MDT STANDARD TERMS AND CONDITIONS

1. **STATE SAVED HARMLESS FROM CLAIMS**. As a consideration of being issued this agreement, the APPLICANT, its successors or assigns, agrees to protect the STATE and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right-of-way, and in case any suit or action is brought against the STATE and arising out of, or by reason of, any of the above causes, the APPLICANT, its successors or assigns, will, upon notice to them of the commencement of such action, defend the same at its sole cost and expense and satisfy any judgment which may be rendered against the STATE in any such suit or action.

2. **PROTECTION OF TRAFFIC**. The APPLICANT shall protect the work area with traffic control devices that comply with the Manual of Uniform Traffic Control Devices. The APPLICANT may be required to submit a traffic control plan to the District Utility Engineering Specialist for approval prior to starting work. During work, the District Utility Engineering Specialist or designee may require the APPLICANT to use additional traffic control devices to protect traffic or the work area. No road closure shall occur without prior approval from the District Administrator. All workers within MDT's right-of-way who are exposed either to traffic (vehicles using the highway for purposes of travel) or to construction equipment shall wear high-visibility class 2 or 3 safety apparel. For nighttime activity, the flagger(s) shall wear class 3 safety apparel. APPLICANT shall provide flagger(s) who are currently certified by the Montana flagger training program; the ATSSA flagger program; or the Idaho, Oregon, or Washington state flagger training programs.

3. **HIGHWAY AND DRAINAGE**. If the work done under this agreement interferes in any way with the drainage of the STATE highway affected, APPLICANT shall, at the APPLICANT's expense, make such provisions as the STATE may direct to remedy the interference.

4. **RUBBISH AND DEBRIS**. Upon completion of work, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to the STATE.

5. **APPLICABILITY**. The terms and conditions herein apply to the APPLICANT and any agent, employee, representative, assign, contractor, or subcontractor conducting any installation or maintenance work described in this application. All the parties conducting work within the highway right of way shall read and be able to produce upon request a fully executed copy of this permit.

6. **NOTIFICATION**. Notify District Utility Engineering Specialist of any work done under this agreement at least 48 hours in advance. No installation work or utility maintenance work shall be commenced until APPLICANT notifies the District Utility Engineering Specialist or designee the date the APPLICANT proposes to commence work. Notification is required each time the APPLICANT proposes to conduct utility maintenance work within the highway right of way for the facility described on page one of this application. In case of emergencies notification is as practicable, but emergency work may commence.

7. **CHANGES IN HIGHWAY**. If State highway changes necessitate changes in structures or installations installed under this permit, APPLICANT will make necessary changes without expense to STATE.

8. **TERM**. This permit shall be in full force and effect from the date hereof until revoked as herein provided.

9. **REVOCATION**. This permit may be revoked by STATE upon giving 45 days' notice to APPLICANT by ordinary mail, sent to the address shown herein. However, the STATE may revoke this permit without notice if APPLICANT violates any of its conditions or terms.

10. **INSPECTION**. The installation shall be in compliance with the attached plan and the conditions of this agreement. The APPLICANT may be required to remove or revise the installation, at sole expense of APPLICANT, if the installation does not conform with the requirements of this agreement or the attached plan.

11. **STATE'S RIGHT NOT TO BE INTERFERED WITH**. All changes, reconstruction or relocation shall be done by APPLICANT so as to cause the least interference with any of the STATE's work, and the STATE shall not be liable for any damage to the APPLICANT by reason of any such work by the STATE, its agents, contractors, or representatives, or by the exercise of any rights by the STATE upon the highways by the installations or structures placed under this permit.

12. **REMOVAL OF INSTALLATIONS OR STRUCTURES.** Unless waived by the STATE, upon termination of this agreement, the APPLICANT shall remove the installations or structures installed under this agreement at no cost to the STATE and restore the premises to the prior existing condition, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the APPLICANT has no control, excepted.

13. **MAINTENANCE AT EXPENSE OF APPLICANT. APPLICANT** shall maintain, at its sole expense, the installations, and structures for which this agreement is granted, in a condition satisfactory to the STATE.

14. **STATE TO BE REIMBURSED FOR REPAIRING ROADWAY.** Upon being billed, APPLICANT agrees to promptly reimburse STATE for any expense incurred in repairing surface of roadway due to settlement at installation, or for any other damage to roadway as a result of the work performed under this agreement.

15. **STATE NOT LIABLE FOR DAMAGE TO INSTALLATIONS**. In accepting this permit, the APPLICANT agrees that any damage or injury done to installations or structures by a contractor working for the STATE, or by any STATE employee engaged in construction, alteration, repair, maintenance, or improvement of the State highway, shall be at the sole expense of the APPLICANT.

16. **The APPLICANT** shall not discharge or cause discharge of any hazardous or solid waste by the installation or operation of the facility of a STATE Right-of-Way.

17. **DISCHARGE. The APPLICANT** shall not discharge or cause discharge of any process wastewater, hazardous or solid waste by the installation or operation of the facility within State Right-of-Way.

18. **TOPSOIL/RESEED. The APPLICANT** will salvage topsoil, re-seed, and control noxious weeds within the disturbed installation area for two (2) years.

19. **SURVEYOR.** In accordance with Mont. Code Ann. § 76-3-403(2), APPLICANT shall, at APPLICANT's expense, employ the services of a Montana Licensed Professional Land Surveyor to re-establish all existing survey monuments disturbed by work contemplated under this permit.

20. **AS-BUILTS** The applicant will submit an as-built survey to MDT through the UPAS system in accordance with the MDT Survey Manual and the ARM Rule 18.7.207 Electronic Utility Permit Application Process within 90 days after the completion of the utility installation. All borings are required to have the entry and exit points surveyed along with 10' regular intervals noting the actual depth of the installed utility for the entire length of the bore. For non-bored straight alignments, survey points spacing shall be at 50' intervals and 25' intervals for curved segments.

21. **EXPLOSIVES.** The use of explosives is prohibited for the installation.

22. **NO WAIVER.** Any condition of this permit shall not be waived without written approval of the appropriate District Administrator.

23. **STATE SAVED HARMLESS FROM CLAIMS**. As a consideration of being issued this agreement, the APPLICANT, its successors or assigns, agrees to protect the STATE and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right-of-way, and in case any suit or action is brought against the STATE and arising out of, or by reason of, any of the above causes, the APPLICANT, its successors or assigns, will, upon notice to them of the commencement of such action, defend the same at its sole cost and expense and satisfy any judgment which may be rendered against the STATE in any such suit or action.

24. **PROTECTION OF TRAFFIC. The APPLICANT** shall protect the work area with traffic control devices that comply with the Manual of Uniform Traffic Control Devices. The APPLICANT may be required to submit a traffic control plan to the District Utility Engineering Specialist for approval prior to starting work. During work, the District Utility Engineering Specialist or designee may require the APPLICANT to use additional traffic control devices to protect traffic or the work area. No road closure shall occur without prior approval from the District Administrator. All workers within MDT's right-of-way who are exposed either to traffic (vehicles using the highway for purposes of travel) or to construction equipment shall wear high-visibility class 2 or 3 safety apparel. For nighttime activity, the flagger(s) shall wear class 3 safety apparel. APPLICANT shall provide flagger(s) who are currently certified by the Montana flagger training program; the ATSSA flagger program; or the Idaho, Oregon, or Washington state flagger training programs.

25. **HIGHWAY AND DRAINAGE**. If the work done under this agreement interferes in any way with the drainage of the STATE highway affected, APPLICANT shall, at the APPLICANT's expense, make such provisions as the STATE may direct to remedy the interference.

26. **RUBBISH AND DEBRIS**. Upon completion of work, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to the STATE.

27. **INSPECTION**. The installation shall be in compliance with the attached plan and the conditions of this agreement. The APPLICANT may be required to remove or revise the installation, at sole expense of APPLICANT, if the installation does not conform with the requirements of this agreement or the attached plan.

28. **REMOVAL OF INSTALLATIONS OR STRUCTURES**. Unless waived by the STATE, upon termination of this agreement, the APPLICANT shall remove the installations or structures installed under this agreement at no cost to the STATE and restore the premises to the prior existing condition, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the APPLICANT has no control, excepted.

29. **MAINTENANCE AT EXPENSE OF APPLICANT.** APPLICANT shall maintain, at its sole expense, the installations, and structures for which this agreement is granted, in a condition satisfactory to the STATE.

30. **STATE TO BE REIMBURSED FOR REPAIRING ROADWAY**. Upon being billed, APPLICANT agrees to promptly reimburse STATE for any expense incurred in repairing surface of roadway due to settlement at installation, or for any other damage to roadway as a result of the work performed under this agreement.

31. **The APPLICANT** shall not discharge or cause discharge of any hazardous or solid waste by the installation or operation of the facility of a STATE Right-of-Way.

32. **The APPLICANT** will control noxious weeds within the disturbed installation area for two (2) years.

33. **SURVEYOR**. In accordance with Mont. Code Ann. § 76-3-403(2), APPLICANT shall, at APPLICANT's expense, employ the services of a Montana Licensed Professional Land Surveyor to re-establish all existing survey monuments disturbed by work contemplated under this permit.

34. **AS-BUILTS** The applicant will submit an as-built survey to MDT through the UPAS system in accordance with the MDT Survey Manual and the ARM Rule 18.7.207 Electronic Utility Permit Application Process within 90 days after the completion of the utility installation. All borings are required to have the entry and exit points surveyed along with 10' regular intervals noting the actual depth of the installed utility for the entire length of the bore. For non-bored straight alignments, survey points spacing shall be at 50' intervals and 25' intervals for curved segments.

35. **EXPLOSIVES**. The use of explosives is prohibited for the installation.

36. **NO WAIVER.** Any condition of this permit shall not be waived without written approval of the appropriate District Administrator.

37. **APPLICABILITY.** The terms and conditions herein apply to the APPLICANT and any agent, employee, representative, assign, contractor, or subcontractor conducting any installation or maintenance work described in this application. All the parties conducting work within the highway right of way shall read and be able to produce upon request a fully executed copy of this permit.

38. **NOTIFICATION**. Notify District Utility Engineering Specialist of any work done under this agreement at least 48 hours in advance. No installation work or utility maintenance work shall be commenced until APPLICANT notifies the District Utility Engineering Specialist or designee the date the APPLICANT proposes to commence work. Notification is required each time the APPLICANT proposes to conduct utility maintenance work within the highway right of way for the facility described on page one of this application. In case of emergencies notification is as practicable, but emergency work may commence.

39. **TERM**. This permit shall be in full force and effect from the date hereof until revoked as herein provided.

40. **REVOCATION.** This permit may be revoked by STATE upon giving 45 days notice to APPLICANT by ordinary mail, sent to the address shown herein. However, the STATE may revoke this permit without notice if APPLICANT violates any of its conditions or terms.

41. **CHANGES IN HIGHWAY**. If State highway changes necessitate changes in structures or installations installed under this permit, APPLICANT will make necessary changes without expense to STATE.

42. **STATE SAVED HARMLESS FROM CLAIMS.** As a consideration of being issued this permit, the APPLICANT, its successors or assigns, agrees to protect the STATE and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of highway right-of-way, and in case any suit or action is brought against the STATE and arising out of, or by reason of, any of the above causes, the APPLICANT, its successors or assigns, will, upon notice to them of the commencement of such action, defend the same at its sole cost and expense and satisfy any judgment which may be rendered against the STATE in any such suit or action.

43. **PROTECTION OF TRAFFIC. The APPLICANT** shall protect the work area with traffic control devices that comply with the Manual of Uniform Traffic Control Devices. The APPLICANT may be required to submit a traffic control plan to the District Utility Engineering Specialist for approval prior to starting work. During work, the District Utility Engineering Specialist or designee may require the APPLICANT to use additional traffic control devices to protect traffic or the work area. No road closure shall occur without prior approval from the District Administrator. All workers within MDT's right-of-way who are exposed either to traffic (vehicles using the highway for purposes of travel) or to construction equipment shall wear high-visibility class 2 or 3 safety apparel. For nighttime activity, the flagger(s) shall wear class 3 safety apparel. APPLICANT shall provide flagger(s) who are currently certified by the Montana flagger training program; the ATSSA flagger program; or the Idaho, Oregon, or Washington state flagger training programs.

44. **HIGHWAY AND DRAINAGE**. If the work done under this agreement interferes in any way with the drainage of the STATE highway affected, APPLICANT shall, at the APPLICANT's expense, make such provisions as the STATE may direct to remedy the interference.

45. **RUBBISH AND DEBRIS**. Upon completion of work, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to the STATE.

46. **INSPECTION.** The installation authorized by this permit shall be in compliance with the attached plan and the conditions of this permit. The APPLICANT may be required to remove or revise the installation, at sole expense of APPLICANT, if the installation does not conform with the requirements of this permit or the attached plan.

47. **STATE'S RIGHT NOT TO BE INTERFERED WITH**. All changes, reconstruction or relocation shall be done by APPLICANT so as to cause the least interference with any of the STATE's work, and the STATE shall not be liable for any damage to the APPLICANT by reason of any such work by the STATE, its agents, contractors, or representatives, or by the exercise of any rights by the STATE upon the highways by the installations or structures placed under this permit.

48. **REMOVAL OF INSTALLATIONS OR STRUCTURES**. Unless waived by the STATE, upon termination of this agreement, the APPLICANT shall remove the installations or structures installed under this agreement at no cost to the STATE and restore the premises to the prior existing condition, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the APPLICANT has no control, excepted.

49. **MAINTENANCE AT EXPENSE OF APPLICANT.** APPLICANT shall maintain, at its sole expense, the installations, and structures for which this agreement is granted, in a condition satisfactory to the STATE.

50. **STATE TO BE REIMBURSED FOR REPAIRING ROADWAY**. Upon being billed, APPLICANT agrees to promptly reimburse STATE for any expense incurred in repairing surface of roadway due to settlement at installation, or for any other damage to roadway as a result of the work performed under this agreement.

51. **STATE NOT LIABLE FOR DAMAGE TO INSTALLATIONS**. In accepting this permit, the APPLICANT agrees that any damage or injury done to installations or structures by a contractor working for the STATE, or by any STATE employee engaged in construction, alteration, repair, maintenance or improvement of the State highway, shall be at the sole expense of the APPLICANT.

52. **DISCHARGE. The APPLICANT** shall not discharge or cause discharge of any process wastewater, hazardous or solid waste by the installation or operation of the facility within State Right-of-Way.

53. **TOPSOIL/RESEED.** The APPLICANT will salvage topsoil, re-seed, and control noxious weeds within the disturbed installation area for two (2) years.

54. **SURVEYOR**. In accordance with Mont. Code Ann. § 76-3-403(2), APPLICANT shall, at APPLICANT's expense, employ the services of a Montana Licensed Professional Land Surveyor to re-establish all existing survey monuments disturbed by work contemplated under this permit.

55. **AS-BUILTS** The applicant will submit an as-built survey to MDT through the UPAS system in accordance with the MDT Survey Manual and the ARM Rule 18.7.207 Electronic Utility Permit Application Process within 90 days after the completion of the utility installation. All borings are required to have the entry and exit points surveyed along with 10' regular intervals noting the actual depth of the installed utility for the entire length of the bore. For non-bored straight alignments, survey points spacing shall be at 50' intervals and 25' intervals for curved segments.

56. **EXPLOSIVES.** The use of explosives is prohibited for the installation.

57. **NO WAIVER**. Any condition of this permit shall not be waived without written approval of the appropriate District Administrator.

- Approval is contingent upon the applicant complying with all applicable environmental laws. The applicant is solely responsible for any environmental impacts incurred as a result of this project and is solely responsible for obtaining any necessary environmental permits, notifications, and/or any other necessary environmental clearances.

- If any aquatic resources such as streams, wetlands, canals, irrigation ditches, springs, etc. will be impacted as a result of this project, the appropriate water quality permits will need to be obtained from state, federal and/or local agencies.

- The applicant must obtain approvals from downstream landowners if their proposed actions impact downstream properties (easements, etc.) and provide documentation of appropriate coordination with affected landowners.

- Any damage done to MDT facilities or adjacent landowners as a result of the applicant's design or construction is the sole responsibility of the applicant and MDT will not be liable for damages.

- The permit, along with all conditions and restrictions, will be transferred to any subsequent parties. It is the responsibility of the applicant or their successor to notify MDT of any ownership changes within two weeks of the change.

- If any deviation(s) from the MDT-approved plans is determined necessary at the time of construction due to unforeseen obstacles, the deviation(s) must be approved by MDT in writing before installation begins.

- Any work performed before MDT review and approval that requires permitting is subject to removal by the applicant at their sole expense if MDT design standards and/or guidelines are not met.

- The applicant will submit a traffic control plan to the District office for approval before entering MDT right of way for construction.

- The applicant must coordinate their project with any MDT projects in the area.

- MDT design reviews are meant to ensure compatibility with existing facilities and design standards and guidelines. The applicant is responsible for all survey and plan errors and/or omissions that impact the constructability or intended design function of the project.

- The applicant must provide full time construction inspection and certification for any work done within MDT right-of-way. Upon completion of the project, or at any time upon request from MDT, the applicant must provide all construction inspection reports. The MDT District Office may assign staff to provide construction inspection oversight at their discretion.

- The applicant will provide "as-builts" to MDT Planning within 90 days after construction company, contractor, or work crew have demobilized from the work zone.