

PIPE LINE CROSSING LICENSE*

_____ of 20

THIS LICENSE (“License”) shall be effective on the last date of signature set forth below (the “Effective Date”), by **Great Western Railway of Colorado, L.L.C.**, a Colorado limited liability company (“Licensor”), and [_____, a ___ of the State of _____ **OR the Town of Johnstown, a home rule municipality and political subdivision of the State of Colorado**] (“Licensee”). Licensor and Licensee may sometimes be referred to as a “Party” or collectively as the “Parties.”

WITNESSETH:

1. TERM:

This License shall take effect as of the Effective Date and, unless sooner terminated per the terms outlined in Section 10 of this License, regardless of any fee having been paid in advance for any period and without regard to any loss or damage incurred by either Party as a result of such termination or cancellation, shall continue in perpetuity (“Term”). Licensor will not execute this License until it receives a signed original or an electronic version from Licensee, and in no event is entry under this License permitted until Licensor has executed it.

2. LOCATION:

In consideration of the license fee or other sums of money Licensee agrees to pay to Licensor, and of the covenants and agreements of Licensee as set forth in this License, Licensor hereby grants a license and permission to Licensee to access, construct, install, use, maintain, repair, relocate, operate and replace an _____ **[potable water or sanitary sewer] pipe or broadband conduit** located approximately _____, at or near Milepost __, Latitude: ___°, and Longitude: ____°. Pipe Line, as more particularly described in Licensee’s application, marked Exhibit “A,” attached to this License and made a part of it by this reference, situated on, across, along or over Licensor’s property at or near the Town of Johnstown, County of _____, and State of Colorado (the “Premises”). The term Pipe Line shall be deemed to mean the actual line(s) and any and all appurtenances and that portion of Licensor’s property, in so far as they relate to said Pipe Line. The location of the Pipe Line is more particularly described on the drawing marked Exhibit “B,” attached to this License and made a part of it by this reference, but generally described as follows: _____.

3. LICENSE FEE:

- A. As consideration for this License and use of the Premises, **[Licensee OR the Town of Johnstown, a home rule municipality and political subdivision of the State of Colorado (“Town”), on behalf of Licensee]** has paid Licensor as a “License Fee” in the sum of Twenty Five Thousand Dollars and 00/100 (\$25,000.00), pursuant to that certain Master Crossing Agreement between Licensor and the Town dated December _____, 2021 (“Master Crossing Agreement”).

* When applicable, change to pedestrian

4. SPECIFICATIONS

- A. The Pipe Line shall be constructed, installed, used, maintained, repaired and operated in substantial accordance with any and all current requirements and specifications adopted by the American Railway Engineering and Maintenance of Way Association, and in substantial compliance with any and all law, statute, regulation or order of any federal, state or municipal governmental body or any agency thereof or created thereby (collectively, "Laws"). Provided however, that all materials and workmanship employed in the construction, installation, use, maintenance, repair and operation of the Pipe Line shall be subject to the approval of the Licensor's Chief Engineer or authorized representative.
- B. An underground Pipe Line crossing under track(s) at a ninety degree (90°) angle, shall be encased in conduit for a MINIMUM of forty-eight feet (48'), twenty-four feet (24') on either side measured from the centerline of the track(s) or the full width of Licensor's property if less than forty-eight (48') feet. Crossings of a degree substantially greater or less than ninety degrees (90°) shall be encased in conduit for the full width of the track structure. The top of the encasement pipe shall be a MINIMUM of five and one half (5½') feet beneath surface of ground at all points within Licensor's property; provided, however, Licensee may request a variance to this depth and Licensor's engineers will review it but the granting of any variance will be determined in such Engineer's sole discretion. Notwithstanding the foregoing, to accommodate gravity flow with respect to sewer pipe lines, as approved by Licensor, Licensee may install the top of the encasement at a minimum level that is less than five and one half (5½') feet beneath surface of ground.
- C. Any appurtenance to the Pipe Line shall be constructed and maintained to a MINIMUM clearance of no less than fifteen (15') feet from the centerline of any track(s). The side clearance of fifteen (15') feet shall be maintained for a height of twenty-seven feet (27'). All Pipe Line(s) shall be constructed, as nearly as possible to cross under any track(s) at a right angle to said track(s).
- D. Licensee shall, except in emergencies, give not less than seventy-two (72) hours prior written notice to Licensor of the day, hour and location that it proposes to undertake any construction, installation, repair, relocation, replacement or maintenance work to the Pipe Line or otherwise on the Premises and, in the event of an emergency, shall notify Licensor as soon as reasonably practicable (but no more than seventy-two (72) hours following the cessation of such emergency).
- E. Licensee shall require each of its contractors and subcontractors to observe and conform to the conditions and requirements specified in this License; and for the purposes of the safety, protective and indemnification provisions of this License, such contractors and subcontractors, their agents, servants and employees, and other persons on the Licensor property at the invitation of the Licensee, its contractors or subcontractors, shall be deemed the agents of the Licensee. Licensee shall further require such contractors and subcontractors to indemnify Licensor for all damage Licensor may incur as a result of such contractors or subcontractors performing any work pursuant herein.
- F. Licensee shall, at no expense to Licensor, obtain all permits and approvals required to exercise its rights provided for pursuant to this License and Licensee shall install, maintain and operate its facilities in substantial accordance with all requirements of such permits, approvals, the Law and any lawful public authority. Licensee shall be responsible for any taxes, assessments and charges made against the Pipe

Line and the construction or use of the Pipe Line or other of Licensee's facilities on Licensor's property or the operation of any of them.

- G. Licensor shall have the right, but not the duty, to furnish flagging or other protection or to perform work to support its tracks or otherwise protect its property or facilities at any time, at Licensor's expense.

5. PRESENT OCCUPATIONS:

Licensee shall make appropriate arrangements with any person or entity occupying Licensor's property which may be affected by the relocation, installation, construction or any maintenance or repair of the Pipe Line. Licensee's Pipe Line will not unreasonably interfere with the use of Licensor's property, or create any undue hardship on the person or entity occupying said property.

6. RISK, LIABILITY, INDEMNITY:

- A. Licensee acknowledges that persons and property on or near the Premises are in constant danger of injury, death or destruction, incident to the operation of the railroad tracks, whether by Licensor or others; and Licensee accepts this License subject to such dangers.

- B. The following shall apply:

- a. **LICENSEE, AS FURTHER CONSIDERATION AND AS A CONDITION WITHOUT WHICH THIS LICENSE WOULD NOT HAVE BEEN GRANTED, AGREES, TO THE EXTENT PERMITTED BY LAW, TO INDEMNIFY, DEFEND, AND SAVE HARMLESS LICENSOR, ITS PARENTS, OWNERS, AND AFFILIATES, AND THEIR RESPECTIVE PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, MEMBERS, MANAGERS, AGENTS, SHAREHOLDERS AND EMPLOYEES (THE "INDEMNITEES") AND TO ASSUME ALL RISK, RESPONSIBILITY AND LIABILITY FOR DEATH OF, OR INJURY TO, ANY PERSONS, INCLUDING, BUT NOT LIMITED TO, OFFICERS, EMPLOYEES, AGENTS, PATRONS, INVITEES AND LICENSEES OF LICENSEE, AND FOR LOSS, DAMAGE OR INJURY TO ANY PROPERTY, INCLUDING BUT NOT LIMITED TO, THAT BELONGING TO THE PARTIES (TOGETHER WITH ALL LIABILITY FOR ANY EXPENSES, ATTORNEYS' FEES AND COSTS INCURRED OR SUSTAINED BY THE INDEMNITEES, WHETHER IN DEFENSE OF ANY SUCH CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION OR IN THE ENFORCEMENT OF THE INDEMNIFICATION RIGHTS CONFERRED BY THIS LICENSE) ARISING FROM, GROWING OUT OF, OR IN ANY MANNER OR DEGREE DIRECTLY OR INDIRECTLY CAUSED BY, ATTRIBUTABLE TO, OR RESULTING FROM THE GRANT OF THIS LICENSE OR THE CONSTRUCTION, MAINTENANCE, REPAIR, RENEWAL, ALTERATION, CHANGE, RELOCATION, EXISTENCE, PRESENCE, USE, OPERATION, REPLACEMENT, OR REMOVAL OF ANY STRUCTURE INCIDENT TO IT, OR FROM ANY ACTIVITY CONDUCTED ON OR OCCURRENCE ORIGINATING ON THE AREA COVERED BY THE LICENSE, INCLUDING ANY TEMPORARY USAGE AREA, EXCEPT TO THE EXTENT PROXIMATELY CAUSED BY THE MISCONDUCT OR NEGLIGENCE OF THE PARTY SEEKING INDEMNIFICATION.**

- b. **THE RISKS OF INJURY TO OR DEATH OF PERSONS AND LOSS OR DAMAGE TO PROPERTY ASSUMED BY LICENSEE UNDER THIS LICENSE, SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO,**

CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR INVITEES OF LICENSEE, AND WHETHER OR NOT SUCH INJURY TO OR DEATH OF PERSONS SHALL ARISE UNDER ANY WORKERS' COMPENSATION ACT OR FEDERAL EMPLOYERS' LIABILITY ACT.

- c. LICENSEE SHALL, AT ITS SOLE COST AND EXPENSE, ASSUME, AT THE ELECTION AND DEMAND OF LICENSOR, THE DEFENSE OF ANY CLAIMS, DEMANDS, ACTIONS, AND CAUSES OF ACTION ARISING UNDER THIS LICENSE. THE WORD "LICENSOR" AS USED IN THIS INDEMNITY SECTION SHALL INCLUDE THE ASSIGNS OF LICENSOR AND ANY OTHER RAILROAD COMPANY THAT MAY BE OPERATING UPON AND OVER THE TRACKS IN THE VICINITY OF THE PREMISES.
- d. AS A PRECONDITION TO LICENSEE'S INDEMNIFICATION OBLIGATIONS UNDER THIS SECTION, THE INDEMNITEES WILL (i) FULLY COOPERATE WITH LICENSEE IN ANY INVESTIGATION AND PROVIDE LICENSEE WITH ALL INFORMATION IN THE POSSESSION OR CONTROL OF THE INDEMNITEES RELATING TO ANY MATTER FOR WHICH THE INDEMNITEES SEEK INDEMNIFICATION, AND (ii) PROVIDE LICENSEE WITH TIMELY NOTICE OF ANY MATTER OR INCIDENT FOR WHICH THE INDEMNITEES MAY MAKE A CLAIM FOR INDEMNIFICATION BY LICENSEE.
- e. NOTWITHSTANDING ANY PROVISIONS OF THIS LICENSE TO THE CONTRARY, LICENSEE DOES NOT WAIVE THE MONETARY LIMITATION OR ANY OTHER DEFENSES, IMMUNITIES AND PROTECTIONS PROVIDED TO LICENSEE (IF LICENSEE IS THE TOWN OR, IF NOT, UPON ASSIGNMENT TO THE TOWN) BY THE COLORADO GOVERNMENTAL IMMUNITY ACT, C.R.S. 24-10-101, ET SEQ., AS MAY BE AMENDED, OR SIMILAR APPLICABLE LAWS. THE AMOUNT OF ANY INDEMNIFICATION PAYABLE BY THE LICENSEE SHALL NOT EXCEED SUCH LIMITATIONS.

7. INSURANCE:

- A. Licensee shall purchase and maintain insurance as specified below covering Licensee and its activities and operations performed under or pursuant to this License, in accordance with the coverage requirements below, from the Effective Date until termination, unless the duration is stated to be otherwise, with insurance companies assigned a current Financial Strength Rating of at least A and Financial Size Category of X by A. M. Best Company or, if the Licensee is the Town or upon assignment to the Town, with the Colorado Intergovernmental Risk Sharing Agency:
 - i. **Commercial General Liability Insurance** written on an occurrence basis, except that, when the insured is the Town, a claims-made basis, subject to limit of \$1,000,000 each occurrence for bodily injury, property damage, personal injury, libel and/or slander with an annual aggregate limit of no less than \$2,000,000. Policy coverage is to be based on usual Insurance Services Office policy forms (or a substitute form providing equivalent liability coverage) to include, but not be limited to: Operations and Premises Liability, Completed Operations and Products Liability, Personal Injury and Advertising Liability, and Contractual Liability Insurance. Completed Operations coverage is to be maintained for a period of not less than three (3) years after the termination or cancellation of this License. General Liability policies procured by Licensee shall be amended to delete all railroad exclusions including exclusions for working on or within fifty feet (50') of any railroad property, and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing (CG 24 17

endorsement or equivalent). Commercial General Liability insurance shall provide coverage for Business Automobile Liability insurances.

- ii. **Workers' Compensation and Employers' Liability Insurance** providing statutory workers' compensation benefits mandated under applicable state law and Employers' Liability Insurance subject to a minimum limit of \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and \$1,000,000 policy limit for bodily injury by disease.
 - iii. **Business Automobile Liability Insurance** subject to a minimum limit of \$1,000,000 each accident for bodily injury and property damage covering motor vehicles owned, leased, rented, hired or used on behalf of Licensee.
- B. All insurance required of Licensee with the exception of Workers' Compensation and Employers' Liability shall include Licensor and any subsidiary, owner, parent or affiliates of Licensor, and their respective partners, successors, assigns, legal representatives, officers, directors, members, managers, agents, shareholders, and employees ("Required Parties") as additional insured and include wording which states that the insurance shall be primary and not excess over or contributory with any insurance carried by Licensor and its affiliates. With respect to Commercial General Liability Insurance, Required Parties shall be included as additional insured for Ongoing Operations and for Completed Operations to the extent permitted by law.
 - C. During the term of this Agreement, all insurance shall provide Licensor a minimum of thirty (30) days' advance written notice of insurer's intent to cancel or otherwise terminate policy coverage.
 - D. If Licensee cannot obtain an occurrence based policy for any required coverage, the policy may be written on a claims-made basis with a retroactive date on or before the Effective Date of this License. Licensee shall maintain such policy on a continuous basis. If there is a change in insurance companies or the policy is canceled or not renewed, Licensee shall purchase an extended reporting period of not less than three (3) years after the License termination date.
 - E. Licensee shall file with Licensor on or before the Effective Date of this License a valid certificate of insurance for all required insurance policies. Each certificate shall identify the Required Parties as additional insured as required and state that Licensor shall receive a minimum of thirty (30) days' advance written notice of insurer's intent to cancel or otherwise terminate policy coverage. Licensee shall supply updated certificates of insurance that clearly evidence the continuation of all coverage in the same manner, limits of protection, and scope of coverage as required by this License.
 - F. All insurance policies required of Licensee shall include a waiver of any right of subrogation written in favor of the Required Parties.
 - G. Notwithstanding the foregoing, Licensee may self-insure for any of the above required insurance coverages subject to the requirements specified in this paragraph. Licensee shall provide Licensor with audited financial statements and Licensor may, at its discretion, which shall not be unreasonably withheld, deem such financial statements acceptable prior to authorizing Licensee to self-insure. Licensee shall provide a letter of self-insurance to Licensor specifically stating which lines of coverage

are self-insured and the amount of self-insurance maintained. The amount of any excess insurance that attaches to self-insurance below the required limits of insurance shall be identified in the letter and evidenced on a certificate of insurance. This letter of self-insurance shall be signed by Licensee's Risk Manager or another designated authorized signatory. With respect to Workers' Compensation, Licensee shall also provide state-issued self-insured authorization documents to Licensor, where applicable by state law.

- H. Licensee's compliance with obtaining the required insurance coverage shall in no way limit the indemnification rights and obligations specified in this License.

8. WAIVER:

Licensee waives the right to question the validity of this License or any of the terms and provisions of it, or the right or power of Licensor to execute and enforce this License. This License is made without covenant on the part of Licensor to warrant its title to the property involved with the Pipe Line, or to give or to defend Licensee in the peaceful possession of the property. Notwithstanding the foregoing, Licensor covenants and represents to Licensee that it has the right to grant the License contained herein and the right to grant access to and possession of the Premises as provided herein. If a third party brings an action against Licensee related to, arising from or in any manner, directly or indirectly, connected with Licensee's right to access and possession of the Premises, Licensor agrees to indemnify Licensee for all costs and expenses, including reasonable attorney's fees, related to such claim.

9. REPAIRS AND RELOCATION:

- A. Licensee will at all times maintain the Pipe Line in a safe and workmanlike manner and in a condition in substantial compliance with applicable Laws. Licensor may request Licensee to make reasonable repairs or changes as the reasonable judgment of Licensor deems necessary in order to avoid unreasonable interference with or danger in the use or operation of Licensor's railroad, or any of its present or future appurtenances. In the event it is desired by Licensor to use its property or any portion of it, occupied or impacted by the Pipe Line, then Licensee shall, and within thirty (30) days after notice from Licensor to do so (or on shorter notice in case of an emergency), make changes to the Pipe Line as required within the Premises. Licensor understands and agrees that Licensee, using all due diligence, may not be able to make changes within thirty (30) days and shall, in such instance, allow Licensee reasonable additional time to make such changes. Licensor and Licensee must agree to the need to relocate the Pipe Line due to Licensor's legitimate business reason. If the Licensor requires the Pipe Line relocation for business reasons only, the expense will be the responsibility of the Licensor. If federal regulations and safety compliance are the reason for Pipe Line relocation, Licensee will bear the cost.
- B. If Licensee shall fail to perform any of its obligations contained in this License as to the maintenance of safe conditions in and about the Pipe Line or to make any necessary repairs, or to relocate the Pipe Line, then Licensor may cause such condition to be made safe, or change of location to be made, or repairs to be made, or Pipe Line to be removed from Licensor's property. Licensor acting as the agent of Licensee, may perform such work as is necessary in the judgment of Licensor, and Licensee shall, within thirty (30) days following written demand, reimburse Licensor the reasonable out-of-pocket costs of the work, plus fifteen percent (15%) of the cost as a charge for the supervision, accounting, and use of tools

- C. In case Licensor shall at any time, or from time to time, require the removal of only a portion of the Pipe Line, this License shall continue in force and be applicable to the portion or portions of the Pipe Line remaining from time to time until the entire Pipe Line has been removed or Licensee shall fill and cap or otherwise appropriately decommission the Pipe Line with a method reasonably satisfactory to Licensor.

10. TERMINATION:

If Licensee fails to keep or perform any of Licensee's covenants contained in this License, upon ninety (90) days written notice to Licensee and an opportunity to cure with such cure being completed within such ninety (90) day period or if such cure cannot be completed within ninety (90) days, in such time as necessary so long as Licensee is diligently pursuing such cure and in no event longer than one hundred eighty (180) days, Licensor shall have the right to terminate this License.

In addition to the foregoing, Licensor shall have the right to terminate this License and the rights granted hereunder, after delivering to Licensee written notice of such termination no less than ninety (90) days prior to each anniversary of the effective date thereof, upon the occurrence of any of the following events:

- a. If Licensee shall permanently discontinue the use of operations of the Pipe Line; or
- b. If Licensor shall be required by any change in applicable Federal law after the Effective Date to remove, relocate, reconstruct, or discontinue operation of Licensor's railroad and any such removal, relocation, reconstruction, or discontinuance of operation of Licensor's railroad cannot be accomplished without removal of the Pipeline; or
- c. If Licensor determines and substantiates to Licensee that the Pipe Line endangers or threatens Licensor's employees or the safe operation or maintenance of the railroad.

11. RESTORATION:

Upon termination of this License, in accordance with the provisions of Section 10 of this License, Licensee shall fill and cap or otherwise appropriately decommission the Pipe Line with a method reasonably satisfactory to Licensor. If Licensee fails to comply with the foregoing within ninety (90) days after termination of this License, Licensor may remove same, and charge the expense of such removal to the Licensee on the basis provided in Section 9.B of this License.

12. MISCELLANEOUS:

- A. This License is executed by all Parties under current interpretation of any and all applicable Laws. Further, each and every separate division (paragraph, clause, item, term, condition, covenant or agreement) contained in this License shall have independent and severable status from each other separate division, or combination of them, for the determination of legality, so that if any separate division is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, voidable, invalid or unenforceable for any reason, that separate division shall be treated as a nullity, but such holding or determination shall have no effect upon the validity or enforceability of each and every other separate division or any other combination of them.

- B. In the event this License is part of a package of agreements for Licensee, this License and all other such documents shall be read as compatible parts of the package and not in contradiction to each other, such that in the event of apparent conflict in any duties under this License or the package of agreements, Licensor shall designate which clause(s) shall survive or control any others, except that the Master Crossing Agreement shall control and take precedence over the other agreements.
- C. Except as otherwise specified in this License, any notice or other communication required or permitted by this License shall be in writing and (i) delivered by first class mail, postage prepaid, or (ii) deposited into the custody of a nationally recognized overnight delivery service, as follows:

If to Licensor:
 Great Western Railway of Colorado, LLC
 Attention: Director, Real Estate
 225 Clayton Street, 4th Floor
 Denver, CO 80206
 Email: nbrown@omnitrax.com

If to Licensee:
 Town of Johnstown
 Attention: Town Manager
 450 So. Parish
 P. O. Box 609
 Johnstown, CO 80534
 Email: mlecerf@townofjohnstown.com

WITH A COPY TO:
 ATTN: General Counsel
 252 Clayton Street, 4th Floor
 Denver, Colorado 80206
 Email: jspiegelman@omnitrax.com

WITH A COPY TO:
 ATTN: Avi Rocklin, Town Attorney
 1437 N. Denver Avenue #330
 Loveland, CO 80538
 Email: avi@rocklinlaw.com

Notwithstanding the foregoing, notice may be delivered by electronic mail on the condition that the intended recipient of the electronic mail acknowledges receipt thereof.

- D. No oral promises, oral agreements, or oral warranties shall be deemed a part of this License, nor shall any alteration, amendment, supplement or waiver of any of the provisions of this License be binding upon either Party, unless same be supplemented, altered, changed or amended by an instrument in writing, signed by Licensor and Licensee.
- E. This License is made subject to the rights previously or simultaneously granted by or through Licensor for any surface, sub-surface or aerial uses antedating this License, including but not limited to, the construction, maintenance, operation, renewal and/or relocation of fences, pipelines, communication lines, power lines, railroad tracks and signals, and any and all appurtenances applicable to them. Licensor excepts and reserves the right to grant additional uses of the same or similar nature subsequent to the execution of this License, without payment of any sum for damages, so long as such use does not unreasonably interfere with the use of Pipe Line by Licensee.
- F. This License and all of the provisions contained in it shall be binding upon the Parties, their heirs, executors, administrators, successors and assigns, and Licensee agrees to supply notice in writing to Licensor of any name changes. Licensee agrees not to assign this License or any rights or privileges granted under it, without the prior written consent of Licensor, which it may give at its sole discretion, and any and every attempted assignment without prior written consent shall be void and of no effect. This covenant shall also apply whether any of the foregoing is made voluntarily by Licensee or

involuntarily in any proceeding at law or in equity to which Licensee may be a party, whereby any of the rights, duties and obligations of License may be sold, transferred, conveyed, encumbered, abrogated or in any manner altered without the prior notice to and consent of Licensor. **Notwithstanding the foregoing, Licensee shall be permitted to assign this License and dedicate, transfer or otherwise convey the Pipe Line to the Town, to a political subdivision or district controlled by the Town or, if approved by Licensor, to a newly formed metropolitan district or other special district.**

- G. Nothing in this License shall be construed to place any responsibility on Licensor for the quality of the construction, maintenance or other work performed on behalf of Licensee hereunder or for the condition of any Licensee's facilities.
- H. Any approval given or supervision exercised by Licensor under this License, or failure of Licensor to object to any work done, material used or method of construction, reconstruction or maintenance, shall not be construed to relieve Licensee of its obligations under this License.
- I. The failure of the Licensor to seek redress for any violation of or to insist upon the strict performance of any of the terms, covenants or conditions of this License or any of the rules and regulations from time to time issued by the Licensor, shall not prevent a subsequent act, which would have originally constituted a violation, from having all of the force and effect of an original violation.
- J. Licensee further indemnifies Licensor against any and all liens that may be placed against Licensor's property arising from work performed, or materials supplied, on the order of Licensee in its beneficial enjoyment of this License and agrees to promptly satisfy any liens so placed.
- K. In the event Licensor shall incur any costs or expenses, including reasonable attorneys' fees and costs, in enforcing Licensee's covenants and agreements under this License, Licensee shall, to the extent permitted by law, reimburse Licensor for all such reasonable costs, expenses and legal fees actually incurred as an additional fee under this License.
- L. This License shall be governed under the laws of the State of Colorado without regard to its internal choice of law provisions, and the parties agree venue shall be in the courts of the City and County of Denver or Weld County, State of Colorado, for any action arising under the terms of this License or performance of it. The section headings of this License have been inserted for convenience of reference only and they shall not be referred to in the interpretation of this License. This License shall be read with all changes of gender and number required by the context. Time shall be of the essence in this License and each of the provisions of it.
- M. Licensor's remedies under this License shall be cumulative, and the exercise of any remedy shall not preclude the exercise of any other remedy.
- N. All of the obligations, representations and warranties of the Licensee accruing under this License during the existence of this License or any renewal or extension of it shall survive the termination or expiration of the Term.

- O. The Parties shall not be responsible or liable to the other for any loss, damage, delay or non-performance caused by force majeure events, including, but not limited to, accidents, labor difficulties, acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, national or regional emergency, governmental action or by any other cause which is unavoidable or beyond its reasonable control.
- P. Licensee agrees that it shall not register this License or any notice or reference in respect of this License against title.
- Q. All exhibits attached to this License are incorporated by reference as if fully set forth in this License.
- R. Licensor understands and agrees that the Town is prohibited by the Colorado Constitution, the Johnstown Home Rule Charter, the Johnstown Municipal Code, and state law from entering into indemnification obligations without appropriations in its budget which it has not made for this Agreement. Accordingly, the Town’s indemnification obligations set forth in this Agreement are provided only to the extent permitted by law.

IN WITNESS WHEREOF, the Parties have executed this License as of the last date of execution set forth below:

Licensor: Great Western Railway of Colorado, LLC	Licensee: Town of Johnstown
By:	By:
Name:	Name:
Title:	Title: Town Manager
Date:	Date:

EXHIBIT A

EXHIBIT B