



## LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("License") is made and entered into as of the 1<sup>st</sup> day of January, 2024, by and between the City of Grand Junction, Colorado ("Licensor") and Cleare Networks ("Licensee"). Collectively the Licensor and the Licensee may be referred to as the Parties and singularly as a Party.

### RECITALS

A. Licensor owns a building located at 250 N. 5th Street, Grand Junction, Colorado 81501 ("Building").

B. Licensor has established a carrier-neutral location ("CNL") within the Building to provide a centralized place for telecommunications providers to co-locate equipment and interconnect to enhance broadband services in the community. Licensor shall provide, as part of the CNL premises, a minimum of three (3) Standard Equipment Racks, as defined in this Agreement, for the exclusive use of Lessees. For the purposes of this Agreement, a 'Rack/Cabinet' is defined as a metal frame designed to hold electronic equipment, with a standard width of 19 inches as per Electronics Industries Alliance (EIA) standards, a height of 42U (1U equating to 1.75 inches) and equipped with mounting rails to facilitate the installation of equipment. The Rack/Cabinet shall be free from defects, sturdy, and fit for the purpose of housing telecommunications and related electronic equipment.

C. Licensee owns computer and related telecommunications equipment ("Equipment") more particularly described in the Schedule of Equipment attached hereto as Exhibit B and incorporated herein by reference. Licensee desires to install and operate its Equipment in the CNL in the Building.

D. Pursuant to the terms of this License, Licensee is granted a non-exclusive, revocable license to install and operate Equipment within a designated space in the CNL.

NOW, THEREFORE, the Licensor and Licensee, for and in consideration of the mutual covenants contained herein, as well as the Recitals which are hereby incorporated herein, agree as follows:

### 1. GRANT OF LICENSE

- 1.1. Licensor grants to Licensee a non-exclusive, revocable license ("License") to install, operate, and maintain the Equipment in a specific space ("Licensed Space") located in the CNL premises ("Premises"). The Licensed Space is depicted on the floor plan attached hereto as Exhibit A and incorporated herein by reference.
- 1.2. Licensee shall have no real property interest in the Licensed Space or Premises and shall have only such rights of entry to the Licensed Space and Premises as are granted by and



hereunder. Licensor reserves the right to grant similar non-exclusive licenses within the Premises to other telecommunications providers.

## 2. TERM AND PERMITTED USES

- 2.1. Term. The initial term of this License shall commence on 1/1/2023~~24~~ and shall end on 12/31/2023~~24~~ ("Initial Term") unless terminated sooner as provided herein.
- 2.2. Renewal Term. Upon expiration of the Initial Term, this License will renew for successive one (1) year terms (each a "Renewal Term") unless either party provides at least sixty (60) days prior written notice of non-renewal prior to the commencement of a Renewal Term(s).
- 2.3. Permitted Uses. Licensee may use the Licensed Space solely for (i) installing Equipment, (ii) maintaining, repairing, replacing, and upgrading Equipment, (iii) operating the Equipment, and (iv) removing Equipment upon termination of this License (collectively the "Permitted Uses"). Licensee shall not use the Space for any other purpose(s) without Licensor's prior written consent. Licensor may grant or withhold consent in its sole discretion.
- 2.4. Early Termination. Either party may terminate this License at any time without cause by providing the other Party sixty (60) days prior written notice.

## 3. RENTAL FEE

- 3.1. Rental Fee. In consideration of the License granted herein, Licensee shall pay Licensor a monthly rental fee of Seven Hundred Dollars (\$700) ("Rental Fee") for each equipment Rack/Cabinet during the Initial Term and any Renewal Term. The Lessor shall provide a security deposit equivalent to three (3) months of the monthly Rental Fee as stipulated in this Agreement. This deposit shall be held as security for the performance of the Lessor's obligations hereunder and shall be returned to the Lessor upon termination of this lease, minus any amounts required to cover unpaid rents, fees, or repairs attributable to the Lessor.
- 3.2. Payment Terms. The security deposit and first Rental Fee installment shall be due on the commencement date of this License. Subsequent installments shall be due on the 1st day of each month thereafter. Rental Fees shall be prorated for partial months at the outset and termination of this License.
- 3.3. Late Fees. If any Rental Fee or Electricity Fee amount payable by Licensee is not received within ten (10) days after the date due, Licensee shall pay a late charge equal to 10% of the overdue amount. In addition, all past due amounts shall accrue interest at 10% per annum.



3.4. Place of Payment. All Rental Fees and other amounts payable shall be paid via check or bank transfer to Licensor at the following address: City of Grand Junction, 250 N. 5th Street, Grand Junction, CO 81501, or such other address specified by Licensor in writing.

#### 4. USE OF PREMISES AND SPACE

4.1. Compliance with Laws and Regulations. Licensee shall comply with all applicable laws, regulations, codes, and other legal requirements pertaining to the installation, maintenance, repair, replacement, operation, and removal of the Equipment in the Licensed Space. Licensee shall obtain any required permits and licenses from applicable governmental authorities, including the Licensor and/or Mesa County Building Dept. All electrical installations, including but not limited to equipment grounding, carried out by the Lessee or its agents within the CNL shall comply with the National Electrical Code (NEC), as amended from time to time. Lessee is responsible for ensuring that all equipment installed in the provided racks is grounded properly to prevent electrical hazards and to ensure the safety of both the equipment and personnel. Lessor may inspect any electrical installations to ensure compliance with the NEC and the terms of this Agreement. Any non-compliant installations shall be rectified by the Lessee at its own expense within a time frame specified by the Lessor.

4.2. No Alterations. Licensee shall not make any alterations, additions, or improvements to the Licensed Space and/or Premises without Licensor's prior written consent. Any permitted alterations shall be performed exclusively by the Licensor or its designated contractor at the Licensee's expense. The Lessee shall not undertake or commission any such alterations without the express written consent of the Licensor. At the expiration or termination of this License, Licensee shall restore the Licensed Space to its prior condition, reasonable wear and tear excepted.

4.3. Equipment Responsibility. The Equipment shall remain the personal property of Licensee and shall not be, be claimed to be, or become a fixture on the Premises. Licensee shall identify Equipment as its property, including contact information for Licensee. Licensee shall be responsible for damage caused by Licensee's use of the Space.

4.4. Access and Security. The Licensee's access to the Licensed Space shall be limited to regular business hours or as otherwise agreed in writing by and between the Parties. Any such access agreement shall be attached to and serve to amend this License. Licensee shall comply with all reasonable security requirements imposed by Licensor pertaining to access to the Premises and Space.

4.5. Issuance of Access Control Card: Upon the commencement of this Lease Agreement, the Licensor will issue the Licensee two access control cards to the Premises.

4.6. Key Check-Out Procedure:



- 4.6.1. The Licensee must provide a written request to the Licensor or the designated property manager prior to any additional key check-outs.
  - 4.6.2. Upon approval of the request, the Licensor shall record the date, time, key type, and key serial number, if any, in the Key Management Log.
  - 4.6.3. The Licensee must sign the Key Management Log upon receipt of the key(s).
- 4.7. Access Control Card Check-In Procedure:
- 4.7.1. Upon termination of the License or whenever requested by the Licensor, the Licensee shall return all Access Control Cards to the Licensor.
  - 4.7.2. The return of the Access Control Cards will be recorded in the Access Control Card Log, noting the date, time, key type, and key serial number, if any.
  - 4.7.3. The Licensee must sign the Access Control Card Log upon returning the key(s).
  - 4.7.4. If the Licensee does not return the Access Control Cards issued when requested, the Licensor may deactivate the Access Control Cards.
- 4.8. Loss or Damage of Keys:
- 4.8.1. The Licensee shall immediately notify the Licensor in writing in the event of loss or damage to any Access Control Card.
  - 4.8.2. The Licensee shall be responsible for any costs incurred due to replacing the lost or damaged Access Control Card and may be liable for additional charges related to the security compromise resulting from the loss.
  - 4.8.3. Duplication Prohibited: The Licensee is strictly prohibited from making unauthorized duplicates of any Access Control Cards. Any violation of this provision may result in penalties, as stated elsewhere in this License agreement.
- 4.9. Security: The Licensor reserves the right to change access codes and other security measures at its sole discretion. Should changes to access or other security protocol change, the Licensor will endeavor to notify the Licensee in writing in advance and issue new Access Control Cards to the Licensee if it is in good standing and otherwise in compliance with this License.
- 4.10. Hazardous Materials. Licensee shall not use or store any Hazardous Materials in or about the Licensed Space or Premises. Licensee shall ensure all Equipment complies with applicable codes and standards relating to Electromagnetic Fields (EMF), radio frequency (RF) emissions, or other emissions or discharges from communications equipment that could pose environmental or health concerns.
- 4.11. Trash Removal. Licensee shall regularly remove trash and debris accumulating in the Licensed Space resulting from equipment installation, maintenance, replacement, or removal. Areas surrounding Equipment shall be kept neat and orderly at all times.



4.12. Rules and Regulations. Licensee agrees to comply with all reasonable rules and regulations governing the use and occupancy of the Premises that Licensor imposes generally on licensees in the Premises.

## 5. UTILITIES AND SERVICES

5.1. Electricity Charges. In addition to the base Rental Fee, Licensee shall pay Licensor for electricity usage for the Licensed Space and Premises.

5.2. Current Usage. The CNL is currently metered in aggregate. The average daily baseline usage is approximately 29,000 kWh per day.

5.3. Increased Usage. Once the carrier-neutral location (CNL) is established, electricity usage above 29,000 kWh daily average (Increased Usage) shall be attributed to the CNL. The Increased Usage shall be divided equally by the number of leased CNL cabinets to determine the electricity charge per cabinet.

5.4. Rate. The electricity charge per Cabinet shall be calculated based on the increased usage divided by the number of licensed cabinets at Licensor's utility company rates plus an administrative fee of \$0.02 per kWh per month. Rates may be adjusted periodically to reflect changes in Licensor's costs.

5.5. Payment. Licensee shall pay the monthly electricity charge per Cabinet within 30 days after the invoice. Late payments will be subject to interest and fees as outlined in the License agreement.

5.6. Backup Power. Licensor shall provide backup power from an emergency generator sufficient to operate Equipment in the Space on a best-effort basis without warranty.

5.7. Other Services. Licensor assumes no obligation to provide services to Licensee other than equipment space, equipment cooling, and electrical service as described above. Licensee shall be solely responsible for providing any additional utilities, services, or infrastructure needed to operate the Equipment as intended.

## 6. CNL CLEAN AGENT FIRE SUPPRESSION SYSTEM & EMERGENCY TRAINING

6.1. Description of Clean Agent Fire Suppression System. The Licensor maintains a Clean Agent Fire Suppression System ("Fire Suppression System") in the CNL premises. The Fire Suppression System is designed to quickly suppress fires by discharging a clean, electrically non-conductive agent that the vendor of the Fire Suppression System represents will not harm electronic equipment.



- 6.2. Operation and Maintenance. The Licensor or designee will regularly maintain and inspect the Fire Suppression System. Any maintenance or inspection schedules will be communicated in advance to Licensee.
- 6.3. Training. To ensure the safety and security of the CNL, the Licensor will provide the Licensee with training regarding the Fire Suppression System from time to time. The training will cover the following aspects:
  - 6.3.1. Basic understanding of the Fire Suppression System.
  - 6.3.2. Procedures to follow in case of fire or other emergencies.
  - 6.3.3. Location and use of manual activation points, if applicable.
- 6.4. Licensor will conduct training within 30 days of the commencement of this Lease Agreement, and refresher training will be provided annually or as otherwise required by local regulations.
- 6.5. Emergency Situations. In an emergency requiring the activation of the Fire Suppression System, the Licensee shall follow the procedures outlined during the training and immediately notify the Licensor's emergency response team.
- 6.6. Liability. The Licensor shall not be liable for any damage to the Licensee's property resulting from the activation of the Fire Suppression System unless such activation is due to the Licensor's willful misconduct.
- 6.7. Updates and Modifications. The Licensor reserves the right to make changes or upgrades to the Fire Suppression System as deemed necessary in its sole discretion. Any modifications will be communicated to the Licensee, and additional training will be provided if required by the modifications so that Licensees understand the CNL fire suppression system well enough to work in the CNL safely.

## 7. REPRESENTATIONS AND WARRANTIES

- 7.1. Licensor Representations. Licensor represents and warrants that: (a) Licensor has the right, power, and authority to enter this License and grant the License rights hereunder; (b) the Premises located at 250 N. 5th Street, Grand Junction, CO 81501 is zoned to permit Licensor's intended use as a CNL.
- 7.2. Licensee Representations. Licensee represents and warrants that (a) the Licensee validly exists and is authorized to, and is in good standing so that it may lawfully conduct business in the State of Colorado; (b) the Licensee has the right, power, and authority to enter this License and assume the License obligations hereunder; (c) the Equipment and its installation, maintenance, operation, and removal shall comply with all applicable laws, regulations, codes, and other legal requirements.

## 8. INSURANCE AND INDEMNIFICATION



- 8.1. Insurance Requirements. At all times during the Term of this License, the Licensee shall carry and maintain in force the following insurance coverages:
- 8.2. Commercial General Liability Insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit for bodily injury and property damage. Licensor shall be named as an additional insured.
- 8.3. Workers' Compensation Insurance covering employees performing work at the Premises, with statutory benefits as required by Colorado law.
- 8.4. All insurance policies shall be issued by companies licensed to do business in Colorado with an AM Best rating of A-VII or higher. Licensee shall provide certificates evidencing required coverage before accessing the Premises.
- 8.5. Indemnification. Licensee shall indemnify, defend, and hold harmless Licensor, its officers, employees, and agents against any claims, liability, damage, loss, or expense (including reasonable attorneys' fees) for injury, loss, or damage to any person or property on or about the Premises arising out of or related to (a) any negligence or willful act or omission of Licensee or its employees, agents or contractors; (b) any breach of this License by Licensee; or (c) the installation, operation, maintenance or removal of Equipment. The indemnity obligations shall survive termination or expiration of this License.

## 9. DEFAULT AND REMEDIES

- 9.1. Licensee Default. Licensee shall be in default under this License if Licensee: (a) fails to pay any Rental and Utility Fees and charges, or other amount(s) when due and does not cure such failure within ten (10) days after written notice from Licensor; (b) fails to perform any other obligation under this License and does not cure such default within ten (10) days after written notice from Licensor, except that if the default cannot reasonably be cured within such thirty (30) day period, Licensee shall not be in default so long as Licensee commences to cure the default within the thirty (30) day period and thereafter diligently pursues curing the same; (c) files a petition in bankruptcy, becomes insolvent, makes an assignment for the benefit of creditors, or has a receiver appointed; or (d) makes any misrepresentation in this License.
- 9.2. Remedies. In the event of a Licensee default, Licensor shall have the right to terminate this License upon written notice to Licensee. Licensor may retake possession of the Licensed Space and remove all Equipment from the Premises without liability to Licensee. Licensor may recover any past due Rental Fees and interest from Licensee and all damages arising from Licensee's breach. Licensor may pursue any remedy available at law or equity. No remedy conferred upon Licensor is intended to be exclusive of any other remedy provided herein or by law, but each shall be cumulative. Failure or delay by Licensor to enforce any term or condition of this License shall not constitute a waiver.



Acceptance of Rental Fees or other payments by Licensor following any default shall not waive Licensor's rights concerning the default.

#### 10. SURRENDER AND REMOVAL OF EQUIPMENT

10.1. Surrender of Licensed Space. On expiration or termination of this License, Licensee shall peaceably surrender the Licensed Space to Licensor in good order and repair, reasonable wear and tear excepted. Licensee shall repair any damage to the Licensed Space or Premises resulting from removing Equipment.

10.2. Equipment Removal. Within thirty (30) days after the expiration or termination of this License, Licensee shall remove all Equipment from the Licensed Space and Premises. Any Equipment remaining after such time shall be deemed abandoned and may be removed and disposed of by Licensor at Licensee's expense. Licensee shall reimburse Licensor for all costs incurred to remove abandoned Equipment within ten (10) days after receipt of Licensor's invoice.

#### 11. FORCE MAJEURE

11.1. Neither party shall be liable to the other for any delay or failure to perform resulting from natural disasters, acts of terrorism, civil disorder, court orders, acts or orders of governmental authorities, or any other circumstances beyond the party's reasonable control. Each party shall use reasonable efforts to minimize disruptions in the event of a force majeure condition. If a force majeure event continues for sixty (60) days or more, either party may terminate this License without liability by written notice to the other party.

#### 12. NOTICES

12.1. Any notice under this License shall be valid if delivered personally or sent by certified mail, return receipt requested, electronic mail, or nationally recognized overnight courier to the address of the party listed below. Notice shall be deemed given on the date of delivery or refusal as shown on the receipt of delivery:

Licensor's Notice Address:

City of Grand Junction  
250 N. 5th Street  
Grand Junction, CO 81501  
Email: scotth@gjcity.org  
Attention: Scott Hockins

Licensee's Notice Address:

301 N Cascade Ave.





Montrose, CO 81401

Email: [Doug@Clearnetwest.com](mailto:Doug@Clearnetwest.com)

Attention: Doug Seacat

12.2. Either party may designate a new notice address by written notice to the other party at any time.

### 13. DISPUTE RESOLUTION

13.1. If a dispute arises out of or under this License agreement that cannot be resolved by discussion among the Parties, the Parties agree that they shall proceed, in good faith, to mediation. The Parties will jointly appoint a mediator acceptable to both Parties and share equally in the cost of mediation. Mediation shall be a precondition to the commencement of any litigation. The venue for all dispute resolution (mediation and litigation) shall be in Mesa County, Colorado, and jurisdiction shall be in District Court for Mesa County, Colorado.

### 14. BUILDING MAINTENANCE AND REPAIR BY LICENSOR

14.1. Maintenance Obligations. Licensor shall be responsible for maintaining, repairing, and replacing, as necessary, the roof, foundation, exterior walls, building systems (including electrical, mechanical, and plumbing), and Common Areas serving the Premises. Licensor shall keep the Building and Premises in good working order and condition.

14.2. Interruptions and Limitation of Liability. Licensee acknowledges and agrees that Licensor shall not be liable for any interruptions, delays, failures, or defects in providing maintenance and repairs, nor for any resultant lost profit, lost opportunity, lost advantage related to data and connectivity, or any other associated damages or injuries, whether direct or indirect, where such events are beyond Licensor's reasonable control.

### 15. DATA PROTECTION AND SECURITY

15.1. Data Security. Licensee is responsible for adequately securing Equipment against unauthorized access. Licensor does not provide security monitoring or services specific to Licensee's Equipment.

### 16. MISCELLANEOUS


16.1. Assignment. Licensee shall not assign or transfer any interest in this License, either voluntarily or by operation of law, without the prior written consent of Licensor.



- 16.2. Entire Agreement. This License contains the entire agreement between Licensor and Licensee. No representations or promises have been made except as expressly set forth herein. This License may only be amended by a written instrument signed by both parties.
- 16.3. Governing Law. This License shall be governed by and construed by Colorado law. The venue for any action arising out of or under this License shall be in District Court in Mesa County, Colorado.
- 16.4. Relationships between Parties. Nothing in this License shall be construed to create any partnership, joint venture, or similar relationship between the parties. Neither party shall be construed as having the authority to bind or obligate the other party.
- 16.5. No Third-Party Beneficiaries. This License is for the sole benefit of the Licensor and Licensee. Nothing herein is intended to confer any rights or remedies on any third party.
- 16.6. Severability. If any term of this License is invalid or unenforceable, the other terms shall remain enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties have executed this License effective as of the date first written above.

**CITY OF GRAND JUNCTION**

Authorized Signature   
 Name (Printed): Greg Caton  
 Title: City Manager  
 Date:

**LICENSEE**


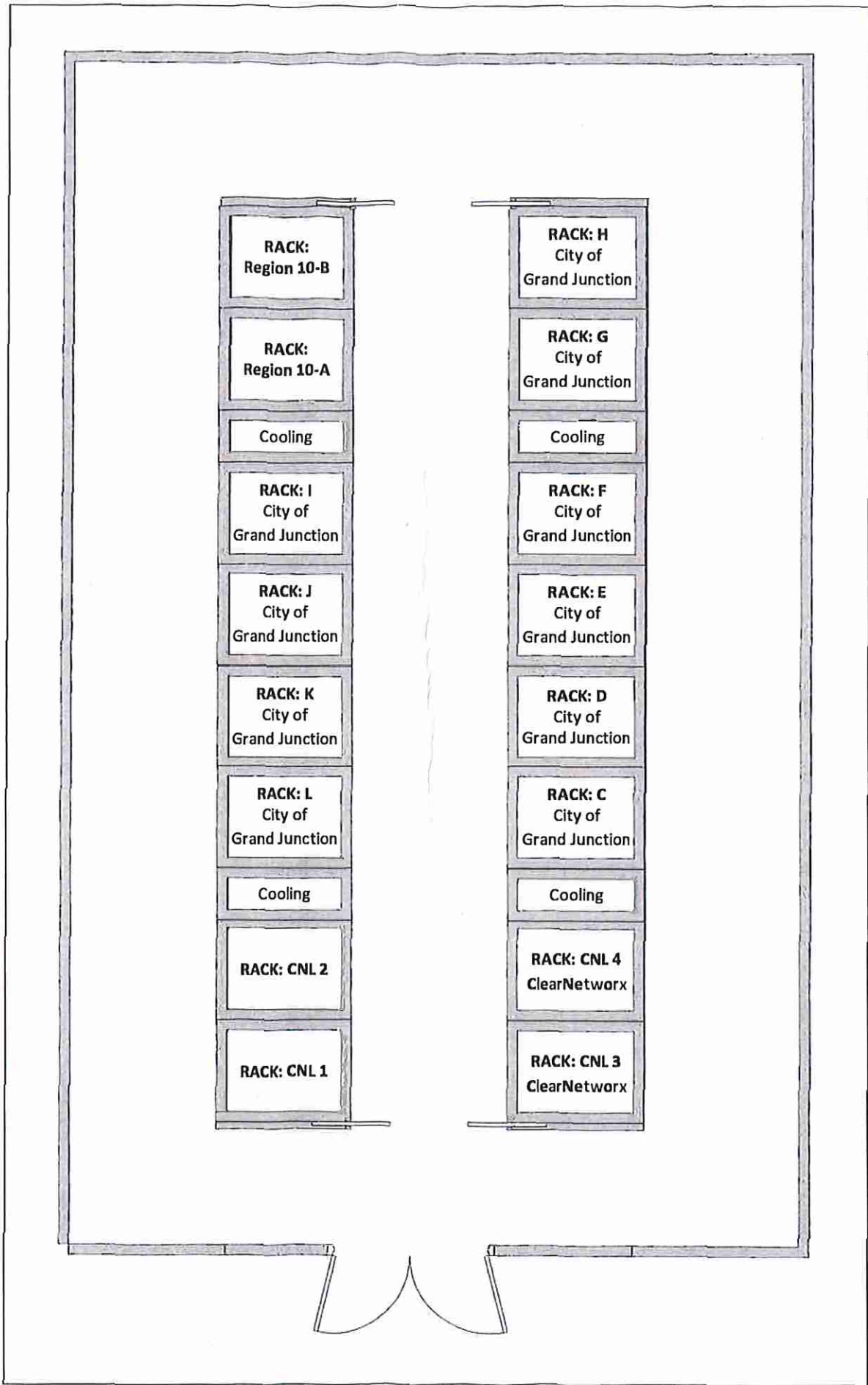
Authorized Signature   
 Name (Printed): Cadey Irving  
 Title: Dir. Business Development  
 Date: 12/29/2023

Exhibit A – Premises and Space



**RACK: Region 10-B**

**RACK: Region 10-A**

Cooling

**RACK: I**  
City of  
Grand Junction

**RACK: J**  
City of  
Grand Junction

**RACK: K**  
City of  
Grand Junction

**RACK: L**  
City of  
Grand Junction

Cooling

**RACK: CNL 2**

**RACK: CNL 1**

**RACK: H**  
City of  
Grand Junction

**RACK: G**  
City of  
Grand Junction

Cooling

**RACK: F**  
City of  
Grand Junction

**RACK: E**  
City of  
Grand Junction

**RACK: D**  
City of  
Grand Junction

**RACK: C**  
City of  
Grand Junction

Cooling

**RACK: CNL 4**  
ClearNetworkx

**RACK: CNL 3**  
ClearNetworkx