

COMMUNICATIONS FACILITY LICENSE AGREEMENT TS-23-0046
AMENDMENT No.1

THIS AMENDMENT NO. 1 TO COMMUNICATIONS FACILITY LICENSE AGREEMENT ("Amendment No. 1"), is made effective as of the 20TH day of November, 2024 ("Amendment 1 Effective Date"), by and between Tri-State Generation and Transmission Association, Inc., a Colorado cooperative corporation, with principal offices located at 1100 West 116th Avenue, Westminster, CO 80234 ("Licensor"), and the City of Grand Junction, CO, with principal offices located at 250 North 5th Street, Grand Junction, Colorado 81501 ("Licensee"). Licensor and Licensee are herein and have been previously referred to individually as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, Licensor and Licensee are Parties to that certain Communications Facility License Agreement, TS-23-0046, dated July 5, 2023 (the "Agreement") providing Licensee certain rights and obligations with respect to the use of the Licensor's Property as the Licensed Premises therein described; and

WHEREAS, the Agreement and its Exhibit B-1 (Grand Junction POP) has a Termination Date of February 28, 2025, at 12:01 PM MT; and

WHEREAS the Parties desire to extend the Agreement Term for the Agreement and make certain other amendments regarding the fees in Exhibit B-1 of the Agreement.

NOW, THEREFORE, in consideration of the mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to the foregoing recitals and as follows:

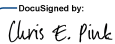
1. Extension of Agreement Term: The first sentence of Section 4 of the Agreement is hereby amended to read: The term of this Agreement shall commence on the Effective Date and shall expire on February 28, 2030, at 12:01 PM MT, unless terminated earlier as provided herein ("Termination Date").
2. Amendment of Exhibit B-1: Exhibit B-1 of the Agreement is hereby amended as follows:
 - a. Section 3.1, Space Use Fee, is amended to \$183 per month / \$549 every quarter for twenty (20) standard rack units, which such revised Space Use Fee effective March 1, 2025.

Prior to March 1, 2025, Licensee shall increase the current Security Deposit of \$1,500 to \$1,600, as required by Exhibit A, Section 2.5. For clarity, the escalation provisions of Exhibit A, Section 2.1 shall continue to apply.
3. Except as otherwise provided in this Amendment No.1, all other provisions of the Agreement shall remain in full force and effect.

4. This Amendment No.1 shall inure to the benefit and be binding upon the Parties, their successors, and permitted assigns.
5. All provisions of Section 19 of the Agreement pertaining to governing law and waiver of jury trial shall apply to this Amendment No. 1.
6. This Amendment No.1 may be executed in two or more counterparts, any one of which need not contain the signature of more than one of the Parties, but all such counterparts, including electronic signatures, photocopies and emailed counterpart signatures, taken together, constitute one and the same instrument as acceptable and binding as an original. It may be electronically signed, and electronic signatures are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No.1 to Communications Facility License Agreement TS-23-0046 as of the Amendment No. 1 Effective Date.

LICENSOR: Tri-State Generation and Transmission Association, Inc.

By:  _____
DocuSigned by:
Chris E. Pink
A052AF1271D6B436

Name: Christopher E. Pink

Title: Senior Vice President of Operations

Licensee: City of Grand Junction, CO

By:  _____
Signed by:
Paul Schultz
55A02280FF5A748F...

Name: Paul Schulz

Title: IT Director

COMMUNICATIONS FACILITY LICENSE AGREEMENT
TS-23-0046

THIS COMMUNICATIONS FACILITY LICENSE AGREEMENT (“Agreement”) is made as of the 5th day of July, 2023 (the Effective Date), by and between Tri-State Generation and Transmission Association, Inc., a Colorado cooperative corporation, with principal offices at 1100 West 116th Avenue, Westminster, CO 80234 (“Licensor”), and City of Grand Junction, with principal offices located at 250 North 5th Street, Grand Junction, Colorado 81501 (“Licensee”). Licensor and Licensee are referred to hereinafter individually as Party or collectively as the Parties.

RECITALS

WHEREAS, Licensor operates certain communications facilities as further described in one or more of Licensor’s facilities (the “Property”) as further described in a “Licensed Premises Exhibit” to this Agreement; and

WHEREAS, Licensee requested, and Licensor agreed, to allow Licensee to install, operate, maintain, repair, and replace certain telecommunications equipment and cabling at the Property in order to furnish telecommunication services.

NOW, THEREFORE, in consideration of the mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to the foregoing recitals and as follows:

1. Use of Property: Subject to the provisions of this Agreement, commencing upon the applicable Colocation Acceptance Date (as defined in *Exhibit A* to this Agreement), Licensor hereby grants to Licensee the right to install, operate, maintain, repair, replace and remove, at Licensee’s expense, certain telecommunications equipment, duct, cabling and ancillary facilities as further described in the applicable Licensed Premises Exhibit(s) (collectively the “Licensee Equipment”) at the Property in such locations as designated by the Licensor, in its sole discretion. The *Licensee Equipment* together with the installation, operation and maintenance shall be for the sole purpose of furnishing telecommunication services.

2. The Licensed Premises: Subject to the provisions of this Agreement, commencing upon the applicable Colocation Acceptance Date, Licensor hereby grants Licensee a license to access, use and occupy (the “License”) space at a Property described in one or more Licensed Premises Exhibit(s) (the “Licensed Premises”). Except to the extent otherwise provided in this Agreement, the Licensee Equipment and all components thereof shall remain the personal property of Licensee. Licensee may use the Licensed Premises for installation, operation, and maintenance of Licensee Equipment to be used solely for furnishing telecommunications services (“Permitted Use”). Licensee shall not allow any waste or nuisance on the Property or use or allow the Property to be used for any unlawful purpose.

3. Fees-Charges-Costs: Licensee shall pay the Space Use Fee, the Electricity Fee, the Unscheduled Colocation Maintenance Fees, Connection Fee, Cable/Conduit Use Fee, Billable Licensor Work (as such terms are defined in *Exhibit A*) and other amounts as further set forth in this Agreement. Licensee shall pay such amounts within thirty (30) calendar days of the date of each invoice. If Licensee fails to make any payment under this Agreement when due, such amount shall accrue interest from the date such payment is due until paid, including accrued interest compounded monthly, at a rate equal to 1.5% per month, or, if lower, the highest percentage allowed by law. In

addition to any unpaid fees and interest, Licensee shall be responsible for Licensor's reasonable costs of collection, including, but not limited to, attorney fees and collection agency fees. If a dispute arises concerning any amount due from Licensee, Licensee shall provide Licensor written notice of the dispute prior due to the due date, including the reason(s) for the dispute and the amount disputed. Licensee shall still pay such disputed amount; however, if it is later determined that the amount disputed and paid to Licensor was not owed, such amount shall be returned to Licensee.

4. Term and Termination: The term of this Agreement shall commence on the Effective Date and shall expire on **February 28, 2025** at 12:01 PM MT, unless terminated earlier as provided herein ("Termination Date"). This Agreement will NOT automatically renew. The term of this Agreement is referred to as the "Agreement Term". Either Party may terminate this Agreement at any time during the Agreement Term upon a minimum of ninety (90) calendar days' with prior written notice to the other Party. Licensed Facilities Exhibits, or amendments thereto, will not be effective or extend beyond the Agreement Term. All Licensed Premises Exhibits shall terminate on the Termination Date.

5. Indemnification; Limitation of Liability: Licensee is responsible for all claims, losses, damages, penalties, liabilities and lawsuits (including reasonable attorney fees and costs) to the extent they arise from, or alleged to arise from, Licensee's negligent or intentional acts or omissions or Licensee's use of, or operation of, the Licensee Equipment or services provided by Licensee.

IN NO EVENT SHALL LICENSOR BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA OR BUSINESS INFORMATION) WHETHER BASED IN CONTRACT, TORT OR OTHER LEGAL THEORY, IN CONNECTION WITH THIS AGREEMENT OR THE USE OR INABILITY TO USE THE LICENSED PREMISES. NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, LICENSOR'S AGGREGATE CUMULATIVE LIABILITY UNDER THIS AGREEMENT WHETHER BASED IN CONTRACT, TORT OR ANY OTHER THEORY SHALL NOT EXCEED THE AMOUNT PAID BY LICENSEE TO LICENSOR DURING THE TWELVE MONTHS PRIOR TO THE EVENT GIVING RISE TO ALLEGED LIABILITY.

This Section shall survive termination or expiration of this Agreement.

6. Default by Licensee: In the event Licensee breaches any of its obligations hereunder, Licensor may provide written notice to Licensee describing such breach. Licensee shall have thirty (30) calendar days from the receipt of written notice to cure the breach (or ten (10) calendar days in the event of a payment breach). In the event Licensee fails to cure such breach within the applicable cure period, Licensor, in its sole discretion, may undertake actions to cure the breach as Billable Licensor Work chargeable to Licensee, without waiving or electing any other remedies Licensor may have. In addition, Licensor may declare Licensee in default of this Agreement and Licensor shall then have the right to terminate this Agreement by sending written notification to Licensee terminating this Agreement. Such termination shall be effective upon receipt by Licensee of the notice of termination. Following termination for default, Licensee shall remove the Licensee Equipment within five (5) business days. Licensor may also pursue any and all other remedies it may have at law, in equity and under this Agreement, including specific performance. This Section shall survive the termination or expiration of this Agreement.

7. Insurance: Licensee shall maintain during the Agreement Term, and shall provide to Licensor prior to entering the Property, a certificate of insurance evidencing (i) workers' compensation

insurance with minimum statutory limits to cover obligations imposed by state statutes applicable to the Licensee's employees and employers' liability insurance for bodily injury by accident of \$1,000,000 each accident, bodily injury by disease of \$1,000,000 each employee and \$1,000,000 each accident or (ii) commercial general liability insurance and property damage in the amount of \$2,000,000 per occurrence and \$2,000,000 annual aggregate for bodily injury and property damage covering Licensee and Licensee's obligations under this Agreement including a breach of warranty endorsement. Limits for commercial liability may be achieved through the combination of primary insurance and follow form umbrella/excess liability insurance. Licensee's commercial liability coverage shall name Licensor as an additional insured and confirm such in the certificate of insurance. The insurance policies, through policy endorsement, must include wording to the effect that such policies are primary and non-contributing with respect to any insurance carried by Licensor. The certificates of insurance must reflect that such wording is included in the evidenced policies. There shall be no endorsement or modification of the commercial general liability coverage limiting the scope of the coverage for liability assumed under a contract. Licensee waives its right of recovery against Licensor for all claims and suits against Licensor and all Licensee's insurers, through the terms of the policy or policy endorsement, must waive their right of subrogation against Licensor for all claims and suits. The certificates of insurance must reflect the waiver of subrogation endorsement. Licensee insurance policy shall provide 30 days' written notice of cancellation or material adverse change and 10 days prior written notice of non-payment or premium either by policy or cancellation endorsement. If Licensee is unable to abide by the stated provisions, Licensee must notify Licensor immediately should any of the above-described policies be cancelled before the expiration date if the insured receives a non-renewal notice from its carrier, or any material change of coverage. In the event of termination or cancellation of any of the above-described policies, Licensee shall not enter the Property until required coverage is in place and proof is provided to Licensor. Licensee shall immediately notify Licensor of each accident or incident involving the Property. Licensee shall advise Licensor of all correspondence, papers, notices, and documents whatsoever received by Licensee in connection with any claim or demand involving or relating to the Property or the operation of Licensee's business on the Property. Licensee shall aid in any investigation instituted by Licensor and in the recovery of damages from third parties liable for such damages. Licensee shall obtain and maintain in force such insurance as Licensee deems appropriate to cover the personal property of Licensee. Licensor will not, under any circumstances, be liable to Licensee for any damage or loss to the Licensee Equipment or other personal property except due to the gross negligence or willful misconduct of Licensor. Licensee shall also provide certificates of insurance annually during the Agreement Term. In the event required by the underlying rights grantor of the property upon which the Property is located, Licensee's commercial liability coverage shall name the property owner as an additional insured and confirm such in the certificate of insurance.

8. Effects of Termination: Upon expiration or termination of this Agreement, Licensee shall immediately surrender to Licensor all keys and access cards to the Property and Licensed Premises. Prior to expiration or termination of the Agreement Term, Licensee shall, at its expense, (i) remove the Licensee Equipment (or within 5 business days' in the case of termination for default as provided in Section 6) and (ii) vacate the Licensed Premises and Property and restore the Licensed Premises to the condition it existed when Licensee first began using the Licensed Premises. If any of Licensee's property after expiration or termination of the Agreement Term is not removed or restoration is not complete, Licensor may (a) remove such and complete restorage and charge the Costs (as defined in *Exhibit A*) of such removal and storage and restorage as Billable Licensor Work to Licensee or (b) notify Licensee that Licensor elects to take ownership of such abandoned property at no cost, in which case this provision shall become effective to irrevocably quitclaim, transfer, waive and release any and all ownership, rights, title and interest in and to said abandoned Licensee Equipment free and clear of all liens, encumbrances and security interests, regardless of

and without the need for any additional conveyance or bill of sale documents. Under no circumstances will Licensor be liable for any loss or damage to the Licensee Equipment or other property resulting from such removal and disposal. The foregoing provisions of this Section are in addition to and do not limit Licensor's rights stated elsewhere in this Agreement or provided by law. This Section shall survive termination or expiration of this Agreement.

9. Hazardous Materials: Hazardous materials are prohibited from being created, used, or brought onto the Property by Licensee.

10. Compliance With All Applicable Requirements: Licensee shall comply with (i) all applicable laws, codes, rulings, and regulations and (ii) Licensor requirements set forth in *Exhibit A* with respect to the Licensee Equipment, use of the Licensed Premises, the Property, and this Agreement. Licensee shall not cause any accumulation of debris or trash at the Property. Licensee shall not cause or permit any liens, claims, or demands of any nature ("Lien"), including but not limited to mechanics liens, resulting from Licensee's use of the Licensed Premises, or work performed on behalf of Licensee, to be filed against the Licensed Premises or Property. Licensee shall defend and hold Licensor harmless against any and all such Liens, including related costs, expenses and reasonable attorney fees.

11. Confidentiality; Publicity; Use of Name and Marks: In the performance of this Agreement, the Parties may exchange written, oral, visual, and observed information, including, but not limited to, plans, drawings, maps, diagrams, lists, specifications, physical facilities and spaces (collectively, "Information"). If either Party (as the "Discloser") provides confidential or proprietary Information to the other Party (as the "Recipient"), said Information must be clearly and conspicuously marked when provided, or orally notified, or promptly confirmed within five (5) business days of disclosure, as "confidential" or "proprietary", which shall be deemed "Confidential Information" protected under the obligations of this Section. The fees contained in the Licensed Premises Exhibit(s) to this Agreement is Confidential Information of Licensor. Recipient shall hold said Confidential Information in strict confidence and shall not disclose or use the Confidential Information, except for the performance required and authorized under this Agreement. Recipient shall apply the same level of care, use and protection as Recipient would apply to Recipient's own confidential and proprietary information of like nature, including requiring Recipient's representatives having a need-to-know to be bound by these confidentiality obligations, but in any case, not less than reasonable care, to prevent and prohibit its unauthorized disclosure or use. All Confidential Information provided by the Discloser, including copies thereof, is and remains the property of the Discloser or others as rightfully authorized for disclosure, and shall be promptly returned to Discloser, or destroyed as directed by and to the satisfaction of Discloser. The obligations of confidentiality shall not apply to Information, which is excluded from being or ceases to be Confidential Information (as "Exclusions"), to the extent such Information (i) is or becomes publicly available other than by unauthorized disclosure or use by Recipient, or (ii) was rightfully already known by the Recipient at the time of its receipt from Discloser as demonstrated by tangible evidence, or (iii) rightfully comes into Recipient's possession from a third party not known by it to be bound by an obligation of confidentiality to Discloser with respect to such Information, or (iv) is independently developed or discovered by, or on behalf of Recipient, without reliance upon Discloser's Confidential Information, or (v) is disclosed by Recipient to the extent of Discloser's prior written approval. If disclosure of Confidential Information is required by law, rule or judicial or regulatory authority, or if Discloser waives compliance with the terms of this Section, Recipient will furnish only that portion of the Confidential Information that it reasonably determines, in consultation with its counsel, that is legally required and will exercise its reasonable efforts to obtain reliable assurance that confidential treatment will be accorded such Confidential Information. Licensee acknowledges and agrees that Licensee's activities, documents and

operations, or the presence of the Licensee Equipment at the Licensed Premises that is observed or otherwise known to other users of the Property, is not Confidential Information. Licensee acknowledges and agrees that Licensor may disclose the name of Licensee, the usage of Licensee at the Property, the term of the Licensed Facilities Exhibits and fees owed from Licensee to third parties with a financial interest in the Property.

Licensee shall not, without the prior written consent of Licensor, publicly display or use Licensor's names, slogans, logos or marks.

12. Force Majeure: Notwithstanding anything to the contrary contained in this Agreement, neither Party shall be in breach of this Agreement (except for payment) when a failure to perform any of its obligations hereunder is caused by a Force Majeure Event. A Force Majeure Event shall mean an act of God, labor dispute, civil disorder or vandalism, epidemic, pandemics, mal-performance by contractors or suppliers, breakdown of facilities, partial or complete destruction of Property, electrical, physical or other interference, fire, flood, storm, natural disasters, legal enactment, governmental order or regulation or any other cause beyond the reasonable control of such Party. A Party is not required to settle any strike or labor dispute in which it is involved. Any Party rendered unable to fulfill any of its obligations under this Agreement by reason of a Force Majeure Event shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

13. Dispute Resolution: Any dispute between the Parties arising under this Agreement shall be referred by written notice from the disputing Party to the other Party for resolution on an informal basis. Should the Parties fail to resolve the dispute within thirty (30) calendar days from the date of written notice of the dispute, the dispute will be referred to each Party's senior management (Chief Operating Officer in the case of Licensor and IT Director in the case of Licensee). If the dispute is not resolved by the Parties' senior management within sixty (60) calendar days from the date of the written notice of dispute or other period as the Parties mutually agree, each Party may pursue all remedies available to it under law and/or equity.

14. Binding Nature; Assignment; Licensee Subcontractors: This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, permitted assigns and transferees. Licensee shall not transfer, sell, lease, license, assign or sublet all or any part of its interest in this Agreement, the Property or Licensed Premises without the prior written consent of Licensor. If Licensee subcontracts any portion of the activities required or arising under this Agreement, Licensee remains responsible for complying with the requirements of this Agreement and is liable to Licensor for the acts and omissions of its subcontractors, including their failure to comply with the requirements of this Agreement or fulfill the obligations imposed on Licensee by this Agreement, as if the acts and omissions were those of Licensee. Should Licensor determine, in its sole discretion, that the actions or inactions of any employee or subcontractor of Licensee adversely affects Licensor's interests, the Licensed Premises, the Property or Licensee's obligations under this Agreement and so inform Licensee, Licensee shall immediately remove such employee or subcontractor from performing activities on the Property and Licensor may deny such employee or subcontractor from any further access to the Property, without any liability to Licensor or others whatsoever.

Nothing in this Agreement shall restrict or prevent Licensor from selling, transferring, assigning or conveying the Property, including the HVAC, AC and DC power supply, any conduit, the underlying rights and other equipment related to Property, to a third party(ies) or from utilizing an asset manager and entering into contracts related to such with third party(ies), all without the consent of Licensee. In connection with such, Licensor may transfer or assign all or any part of its

interest in the Licensed Facilities Exhibits related to the Property and the related provisions of this Agreement without the consent of the Licensee. Any such third party acquiring or managing such from Licensor shall take such assets subject to the License pursuant to the terms of this Agreement. The assigning Licensor shall have no liability hereunder for any obligations that relate to the Property or acts or omissions that occur after any period following the effective date of such assignment. Upon request of Licensor, Licensee shall in good faith cooperate with Licensor and such other third party(ies) to remove the Property and License for the Licensed Premises from this Agreement and into a separate agreement between Licensee and such other third party(ies).

15. Representations and Warranties: Licensee represents and warrants to Licensor that (i) Licensee is qualified to do business in the jurisdiction in which the Property is located, (ii) all necessary approvals have been obtained to authorize the execution, delivery and performance of this Agreement by Licensee, (iii) the execution, delivery and performance of this Agreement by Licensee will not result in a breach or default under any other agreement to which Licensee is a party or contravene any organizational documents, laws, orders, statutes or regulations applicable to Licensee or its assets and (iv) this Agreement, upon the execution and delivery thereof by Licensee, is the valid and legally binding obligation of Licensee enforceable in accordance with its terms. THE LICENSED PREMISES IS PROVIDED "AS-IS" AND LICENSOR DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND WHATSOEVER.

16. Notices: Except with respect to communications between the Parties limited to the maintenance and repair of the Licensed Premises under *Exhibit A*, any notices required hereunder, to be effective, shall be in writing and shall be sent by (i) U.S. mail, postage prepaid, return-receipt requested, or (ii) a nationally recognized overnight courier service, with signature required, or (iii) e-mail (provided that a Party delivering notice in this manner must send the e-mail with a read receipt tag and follow up in a writing to the addressee via either the foregoing (i) or (ii) delivery methods), to the applicable Party at the address set forth below, or at such other address as may be designated at a later date in a notice delivered pursuant to the terms hereof:

(a) If to Licensor:

Tri-State Generation and Transmission Association, Inc.
Attn: Vice President, Transmission Systems Support
1100 W. 116th Avenue
Westminster, CO 80234
E-mail: rhillis@tristategt.org

(b) If to Licensee:

City of Grand Junction
Attn: Paul Schultz,
IT Director
250 North 5th Street
Grand Junction, CO 81501
E-mail: pauls@gjcity.org

With a copy to:
City Attorney
Attn: John Shaver
250 N. 5th Street

Grand Junction, CO 81501
e-mail johns@gjcity.org

17. Entire Agreement; Amendment: This Agreement, including its integrated exhibits, schedules, and attachments, contains the entire and final agreement between the Parties related to the Property and supersedes and replaces all previous communications, representations, or agreements, either oral or written, between the Parties related to the Property. The exhibits, schedules and attachments referred to herein are integral parts hereof and are hereby made a part of this Agreement. This Agreement may only be modified, amended, or supplemented by an instrument in writing executed by each Party.

18. Counterparts: This Agreement, including its integrated exhibits, schedules and attachments, and any amendments may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Delivery may be effected by actual delivery or by electronic transmission of executed counterpart copy to the other Party.

19. Governing Law; Waiver of Jury Trial: The laws of the State of Colorado (excluding its conflict of law provisions) govern all matters arising out of or relating to this Agreement, including without limitation, its interpretation, construction, performance, and enforcement. Any Party bringing a legal action or proceeding against the other Party arising out of or related to this Agreement shall bring the legal action or proceeding exclusively in any court of the State of Colorado sitting in Mesa County, Colorado. EACH PARTY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS IT CONTEMPLATES.

20. Severability: In the event that a provision of this Agreement, in whole or in part, or the application of such provision, is held invalid by a court or administrative body having jurisdiction, all other provisions of this Agreement and their application will remain in force and effect unless such court or administrative body also holds that the invalid provision is not severable from all other provisions of this Agreement.

21. Waiver: Any waiver made at any time by a Party with respect to such Party's rights under this Agreement will not be deemed a continuing waiver or a waiver with respect to another Party's failure or delay to comply with any other obligation, right or duty under this Agreement. In order to be effective, a waiver must be in writing signed by the waiving Party.

22. Survival: All obligations and rights of the Parties which have accrued hereunder or by their express terms are intended to survive, shall survive expiration or termination of this Agreement.

23. Relationship of the Parties: The Parties are separate entities and nothing in this Agreement shall be construed to create a joint venture, trust, partnership or other fiduciary or agency relationship by or among the Parties, their employees, officers or agents.

24. Third Party Beneficiaries: This Agreement does not, and is not intended to, confer any rights or remedies upon any other person or entity other than the Parties.

25. List of Integrated Exhibits: The Property and Licensed Premises are described in exhibits to this Agreement and such exhibits are referred to in this Agreement as the Licensed Premises Exhibits. "Exhibit B-1" and successive Licensed Premises Exhibits shall be similarly identified in numerical order; "Exhibit B-2, Exhibit B-3" and so forth. In as much as Licensee's needs for

communications facilities use may change over time, future instances shall be described in additional or amended Licensed Premises Exhibit(s) to this Agreement. Additional or amended exhibits shall be in writing and executed by the Parties. If there is a conflict between the provisions of this Agreement and those of any exhibit, the provisions of the exhibit prevail with respect to the conflicting provision only and only for that specific Licensed Premises Exhibit. The Licensed Premises Exhibits are listed in *Schedule 1* and are the only Licensed Premises Exhibits in effect as of the effective date specified in *Schedule 1*. The Parties will execute a revised *Schedule 1* each time a Licensed Premises Exhibits is either amended, terminated, removed, or added to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the Effective Date.

LICENSOR: Tri-State Generation and
Transmission Association, Inc.

LICENSEE: City of Grand Junction

By: Barry W. Ingold

By: Paul Schultz

Name: Barry W. Ingold

Name: Paul Schultz

Title: Chief Operating Officer

Title: IT Director

**SCHEDULE 1 to Communications Facility License Agreement
TS-23-0046**

SCHEDULE OF INTEGRATED EXHIBITS

Effective Date of Schedule 1: Effective Date of this Agreement

The following listed exhibits are incorporated, integrated, and made a part of this Communications Facility License Agreement. The only Licensed Premises Exhibits in effect as of the effective date of this Schedule 1, which is specified above, are the following:

<u>EXHIBIT</u>	<u>Description</u>	<u>Effective Date of Exhibit</u>
Exhibit A	Additional Colocation Terms and Conditions	Effective Date of this Agreement
Exhibit B-1	Grand Junction POP Licensed Premises Exhibit	Effective Date of this Agreement

**EXHIBIT A to Communications Facility License Agreement
TS-23-0046**

ADDITIONAL COLOCATION TERMS AND CONDITIONS

Tri-State Generation and Transmission Association, Inc. ("Licensor")
and City of Grand Junction ("Licensee")

In addition to the foregoing provisions in the Agreement, the use of the Licensed Premises by Licensee shall be subject to the following additional terms and conditions:

1. DEFINITIONS:

1.1 "Billable Licensor Work" means any services or maintenance that is not otherwise required to be performed or provided by Licensor under this Agreement, which is requested by Licensee. Billable Licensor Work also includes work performed by Licensor to cure a breach not cured by Licensee as required under this Agreement. Billable Licensor Work may also include work performed prior to the Effective Date of this Agreement.

1.2 "Colocation Acceptance Date" for the Licensed Premises, shall have the meaning set forth in Section 3.2 of this Exhibit A below.

1.3 "Colocation Delivery Notice" shall have the meaning set forth in Section 3.1 of this Exhibit A below.

1.4 "Commercially Reasonable Efforts" means the standard of effort, steps, actions or care level understood and acknowledged by the Parties as required of a Party in performing under this Agreement and shall mean the timing, manner, scope and cost of efforts, steps, actions or care taken as commercially and reasonably designed to achieve the desired results, but shall not obligate such Party to make un-reimbursed expenditures (other than costs or expenditures that would have been required of such Party in the absence of the requirements of such covenants) that are material and substantial in amount, or adverse to said Party's own interests when reasonably applying such efforts, steps, actions or care consistent with applicable electric utility standards and practices under similar circumstances to which the requirement to use such efforts, steps, actions or care applies, but in any case shall NOT mean a "best efforts" level requiring "all resources at all costs".

1.5 "Costs" shall mean the actual, direct costs paid or payable by a Party in accordance with the established accounting procedures generally used by the Party in billing third parties, which costs shall include, but are not limited to, the following: (a) direct labor costs, including wages and salaries, benefits, overhead, profit and administrative costs allocable to such labor costs and (b) other direct costs and out-of-pocket expenses (including, but not limited to, purchased equipment, materials, supplies, contracted services, rent, permit fees, etc.).

1.6 "Impositions" shall mean all taxes, fees, levies, imposts, duties, assessments, contributions, charges or withholdings of any nature (including, but not limited to, franchise, access, license and permit fees, and sales, use, transfer, receipts and property taxes), together with any penalties, late fees, fines or interest thereon, arising out of the transactions contemplated, or the interests created by this Agreement, that are imposed upon a Party by governmental authority, but shall not include taxes on the income, payroll or net worth of a Party and shall also exclude

any real property and personal property taxes not directly attributable to the Licensee Equipment.

1.7 “NOC” shall mean a Network Operations Center, as the location from which the status, performance and alarm conditions of Licensor’s telecommunications circuits, systems and facilities are monitored.

1.8 “Scheduled Colocation Maintenance” shall mean routine maintenance and repair of the Property performed by or under the direction of the Licensor, at Licensor’s reasonable discretion. Other maintenance or repair requested by Licensee shall be considered Billable Licensor Work chargeable to Licensee and not Scheduled Colocation Maintenance. Scheduled Colocation Maintenance of the Property comprises:

- (a) Visitation and inspection of the Property, routine, and preventive maintenance on a regularly scheduled basis as determined or deemed necessary by Licensor to keep HVAC and power in proper working order;
- (b) Repair of malfunctioning HVAC, power, and Licensor-owned equipment;
- (c) Assignment of maintenance personnel to locations within reasonable proximity to the Property; and
- (d) Operation of Licensor’s NOC as described above.

1.9 “Unscheduled Colocation Maintenance” shall mean non-routine maintenance, repair, restoration, or reconstruction of the Property not included as Scheduled Colocation Maintenance described above performed by or under the direction of Licensor and comprises:

- (a) “Emergency Unscheduled Colocation Maintenance”, which shall mean maintenance performed in response to failure, interruption, impairment in the operation or damage or destruction of, the Property and associated HVAC, and power, or any event imminently likely to cause same (a “Service Affecting Condition”).
- (b) “Non-Emergency Unscheduled Colocation Maintenance”, which shall mean maintenance performed in response to any potential Service Affecting Condition to prevent any failure, interruption, impairment, damage, or destruction in the operation of the Property and associated HVAC, and power, which has not actually occurred or is not imminently likely to occur.
- (c) Later follow up scheduled performance of activities to replace an earlier emergency temporary repair with a non-emergency permanent repair is also considered a continuation of Unscheduled Colocation Maintenance.

2. FEES AND SECURITY DEPOSIT:

2.1 Space Use Fee: In consideration of the rights herein granted by Licensor to Licensee, commencing on the Colocation Acceptance Date, Licensee shall pay to Licensor, in advance upon the Colocation Acceptance Date and thereafter prior to the 1st day of each calendar quarter, as the quarterly “Space Use Fee”, in the amount and as further described and calculated in the applicable Licensed Premises Exhibit, plus any Impositions which may be due and payable. The Space Use Fee for any partial period shall be daily prorated based on the number

of days Licensee has the right to use the Licensed Premises in that period. The Space Use Fee may be increased by Licensor not more frequently than annually during the Agreement Term for the applicable Licensed Premises, without further notice to the Licensee on the annual anniversary of the applicable Colocation Acceptance Date or such other date as Licensor may determine. Such annual increase may be the greater of (i) the Consumer Price Index – All Urban Consumers, Information and Information Processing, U.S. City Average, not seasonally adjusted (December 1997 = 100), as published by the United States Bureau of Labor Statistics at the time said fee is due or (ii) three and one quarter percent (3.25%), above the quarterly Space Use Fee amount charged for the calendar quarter immediately prior to the increase effective date.

2.2 Scheduled Colocation Maintenance Fees. In addition to the Space Use Fee, commencing on the Colocation Acceptance Date, Licensee shall pay to Licensor, in advance upon the Colocation Acceptance Date and thereafter prior to the 1st day of each calendar quarter, fees payable for Scheduled Colocation Maintenance, in the amount and as further described and calculated in the applicable Licensed Premises Exhibit, subject to an annual inflation factor also as described in Section 2.1 of this Exhibit A (“Scheduled Colocation Maintenance Fees”).

2.3 Unscheduled Colocation Maintenance Fees: In addition to the Space Use Fee, Licensee shall pay for each Unscheduled Colocation Maintenance event, a proportionate share of the total costs incurred by Licensor in performing Unscheduled Colocation Maintenance activities in connection with said event (“Unscheduled Colocation Maintenance Fee”). Licensor will determine the proportionate share allocation method on a case-by-case basis based upon the type of Unscheduled Colocation Maintenance event or other event for which Licensee is responsible for the proportionate share under this Agreement, such methods may be based upon the ratio of licensable space or capacity of the Property allocated to the Licensee Equipment.

2.4 Electricity Fee: In addition to the Space Use Fee and other Costs and fees due under this Agreement, Licensee shall pay to Licensor a fee for both DC power and AC power supplied to Licensee Equipment based on the amperage rating of the circuit breaker furnishing each power type (“Electricity Fee”). Electricity Fee per amp for each power type and the frequency of payment shall be as set forth in the applicable Licensed Premises Exhibit. The Electricity Fee may be amended by Licensor due to changes in electricity supplier charges, taxes or changes in the amperage rating or the circuit serving the Licensee Equipment upon Licensor’s written notice to Licensee of the change and the effective date of such change. Licensee Equipment shall not draw more amperes than 80% of the amperage rating of the serving circuit breaker or less, as otherwise limited by Licensor or applicable code.

2.5 Security Deposit: In addition to the other fees stated herein, upon Licensee’s execution of this Agreement (or upon execution of any future or amended Licensed Premises Exhibit(s)), Licensee shall initially deposit with Licensor an amount equal to the sum of all applicable quarterly Space Use Fee(s) and Scheduled Colocation Maintenance Fees then in effect, as stated in the applicable Licensed Premises Exhibit as a security deposit (“Security Deposit”) to be held by Licensor, for the term of the applicable Licensed Premises Exhibit, and without the payment of interest to Licensee, as security for Licensee’s performance under this Agreement. In its sole discretion, Licensor may offset and assess any amounts due from Licensee to Licensor against the Security Deposit. Licensor may invoice Licensee from time to time as Licensor determines necessary to increase, replenish and maintain the Security Deposit balance equal to three-times the current monthly Space Use Fee and Scheduled Colocation Maintenance Fees then existing for the applicable Licensed Premises Exhibit. Licensor shall refund, without interest, any remaining Security Deposit balance for the applicable Licensed Premises Exhibit

to Licensee within sixty (60) calendar days following the later of (i) Licensee's fulfillment of its performance obligations under this Agreement for the applicable Licensed Premises Exhibit, (ii) Licensee's vacating the Property and removing the Licensee Equipment for the applicable Licensed Premises Exhibit and (iii) Licensee providing Licenser a current Request for Taxpayer Identification and Certification Form W-9 matching the Licensee's entity name under this Agreement so Licenser can process the return of the Security Deposit.

2.6 Connection Fee: Upon Licensee's execution of this Agreement (or upon execution of any future or amended Licensed Premises Exhibit(s)), Licensee shall pay to Licenser a non-refundable connection fee for the Licensed Premises equal to the sum stated in the applicable Licensed Premises Exhibit ("Connection Fee") to cover the costs of Licenser preparing and executing this Agreement (or the future or amended Licensed Premises Exhibit(s)) and making the Licensed Premises available for Licensee's Permitted Use.

2.7 Cable/Conduit Use Fee: In addition to the Space Use Fee and other Costs and fees due under this Agreement, if applicable, Licensee shall pay to Licenser an additional cable/conduit use fee ("Cable/Conduit Use Fee") as further described in the applicable Licensed Premises Exhibit.

3. DELIVERY AND ACCEPTANCE:

3.1 Delivery: Licenser will use Commercially Reasonable Efforts to make the Licensed Premises available for Licensee's Permitted Use within sixty (60) calendar days following the later of the Effective Date of this Agreement (or the effective date of a Licensed Premises Exhibit for any future or amended Licensed Premises Exhibit(s)) and Licensee's payment of the Connection Fee and Security Deposit for the applicable Licensed Premises Exhibit, unless otherwise provided in the applicable Licensed Premises Exhibit. Licenser will notify Licensee in writing when the Licensed Premises is available for Licensee's Permitted Use ("Colocation Delivery Notice").

3.2 Acceptance: Licensee takes the Licensed Premises and the Property in its "AS-IS" condition. Licensee acknowledges that Licensee is not relying upon any representations or warranties made by Licenser or Licenser's agents or employees as to the suitability or fitness of the Licensed Premises for Licensee's intended uses. Any matters within Licensee's control or responsibility, including, but not limited to, the Licensee Equipment, shall not be used or deemed as a basis for rejecting the Licensed Premises or nonpayment of amounts due hereunder. Licensee shall be deemed to have accepted the applicable Licensed Premises on the earlier of (i) the date Licensee commences use thereof by installing the Licensee Equipment in the Licensed Premises or (ii) seven (7) calendar days following receipt of the Colocation Delivery Notice from Licenser, with the occurrence of the earlier of either event being known as the "Colocation Acceptance Date".

4. MAINTENANCE; OTHER SERVICES:

4.1 Maintenance Responsibility: Licenser will use Commercially Reasonable Efforts to maintain the Property in good working order and perform Scheduled Colocation Maintenance and Unscheduled Colocation Maintenance in accordance with this Section 4 or as otherwise set forth in this Agreement.

4.2 Other Services: If Licenser agrees or requires, in Licenser's sole discretion, Licenser may also perform Billable Licenser Work. Licensee shall pay Licenser for Billable Licenser Work.

4.3 Maintenance Procedures:

4.3.1 Licensors's NOC Operation and Maintenance Personnel Availability: Licensor shall operate a NOC staffed during Licensor's normal 8-hour workday, five (5) workdays during the work week by appropriate personnel (excluding Licensor's holidays). The Licensor's network alarm system monitors Licensor's equipment only, but not the Licensee Equipment, and shall have the capability of notifying responsible maintenance personnel for critical alarms occurring when the NOC is not staffed.

4.3.2 Notification and Dispatch: Licensee shall promptly notify Licensor of the need for Unscheduled Colocation Maintenance in accordance with procedures promulgated by Licensor from time to time. Upon such notification or upon alarm identification by Licensor, Licensor will record in a log the time of notification or identification, issue a trouble ticket number, verify the problem, and promptly dispatch maintenance personnel appropriately, to take corrective action.

4.3.3 Maintenance Response: Licensor will use Commercially Reasonable Efforts to have its first maintenance personnel respond to the problem Property within four (4) hours following the time Licensor becomes aware of the Emergency Unscheduled Colocation Maintenance event, unless delayed by a Force Majeure Event. Appropriate communications, such as voice, text, or e-mail, shall be established and maintained to keep Licensor and Licensee maintenance personnel apprised and coordinated throughout an Emergency Unscheduled Colocation Maintenance situation, as further described below. Licensor's maintenance personnel shall be dispatched appropriately to perform maintenance and repair activities in response to the failure, interruption or impairment at the Property detected (i) by Licensee through Licensee's own operations center and alarm monitoring system and ensuing notification by Licensee to Licensor, or (ii) upon notification to Licensor by a third party, or (iii) by Licensor's monitoring of the Property.

4.3.4 Cooperation and Coordination:

(a) For matters limited to the communication of maintenance and repair of the Property under this Exhibit A, the Parties shall use the contact escalation list referenced below, as may be updated from time to time by the Parties, to maintain appropriate coordination contact in meeting the maintenance requirements.

(b) In the event that any Scheduled Colocation Maintenance or Unscheduled Colocation Maintenance requires a traffic rollover, cutover or reconfiguration involving Licensee Equipment, Licensee shall, at its expense, make such Licensee personnel available as may be reasonably requested by Licensor to assist with accomplishing such actions, which personnel shall coordinate and cooperate with Licensor in performing same.

(c) Licensor shall notify Licensee prior to the date of commencing any work in connection with any Scheduled Colocation Maintenance or, to the extent practicable, Non-Emergency Unscheduled Colocation Maintenance which may reasonably be expected to affect the telecommunications traffic signal continuity of the Licensed Premises. Licensee shall have the right to have its representatives present during the performance of any Scheduled Colocation Maintenance or Unscheduled Colocation Maintenance, which may reasonably be expected to affect the telecommunications

traffic signal continuity of the Licensed Premises, so long as Licensee does not interfere with Licensor's ability to perform the subject maintenance activities or other obligations under this Agreement. Licensor shall notify Licensee if a maintenance activity is cancelled or delayed and provide subsequent rescheduling notice as provided above.

(d) In the event of telecommunications traffic interruption or outage resulting from the Licensed Premises, the Parties agree to cooperate, coordinate and work together to restore service as quickly as possible.

(e) It is Licensee's responsibility to provide all required notifications to Licensee's customers.

4.3.5 Licensee Equipment and Facilities: Except to the extent otherwise expressly provided in this Agreement, Licensee, at its expense, is solely responsible for providing, operating, and maintaining all of the Licensee Equipment, including all materials, labor, equipment, services and facilities used in connection with the Licensed Premises.

4.3.6 Maintenance Performance: Licensor's obligations with respect to the performance of maintenance activities shall be as follows:

(a) Licensor shall perform Scheduled Colocation Maintenance in accordance with Licensor's then current preventive maintenance procedures.

(b) Licensor shall use Commercially Reasonable Efforts to maintain sufficient regular communications capability with Licensee during an Emergency Unscheduled Colocation Maintenance event.

(c) In the event of Emergency Unscheduled Colocation Maintenance, Licensor shall use Commercially Reasonable Efforts to promptly determine the course of action to be taken and commence restoration efforts, unless delayed by a Force Majeure Event. Licensee acknowledges and agrees that in the event of damage to the Property or Licensed Premises that adversely affects Licensor's electric utility operations, first priority shall be given to the restoration of the electric utility operations, including electric utility communications.

4.3.7 Subcontracting: Either Party may subcontract any or all of its maintenance activities hereunder, in whole or in part; provided, however, that Party (i) shall require the subcontractor(s) to perform in accordance with the requirements and procedures of this Agreement, (ii) shall be responsible for the subcontractor(s)' performance and (iii) the use of said subcontractor(s) shall not relieve the Party of any of its obligations hereunder.

4.4 Contact and Escalation List:

4.4.1 Licensor's contact escalation information is as follows:

- (a) Tri-State Communications NOC Room at 303-254-3670 during 8AM-5PM Mountain Time Monday-Friday (excluding Licensor holidays), or by e-mailing commroom@tristategt.org
- (b) After Hours Power System Operations Dispatch Center at 303-254-3646

(c) After Hours Tri-State Security at 303-254-3940

4.4.2 Licensee's contact escalation information is as follows:

- (a) IT Operations On-Call 970-549-5445
- (b) IT Public Safety On-Call 970-242-6707
- (c) IT Operations, Scott Hockins 970-270-4016
- (d) IT Director, Paul Schultz 970-773-4396

5. USE OF LICENSED PREMISES AND PROPERTY:

5.1 Licensee, and Licensee's agents, employees and contractors, if applicable, shall, at all times, (i) use the Licensed Premises for only the Permitted Use, (ii) use reasonable and prudent care appropriate to the circumstances and environment in use of the Licensed Premises and Property, and not act, commit or allow others to commit or create waste, trash or property damage, bodily injury, store or use hazardous materials at the Licensed Premises or Property, (iii) not use the Licensed Premises or Property in a way that creates any safety hazard, nuisance, interference, annoyance or disturbance to Licensor or others and (iv) have no right to use any portion of the Property, the premises which contain the Property, or other property, except to the extent set forth herein. Licensee shall not allow any other party to install equipment in its Licensed Premises.

5.2 Installation of the Licensee Equipment: Licensee shall install or operate Licensee Equipment in a good and workmanlike manner and in accordance with Licensee submitted written plans, drawings and specifications that have been prior approved by Licensor and correctly depicted "as-built" confirmed and satisfactorily inspected by Licensor. Any other equipment installation is not authorized and is a breach of this Agreement. Licensor's review, approval and inspection is for compliance verification only and shall not be deemed or effective as an endorsement or warranty, a waiver of Licensor's enforcement rights, acceptance of liability by Licensor or an alleviation of Licensee's obligations or indemnities. Within 30 days after completion of installation of Licensee Equipment, Licensee shall identify all Licensee Equipment by permanently affixing thereto suitable markers clearly identifying Licensee as the owner of such equipment. In the event that Licensee causes any damage to the Property in the course of installing, operating, maintaining, storing, repairing, replacing or removing the Licensee Equipment, Licensee shall, at Licensor's option, either repair such damage at Licensee's expense or reimburse Licensor or others, as applicable, for the Costs of such repairs as Billable Licensor Work.

5.3 Restrictions: Licensee shall not use the Property in any way which physically interferes, adversely affects, or poses a reasonable threat of physical, electrical, or other interference, with (i) the use of the Property by Licensor or others; (ii) Licensor's electric utility facilities; or (iii) the operation of Licensor's electric utility communications.

5.4 Licensor shall provide Licensee with access to the Property by providing Licensee with electronic card key, mechanical keys or other access devices issued to individual persons (one per person) which shall not be shared with others, in order to enable Licensee to install, operate and maintain the Licensee Equipment, subject to any applicable underlying rights requirements, restrictions or limitations pertaining to the Property. Licensor providing the foregoing access is subject to the following: (i) within a reasonable time prior to requiring access, submit and maintain on file with Licensor, a current version of Licensor's access application form designating and authorizing all employees and contractors requiring access

on behalf of Licensee, (ii) Licensee is responsible for all persons designated by Licensee on the access application form regardless of whether such persons are also contractors working on behalf of other users of the Property, (iii) access will not be granted to persons not designated as authorized under the access application form on file and (iv) Licensee conducting or requiring background checks of designated authorized persons. Licensor reserves the right to delay, deny or revoke access, without any liability to Licensee or others whatsoever.

5.5 Licensor may require that Licensee relocate the Licensees Equipment within the Property as Licensor deems reasonably necessary to accommodate changes in operating requirements or Licensor's business needs. If the changes are required to accommodate Licensor, Licensor will bear its own costs attributed to such change, and Licensee will bear its own costs attributed to such change. If the changes are requested by or required to accommodate the Licensee, Licensee will bear its own costs and the Costs Licensor incurs attributed to such change as Billable Licensor Work.

5.6 Licensee shall not (a) use metal ladders, stools or chairs, (b) install any electrical or other equipment that overloads any electrical paneling, circuitry or wiring, (c) allow or create any electrical hazards (including exposed wires), trip or slip hazards or improperly secured or overloaded ladders or relay racks, (d) install, paint, display, affix, construct or place signs, awnings or other structures on any part of the Property or any building that the Property is located in without the prior written consent of Licensor, (e) store equipment or supplies at the Property, or (f) use tobacco products (including e-cigarettes and other vaping devices), drugs or alcohol on the Property or any building that the Property is located in.

**EXHIBIT B-1 to Communications Facility License Agreement
TS-23-0046**

GRAND JUNCTION POP LICENSED PREMISES EXHIBIT

DESCRIPTION OF PROPERTY, LICENSED PREMISES AND FEES

Grand Junction Point of Presence ("POP")
Suite 210 (the "Property"), located within 123 N. Seventh Street
Grand Junction, CO 81501
(the "Building")

Tri-State Generation and Transmission Association, Inc. ("Licensor")
and City of Grand Junction ("Licensee")

1.0 Description of Licensed Premises:

1.1 "Licensed Premises" comprises (a) certain equipment rack space in the Property, and further specified in Section 1.2 below, (b) use of Licensor-owned Cable Pathways (as defined in Section 1.3(a) below) within the Property, as described below, for Licensee furnished, installed and owned cables, described in and subject to Section 1.3 below; and (c) certain equipment electric plant capacity for powering the Licensee Equipment as described in Section 2 below.

1.2 Equipment Rack Space: Twenty (20) standard 1.75 inch high rack units ("RUs") contained within the bottom-most space of one (1) standard 23 inch W. x 7'0" H. x 18 inch D. Licensor-owned equipment rack located within the Property, as designated, furnished and installed by Licensor, at Licensee's expense, limited to use for only Licensee Equipment and no other third parties. Licensee acknowledges and agrees that Licensor may grant and allocate use of remaining space of said equipment rack to others third parties without notice to or consent of Licensee. Except to the extent otherwise provided in this Agreement, Licensee retains ownership of all Licensee Equipment contained within the RUs. The location of the Licensed Premises within the Property is the specific locations as designated by Licensor. Licensee shall provide a rack elevation profile and other drawings as requested by Licensor depicting as-built installation of Licensee Equipment in the Licensed Premises. Licensee's name shall be clearly labeled on all Licensee Equipment and such conspicuous identification is an exclusion to and not considered Confidential Information subject to confidential obligations of either Party.

1.3 Cables and Cable Pathways:

(a) Intra-Property Cables and Cable Pathways: Licensee may have non-exclusive use of available conduits, ducts, ladder trays, fiber troughs, etc. used to contain or support cables (collectively, "Cable Pathways") to connect between Licensee Equipment and other location(s) or equipment contained within the Property ("Intra-Property Cables"). Licensee will furnish and retain ownership of Intra-Property Cables, as Licensee Equipment, placed in Cable Pathways contained within the Property ("Intra-Property Cable Pathways"), and said cables will be installed by either Licensee or Licensor as determined by Licensor, in Licensor's sole discretion, at Licensee's expense, as Billable Licensor Work. All Intra-Property Cable Pathways are Licensor-owned property.

- (b) Property-Exiting Cables and Cable Pathways: Licensee's use of Licensor owned or controlled cables or associated Cable Pathways which connect locations or equipment within the Property to locations or equipment external to the Property and within the same building containing the Property ("Facility-Exiting Cables") or associated Cable Pathways ("Facility-Exiting Cable Pathways") is not included in the scope of the Licensed Premises. Any such use, if capacity is available, is subject to Licensor's prior approval in Licensor's sole discretion and must be granted and obtained under separate written agreement with Licensor ("Cable Use Agreement") or specified in this Exhibit. Licensee, at Licensee's expense, must obtain approval and rights from the landlord of the Building and other necessary underlying rights and third-party approvals, for all cables or cable pathways used by Licensee not contained within the Property.
- (c) Fiber Termination Panel(s) and Optical Jumper Cables: Licensee, at Licensee's expense, will furnish, install and own Licensee fiber termination panel ("FTP"), for termination of Licensee furnished and Licensee installed optical cables, necessary for making connections to, and is included as, Licensee Equipment, as Intra-Property Cables pursuant to Section 1.3 (a) above.

2.0 Equipment Powering:

- 2.1 DC powered Licensee Equipment: For DC powered Licensee Equipment, Licensor will provide a dedicated -48 vdc DC circuit breaker(s) for dual (A and B) positive ground power feeds, with each feed comprising one each power hot (negative), power return (+), and ground wire (3 wires total) "pigtails," terminating in a Licensee furnished and owned DC distribution/fuse panel installed in the equipment rack(s) containing Licensee Equipment identified in Section 1.2 above. Battery-backed DC power is Licensor-provided by redundant charger-eliminator fed by redundant AC power sources, comprising primary line and standby diesel AC generator. There is no uninterruptible power system ("UPS") backup associated with the Property or Licensed Premises; therefore, periodic AC power supply failures or testing caused interruptions until standby AC generator source is automatically switched over may occur. The circuit types supplying power to Licensee Equipment are described below.
- 2.2 AC powered Licensee Equipment. For AC powered Licensee Equipment, if pre-approved by Licensor, in Licensor's sole discretion, (i) Licensor will provide a separately breakered dedicated 120 VAC, 20 Amp single phase circuit 3 wire feed comprising "hot", "neutral", and "ground" wires terminating in a standard quad receptacle outlet or in a rack mounted AC distribution/surge protected device provided by Licensee and mounted on the equipment rack(s) containing Licensee Equipment and (ii) Licensee shall install, own, operate and maintain a power inverter to convert the DC power provided pursuant to Section 2.1 above into AC power for Licensee Equipment or a UPS to power the Licensee Equipment prior to use of the Licensee Equipment. AC power supply interruptions to Licensee Equipment may also occur as described in Section 2.1 above.
- 2.3 For dedicated AC or DC circuit feeds, Licensee Equipment shall not draw amperage greater than 80% of the serving circuit breaker rating, or less as may be otherwise limited by Licensor or applicable code.

Table 2.3

<u>Licensee Equipment</u>	<u>Dedicated -48 VDC Power DC Circuit</u>	<u>Dedicated breaker 20 Amp, 120 VAC Single Phase 3-wire Circuit</u>	<u>Shared 120 VAC Shared Convenience Outlets</u>
RUs described in Section 1.2	None	None	Not used to power Licensee Equipment

3.0 Fees and Charges:

3.1 Space Use Fee: The initial Space Use Fee is \$500.00 per month (\$1,500.00 quarterly) for twenty (20) standard RUs and cable pathways designated in Section 1.1 above, subject to an annual inflation factor also as described in *Exhibit A* to the Agreement. Three (3) months advance payment of the monthly Space Use Fee for each Licensed Premises is due beginning on the Colocation Acceptance Date, and calendar quarterly thereafter on January 1st, April 1st, July 1st and October 1st throughout the Agreement Term. The Space Use Fee includes the Scheduled Colocation Maintenance.

3.2 Scheduled Colocation Maintenance Fee: The Space Use Fee is inclusive of the Scheduled Colocation Maintenance Fee.

3.3 Electricity Fee: Pursuant to Section 2.4 of *Exhibit A* to the Agreement, each power type serving the Licensee Equipment as specified in Section 2 above, shall be charged a per amp monthly fee as set forth in Table 3.3 below. Licensor reserves the right to amend the Electricity Fee pursuant to Section 2.4 of *Exhibit A* to the Agreement. Three (3) months advance payment of the monthly Electricity Fee for each Licensed Premises is due beginning on the Colocation Acceptance Date and calendar quarterly thereafter, concurrently with the Space Use Fee.

Table 3.3

<u>Licensee Equipment</u>	<u>Dedicated -48 VDC Power DC Circuit</u>	<u>Dedicated 120 VAC Single Phase Circuit</u>	<u>Shared 120 VAC Shared Convenience Outlets</u>
RUs described in Table 2.3 above	No DC powered Licensee Equipment	No AC powered Licensee Equipment	Not used to power Licensee Equipment

3.4 Connection Fee: \$12,500.00 for the Connection Fee.

3.5 Cable/Conduit Use Fee:

Licensee shall pay Licensor as Billable Licensor Work for the provision or installation by Licensor of existing or new cross-connect cabling for Licensee's use pursuant to Section 1.3 above.

(a) A one-time Conduit Use Fee of \$500.00 for the use of Tri-State's Facility-Exiting Cable Pathway in the Building for the Licensee's fiber optic cable from the Property that passes through a Licensor owned conduit that exits the Building into a Licensor underground vault north of the Building at GPS latitude/longitude:

39.06821, 108.56166. As part of the Licensee's fiber cable installation, the Licensee shall leave a pull rope in the conduit from the underground vault to the Licensor's Property.

3.6 Other Fees and Charges: In addition to the Space Use Fee, Electricity Fee, Connection Fee, Cable/Conduit Use Fee, Licensee shall pay Unscheduled Colocation Maintenance Fee and Billable Licensor Work as described in and paid pursuant to the terms of this Agreement.

3.7 Security Deposit: \$1,500.00 for the Security Deposit, which is three (3) times the initial monthly Space Use Fee and Scheduled Maintenance Fee, subject to increase and replenishment as required by Section 2.5 of *Exhibit A* to the Agreement.

3.8 Invoices to Licensee: All invoices delivered by Licensor via e-mail to Licensee hereunder shall be sent to the following address:

City of Grand Junction
Accounts Payable
250 N. 5th Street
Grand Junction, CO 81501
970-244-1519
E-mail: ap@gjcity.org

3.9 Payments to Licensor: All payments to Licensor hereunder shall be sent to the following address or by such other address or method provided in the invoice to Licensee:

Attention: Accounts Payable
Tri-State Generation and Transmission Association, Inc.
P.O. Box 33695
Denver, CO 80205

4.0 Licensed Premises Term: The term of this Exhibit B-1 and the License granted for Licensee's use of the Licensed Premises described in this Exhibit B-1 shall commence on the Colocation Acceptance Date applicable to this Licensed Premises and will terminate on the Termination Date set forth in Section 4 of this Agreement.

5.0 Special Provisions: Licensee, in addition to naming Licensor as an additional insured pursuant to Section 7 of this Agreement, Licensee shall name the owner of the building at the Property, currently "HR Adventures LLC," as an additional insured. The comprehensive general commercial liability insurance required by Section 7 of this Agreement shall include a breach of warranty endorsement in favor of Licensor, the owner of the building and their lienholder of interest, in order to ensure that Licensor, the owner of the building and their lienholder are covered by the insurance policy regardless of any breach of the policy by Licensee.