceptable to Licensor, shall be provided to Licensor prior to any Attachment or the installation of any Equipment upon an Light Pole and prior to the expiration of each policy year thereafter. The Certificates of Insurance shall provide that this insurance shall not be terminated, canceled or reduced except on thirty days' prior written notice to Licensor. Failure to provide and maintain such insurance shall constitute a default under this Agreement. Licensee may self-insure any and all of the above insurance requirements.

13. REMEDIES IN THE EVENT OF DEFAULT

If either Party fails to comply with a material term or condition of this Agreement, the non-breaching party shall provide written notice to the defaulting party of such non-compliance. The breaching party shall then have thirty (30) days (except in the case of health and safety issues, which shall require cure within forty-eight (48) hours) from receipt of such notice to reasonably cure such non-compliance. If such a cure is not completed within the thirty (30) day period (or 48 hour period as provided above), or if a cure is not possible within such period and the breaching party has not taken steps to effect such cure, then the non-breaching party may pursue its legal remedies relating to such non-compliance.

14. DISPUTE RESOLUTION

a. Except as may otherwise be set forth expressly herein, all disputes arising under this Agreement shall be resolved as set forth in this Section 14.

b. Licensor and Licensee shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between an authorized representative of each of the Parties. Any dispute which cannot be resolved

between the authorized representative shall be referred to an officer or designee of Licensee and Licensor. Licensor or Licensee shall give the other Party written notice of any dispute following expiration of the applicable cure period pursuant to Section 13. Within twenty (20) days after delivery of such notice, the designated parties 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. If the matter has not been resolved within thirty (30) days of the first meeting, the Parties will consider and decide whether the dispute should be submitted to mediation. The Parties will cooperate with one another in selecting the mediator ("Mediator") from the panel of neutrals from Judicial Arbitration and Mediation Services, Inc. ("JAMS"), its successor, or any other mutually acceptable non-JAMS Mediator, and in scheduling the time and place of the mediation.

c. To the extent allowable by law, all negotiations and any mediation conducted pursuant to this Section 14 shall be confidential and shall be treated as compromise and settlement negotiations, to which Section 1152.5 of the California Evidence Code shall apply, which section is incorporated in this Agreement by reference.

d. Notwithstanding the foregoing provisions, either Licensor or Licensee may seek immediate equitable relief, a preliminary injunction or other provisional judicial remedy.

e. Licensor and Licensee shall continue to perform their obligations under this Agreement pending final resolution of any dispute arising out of or relating to this Agreement.

f. If Licensor and Licensee, after good faith efforts to resolve a dispute under the terms of this Agreement (as provided in Subpart b above), cannot agree to a resolution of the dispute, either party may pursue whatever legal remedies may be available to such party, at law or in equity, before a court of competent jurisdiction and with venue in Riverside County, California.

15. TAXES AND LIENS

Licensee shall pay when due any and all taxes or assessment resulting from any Attachment on any Light Pole including, but not limited to, special assessments and governmental fees of any kind whatsoever which may be levied or assessed upon any personal property which Licensee has caused to be placed or maintained upon Licensor's facilities, or against Licensee's business and shall keep Licensor's property and facilities, including any Light Poles, free from all liens, including but not limited to mechanics liens, and encumbrances by reason of the use, occupancy, or maintenance of Licensor's facilities or property by Licensee or by any person claiming under Licensee. It is further agreed that in the event Licensee fails to pay the above-mentioned taxes, assessments, or liens when due, Licensor shall have the right to pay the same and invoice Licensee for the

amount thereof and Licensee shall pay the same upon demand together with interest at the maximum rate allowed by law from the date of such expenditure by Licensor.

16. NOTICES

Notices hereunder must be in writing and transmitted by United States mail or by personal delivery to Licensor. Such notices shall be deemed given: (a) upon receipt in the case of personal delivery or confirmed facsimile transmittal; (b) two (2) days after it is sent by certified mail, with a return receipt requested, (c) three (3) days after deposit in the mail, or the next day in the event of overnight delivery.

If to Licensor: City of Moreno Valley
Special Districts Division Manager
Candace Cassel
14331 Frederick St. Moreno Valley, CA 92553

If to Licensee: Southern California Edison
Manager of Streetlights Attention: John King
6042 A Irwindale Ave, Irwindale CA 91702

17. DISCLAIMER

LICENSOR MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER CONCERNING THE SUITABILITY OR CONDITION OF ANY LIGHT POLE. FURTHERMORE, IT IS SPECIFICALLY UNDERSTOOD AND HEREBY ACKNOWLEDGED BY LICENSEE THAT ANY LIGHT POLE MADE AVAILABLE HEREUNDER, TO THE MAXIMUM EXTENT PERMISSIBLE BY LAW, WILL BE PROVIDED BY LICENSOR ONLY ON AN "AS-IS" BASIS AND WITHOUT ANY WARRANTY BY LICENSOR ABOUT THE CONDITION OF THE LIGHT POLE OR ITS SUITABILITY FOR LICENSEE'S PURPOSES. FURTHER, LICENSEE'S RIGHTS HEREUNDER SHALL BE SUBORDINATE TO LICENSOR'S USE OF THE LIGHT POLE FOR MUNICIPAL SERVICES.

18. GENERAL PROVISIONS

a. California Law. This Agreement, and performance pursuant to it, shall be governed, interpreted, construed, and regulated by the laws of the State of California, without reference to its conflicts of laws provisions.

b. Assignment. Neither Party may assign, transfer, sublease, or sublet any right, obligation, or privilege given to it hereunder without the prior written consent of the other Party. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties hereto.

c. Interpretation. The language of each part of this Agreement shall be construed simply and according to its fair meaning, and shall never be construed either for or against either Party, regardless of which Party may have drafted the provision.

d. Nature of Rights. Nothing in this Agreement shall preclude Licensor from granting any third-party permission to use available capacity on a Light Pole in ways that do not interfere with the rights granted to Licensee under this Agreement.

e. Invalidity of Provisions. To the extent that any terms or provisions of this Agreement shall be finally determined by a court of competent jurisdiction to be invalid, (i) such invalidity shall not affect, release or modify any other terms or provisions, and (ii) in lieu of each such provision which is invalid, illegal or unenforceable, there shall be substituted or added as part of this Agreement a legal, valid and enforceable provision which shall be selected to be as similar as possible, in achieving the economic and business objectives of the Parties, to such illegal, invalid or unenforceable provision.

f. Waiver. The failure of either Party to enforce any provision of this Agreement or the waiver thereof in any instance, including but not limited to the right to terminate, shall not be construed as a general waiver or relinquishment on its part of any such provision but the same shall nevertheless be and remain in full force and effect.

g. Incorporation Clause. This Agreement, including attached Exhibits, incorporate all the covenants and understandings between Licensor and Licensee regarding the subject matter of this Agreement. No other verbal agreements or understandings exist between the Parties nor shall any be binding upon either Licensor or Licensee unless reduced to writing and signed by the Parties. Any addition, variation or modification to this or any other Agreement shall be ineffective unless made in writing and signed by the Parties.

h. Radio Frequency Emission ("RFE") Compliance. Licensee shall be responsible, at its sole cost and expense, for ensuring compliance with all regulations relating to RFE. Licensor will cooperate with Licensee, where possible, to allow Licensee to place required signage on a Light Pole where this is necessary to comply with RFE regulations. In addition, Licensee shall use its best efforts to minimize the RFE impact on health of workers and on future uses of the Light Pole.

i. Exhibits. Exhibits referenced herein are incorporated by said reference. Licensee shall provide any updates of Exhibit A to Licensor within thirty (30) days of Licensor's written request, delivered pursuant to Section 16 of this Agreement, but not more often than once each calendar quarter. Specifically included as exhibits to this Agreement hereto are:

Exhibit A: List of Installed Attachments

j. Confidentiality. Notwithstanding any language to the contrary in any applicable non-disclosure or confidentiality agreement between the Parties, Licensor may, without the prior consent of the Licensee, provide confidential or proprietary information related to this Agreement to a governmental or regulatory entity that requests such information or as otherwise required by law.

SIGNATURES

By signing below, the signatories hereto represent and warrant that they have been duly authorized to sign this Agreement on behalf of the Party for whom they sign.

**CITY OF MORENO VALLEY,
a Municipal corporation**

**SOUTHERN CALIFORNIA EDISON
COMPANY, a California corporation**

By: _____
Print
Name: _____
Title: _____

Date: _____

By: _____
Name: Pete Dietrich

Title: Sr. Vice President of Transmission
and Distribution

Date: _____

EXHIBIT A

List of Attachments

SmartConnect Installed Devices

NetComm Installed Devices