8/1/14

VAISALA

194 South Taylor Ave.
Louisville, CO 80027

AVIATION SUPPORT AND MAINTENANCE SERVICES
Order and Pricing Schedule

Vaisala:	**Customer:** City of Roosevelt
Vaisala Inc. 194 South Taylor Ave. Louisville, CO 80027	Roosevelt Municipal Airport (74V) 255 South State Street Roosevelt, UT 84066
Email: jerry.kirkpatrick@vaisala.com	Email:

This Order and Pricing Schedule is incorporated by reference into the **Agreement for Aviation Support and Maintenance Services** between the parties, and the **Statement of Work,** and made a part thereof.

The Effective Date of this Agreement is 01 August, 20 14.

The Term of this Agreement shall be for a period of 1 year(s) from the Effective Date.

Services (check as applicable)
☒ Preventive Maintenance and Scheduled Service
☒ Equipment Restoration
☐ Data Service

Equipment (check as applicable)	**Manufacturer/Model**	**Equipment** (check as applicable)	**Manufacturer/Model**
☐ VOR		☐ RVR	
☐ DME		☐ RWIS	
☐ LOC		☐ NDB	
☐ GS		☐ Control Tower	
☒ AWOS	Vaisala	☐ Markers	

Data Services (check as applicable)		
☐ AviMet Data Link		
☐ Navigator II		
☐ GLD 360 - Service Size:	N/A	
☐ NLDN Stroke Data - Service Size:	N/A	
☐ CLDN Stroke Data - Service Size:	N/A	
☐ AviCast		

Fees		Contract Total: $ 4,400.00
Annual Fee	$ 4,400.00	billed Quarterly
Unplanned Outage Fee	$ 1,500.00	per day (ex. lightning strike, bird strike)
Facility Visit Fee	$ 1,500.00	per day (ex. flight check)
Holiday Fee	$ 500.00	per day additional
Cancellation/Delay Fee	$ 500.00	per day

Customer Test Equipment	Customer Spare Parts
NA	NA

Statement of Work and Additional Terms
Please see Attachment 1: Terms and Conditions Attachment 2: AWOS Statement of Work

Invoice Contact:

Name: City of Roosevelt

Address: 255 South State Street
Roosevelt, UT 80466

Phone: 435 722 5001

Email:

Airport Manager/Authority:

Name: Justin Johnson

Address: 255 South State Street
Roosevelt, UT 80466

Phone: 435 725 7201

Email: jjohnson@rooseveltcity.com

Accepted and agreed to by the duly authorized signatories below.

Vaisala Inc.

By: Jerry Kirkpatrick

Title: Sales Manager

Date:

City of Roosevelt

By:

Title: City Manager

Date: 6-17-14

VAISALA

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Louisville, CO 80027

Attachment 2

AWOS and Navaid Maintenance Statement of Work

1. **Description of Equipment Services**

1.1. Preventive Maintenance consists of inspection, functional checks, adjustments, labor to replace failed components and cleaning in accordance with the equipment manufacturer's published guidelines and requirements.

1.2. Scheduled Service consists of such periodic routine tests and adjustments as may be required by the equipment manufacturer and/or by the FAA for non-Federal facilities in accordance with 14 C.F.R. Part 171 or JO 6560.31A as it may be modified or superseded from time to time.

1.3. Equipment Restoration. In the event of an unplanned equipment failure or outage, Vaisala shall commence restoration work within one (1) business day after the outage is reported and complete restoration services in a reasonable prompt manner. Diagnosis may be performed remotely and render the system inoperable until which time replacement equipment/parts can arrive to Customer's site. Repairs required due to Acts of God, lightning, vandalism, etc. are excluded and will be billed at the Unplanned Outage price.

1.4. All services provided by Vaisala shall be performed by qualified field technicians having all required certifications and licenses required by the FAA, FCC, and OSHA. Vaisala will also maintain a full Aviation Product and Liability Insurance policy for the term of the contract.

1.5. Vaisala shall record test results in a station log and maintain the required 6000 series records, copies of which will be provided to the FAA as required.

1.6. Vaisala shall make a best effort to maintain and repair all equipment. Customer acknowledges that components and equipment under contract may be obsolete rendering repair or restoration of equipment impossible.

2. **Testing Equipment and Replacement Parts - Navaids**

2.1. Customer shall at its own expense furnish, maintain and calibrate test equipment in accordance with FAA requirements.

2.2. Customer shall maintain at its own expense an inventory of replacement parts for the Equipment to be utilized by Vaisala when providing Service under this Agreement. In the event parts necessary for maintenance or restoration of the Equipment are not available in Customer's inventory, Vaisala will provide such part(s) and invoice the Customer for the required part(s).

2.3. Vaisala and Customer agree that, as of the date of this Agreement, the lists of Customer Spare parts and Customer Test Equipment are accurate and complete.

3. **Customer Responsibilities.**

3.1. Customer shall be responsible for monitoring the status of the systems following maintenance by Vaisala;

3.2. Customer shall be responsible for providing transportation and/or access for Vaisala personnel between the airport and the location of the Equipment;

3.3. Customer shall be responsible for providing security in and around the Equipment to be maintained under the Agreement;

3.4. Customer shall be responsible for any loss or damage to the Equipment for reasons other than the fault of Vaisala and for providing any insurance Customer may desire to cover any such loss or damage.;

3.5. Customer shall be responsible for the issuance of all NOTAMS (Notice to Airmen) relating to the status of the facilities to be maintained under this Agreement; and

3.6. Customer shall be responsible for maintaining the grounds and buildings associated with the NAVAIDS (Navigational Aids) and Equipment in good repair and in compliance with all FAA and all applicable laws.

3.7. Customer shall be responsible for the purchase of all replacement components for AWOS and Navaid equipment.

Attachment 1
VAISALA INC.
Agreement for Aviation Support and Maintenance Services Terms and Conditions

1. PURPOSE/SERVICES:

1.1 Customer desires to engage Vaisala to render certain professional and/or technical services, including as recited in the Statement of Work ("SOW") and as indicated in the Order and Pricing Schedule, related to the support, maintenance and servicing of certain Equipment, and Vaisala desires to render such services under the terms and conditions of this Attachment 1, the SOW and the Order and Pricing Schedule. All terms not defined herein, including "Services", "Equipment" and "Term", shall have the meaning set forth in the Order and Pricing Schedule. This Attachment 1, the Order and Pricing Schedule and the SOW make up the complete agreement (the "Agreement") between Customer and Vaisala, and each may be amended, upon mutual written agreement, from time to time throughout the Term.

1.2 This Attachment 1 constitutes the terms and conditions offered with respect to the provision of Services and Equipment recited in the Order and Pricing Schedule and shall become a binding contract upon the execution of the Order and Pricing Schedule either by facsimile or in PDF form, by Customer and Vaisala. No contrary or additional terms or conditions proposed by Customer under any other document, including but not limited to a Customer purchase order, will be accepted by Vaisala, and any such proposed contrary or additional terms are hereby rejected unless otherwise mutually agreed to in a written fully executed instrument. Vaisala's performance pursuant to this Attachment 1, the Order and Pricing Schedule and the SOW shall be deemed unqualified acceptance of the terms and conditions set forth below.

2. PAYMENT/OTHER EXPENSES/ADDITIONAL CHARGES:

2.1 Customer agrees to pay Vaisala the amounts recited in the Order and Pricing Schedule.

2.2 Vaisala shall invoice Customer on an annual, quarterly or monthly basis, as applicable, based on the Services for the Equipment specified as more particularly recited under the Order and Pricing Schedule. Payment by Customer shall be net thirty (30) days of the invoice date.

2.3 Customer may withhold payment of any amounts to be paid to Vaisala which are disputed in good faith by Customer. In the event there is a dispute in connection with a submitted invoice, the parties shall confer on the invoice within five (5) days of receipt, and only the payment for that portion of the invoice in question may be withheld for ten (10) days after the payment due date so as to allow the parties to cooperatively resolve any dispute. Following the elapse of such ten (10) days, Customer shall pay, unless otherwise agreed by the parties, all the amounts due and owing to Vaisala under the invoice.

2.4 In accordance with the Order and Pricing Schedule, if restoration, repairs or other maintenance Services are required for an unplanned Equipment failure or outage, Customer shall pay Vaisala the recited "Unplanned Outage Fee". The "Unplanned Outage Fee" is billed in half-day increments, portal to portal, plus travel costs and expenses. Unplanned outages are defined as any restoration outside of normal or anticipated causes of Equipment failure, which outside causes include, but are not limited to, acts of God, weather damage, lightning strikes, vandalism or other damage caused by unauthorized airport personnel or third parties. The "Unplanned Outage Fee" is billed for each day or part thereof that Services are required.

2.5 In accordance with the Order and Pricing Schedule, the applicable "Holiday Fee" as recited in the Order and Pricing Schedule applies to the following holidays when Services are rendered: New Year's Eve, New Year's Day, Memorial Day, July 4th (Independence Day), Labor Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Eve and Christmas Day. If an Equipment failure or outage occurs on any of the foregoing holidays, Customer shall pay Vaisala the "Holiday Fee" in addition to the" Unplanned Outage Fee" as well as any other fees due and payable to Vaisala.

2.6 In accordance with the Order and Pricing Schedule, Customer Site (as subsequently defined) visits are defined as any Site visit not required for Equipment Services. Upon Customer's written request and Vaisala's written acceptance thereof and subject to mutually agreeable times, Vaisala will visit Customer Sites concurrent with Federal Aviation Administration (FAA) required or requested Customer Site visits. Customer agrees to pay the "Facility Visit Fee" to Vaisala for such Customer Site visits. The "Facility Visit Fee" is billed in half-day increments, portal to portal, plus travel costs and expenses.

2.7 In accordance with the Order and Pricing Schedule, and in Vaisala's sole opinion, if cancellations or excessive delays, in the provisions of Services occur as a result of Customer's fault, actions or causes, Customer shall pay Vaisala the "Cancellation/Delay Fee". The "Cancellation/Delay Fee" is billed in half-day increments, portal to portal, plus travel costs and expenses.

3. TERM:

3.1 The Term of the Agreement is in accordance with the Order and Pricing Schedule, shall be as recited in the Order and Pricing Schedule unless earlier terminated pursuant to this Attachment 1.

3.2 The parties may extend, upon mutual written agreement, the Term of the Agreement.

4. TERMINATION/OBLIGATIONS UPON TERMINATION:

4.1 This Agreement may be terminated by Vaisala, without cause and at any time, upon ninety (90) days written notice. The period of termination shall start from the date of the notice by Customer. Customer shall not be obligated to pay for any Services rendered after the date of termination, except that Customer shall be responsible for non-cancellable expense or commitment amounts that occur after the termination date and that such amounts shall remain due, owing and payable after the date of termination. The parties acknowledge that any amounts paid to Vaisala shall be non-refundable.

4.2 In the event of a material breach by Customer, Vaisala shall notify, in writing, Customer of such material breach. Customer shall be permitted thirty (30) days from the date of receipt of such notice to cure such breach to Vaisala's satisfaction. In the event the breach is cured to Vaisala's satisfaction, the Agreement shall not terminate. However, if the breach is not so cured, Vaisala may elect to promptly terminate the Agreement following the lapse of such thirty (30) days from the receipt of such notice. In the event of termination of the Agreement due to a material breach by Customer, other than of the type specified in Section 7.1 herein, the obligations under Section 4.3 shall be applicable.

4.3 In the event of termination of the Agreement either as provided herein or upon expiration of the Agreement, each party shall promptly return all Confidential Information (as subsequently defined) of the other party and Vaisala shall submit a final invoice, as recited above, for Services rendered up to the date of termination and for all non-cancellable expense or commitment amounts that occur after the termination date, which amounts remain due, owing and payable. Customer shall promptly pay such invoiced amount net ten (10) days from the invoice date.

5. WARRANTIES:

5.1 Vaisala warrants and represents that all Services provided by Vaisala shall be performed by qualified field technicians and by other personnel, who have all certifications and licenses required by the FAA. Further, Vaisala warrants and represents that all Services provided hereunder shall be of a professional quality consistent with general industry standards and shall be performed in accordance with the requirements of the SOW and as specified under the Agreement.

5.2 Vaisala represents and warrants that it is an independent contractor that makes its services available to the general public, has its own place of business and maintains its own sets of books and records, which reflect its own income and expenses. Further, Vaisala shall operate as an independent contractor and shall not represent itself as an agent, partner or joint venturer of Customer. Vaisala shall not obligate Customer in any manner, nor cause Customer to be liable under any contract or under any other type of commitment. Alternately, Customer shall not obligate Vaisala in any manner, nor cause Vaisala to be liable under any contract or under any other type of commitment.

5.3 THIS IS A SERVICE AGREEMENT. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, VAISALA MAKES NO WARRANTIES AND EXPLICITLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR RELIABILITY OR ACCURACY OF ANY GENERATED DATA OR INFORMATION FROM THE EQUIPMENT. THE EXPRESS WARRANTIES PROVIDED IN SECTIONS 5.1 AND 5.2 ARE EXCLUSIVE, AND VAISALA MAKES NO OTHER WARRANTIES, EXPRESS, STATUTORY OR IMPLIED, WRITTEN OR ORAL, TO CUSTOMER REGARDING, RELATED TO OR ARISING FROM THE SERVICES RENDERED UNDER THE AGREEMENT, THE USE OR POSSESSION OF VAISALA CONFIDENTIAL AND PROPRIETARY INFORMATION, ANY REPORT OR DATA GENERATED UNDER OR IN CONNECTION WITH THIS AGREEMENT, IN ANY MANNER OR FORM WHATSOEVER.

6. LIMITATION OF LIABILITY / INDEMNIFICATION:

6.1 Vaisala will be permitted to enter Customer's premises ("Site") and have access to Customer's personnel or equipment upon reasonable notice and during normal business hours; provided that Vaisala complies with Customer's security procedures. Vaisala shall maintain aviation products and comprehensive liability insurance, as recited below, during the Term of the Agreement. Vaisala agrees to take all reasonable precautions to prevent any injury to persons or any damage to property in the performance of the Services as rendered by Vaisala under the Agreement. However, in the event Customer is negligent or engages in misconduct, then Customer shall be liable for such damages as provided herein.

6.2 Vaisala's entire liability hereunder to Customer for any breach of the Agreement shall be limited only to the amounts of fees paid hereunder to Vaisala in connection with the Services that gave rise to the claim, except for any damages or claims for damages or equitable relief resulting from Vaisala's breach of Customer's proprietary and/or confidential interest as set forth in Section 9. Potential liability for claims by third parties is covered by Sections 6.4 and 6.5 below. NEITHER PARTY SHALL BE LIABLE FOR LOSSES OR DAMAGES WHICH ARE INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY, INCLUDING WITHOUT LIMITATION, ANY LOSS OF PROFITS OR REVENUE INCURRED BY EITHER PARTY WHETHER IN AN ACTION BASED ON CONTRACT OR TORT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS OF SUPPLIER OR ANY OTHER PARTY ARISING OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT, FAILURE OF ANY REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE, OR OTHERWISE ARISING FROM OR RELATED TO THE THIS AGREEMENT, AND THE SERVICES PERFORMED HEREUNDER, EXCEPT WITH RESPECT TO DAMAGES INCURRED WITH REGARD TO CLAIMS OF INFRINGEMENT, MISUSE OR MISAPPROPRIATION OF A PARTY'S PROPRIETARY AND/OR CONFIDENTIAL INFORMATION.

6.3 With regard to proprietary and/or confidential information and rights and interests, either party shall be entitled to pursue any legal and/or equitable action, including injunctive relief, against the other with regard to any misuse, misappropriation or breach of any term or condition recited herein with regard to such other party's confidential and/or proprietary claims.

6.4 Customer shall defend, indemnify and save harmless Vaisala, or its agents, employees, consultants or contractors, from any and all third-party claims, demands, suits, actions or proceedings of any kind or nature, including without limitation Worker's Compensation claims, of or by anyone that directly results from or directly arises out of Customer's actions, activities or events in connection with the Agreement or with respect to any negligent action, intentional or willful act or omission by Customer, or its agents, employees, consultants or contractors; provided, however, that Vaisala shall not be indemnified, held harmless and/or defended by Customer in connection with the foregoing claims of property damages, or death or personal injury where Vaisala, or its agents, employees, consultants or contractors, are, in any manner, negligent, or, in any manner, commit willful or intentional acts or omissions that result in such claims made. Customer's obligations to indemnify, defend and hold harmless will survive the termination of the Agreement for a period of one (1) year from the date of termination. Vaisala agrees to notify Customer within five (5) business days after it has received written notification of such loss due to damage to property, injuries or death to persons.

6.5 Vaisala shall defend, indemnify and save harmless Customer, or its agents, employees, consultants or contractors, from any and all third-party claims, demands, suits, actions or proceedings of any kind or nature, including without limitation Worker's Compensation claims, of or by anyone that directly results from or directly arises out of Vaisala's negligent Services in connection with the Agreement, including negligent Services, intentional acts or omissions of contractors, employees, consultants or agents of Vaisala; provided, however, that Customer shall not be indemnified, held harmless and/or defended by Vaisala in connection with the foregoing claims of property damages, or death or personal injury where Customer, or its agents, employees, consultants or contractors, are, in any manner, negligent, or, in any manner, commit willful or intentional acts or omissions that result in such claims made. Vaisala's obligations to indemnify, defend and hold harmless will survive the termination of the Agreement for a period of one (1) year from the date of termination. Customer agrees to notify Vaisala within five (5) business days after it has received written notification of such loss due to damage to property, injuries or death to persons. Indemnification obligations of Vaisala under this section are subject to the limits set forth in Section 6.6.

6.6 During the term of the Agreement and for a period of at least one (1) year after completion of Vaisala's obligations pursuant hereunder, Vaisala will maintain the following levels of insurance coverage with a reputable and financially sound insurance carrier: (a) workers' compensation insurance as required by applicable law; (b) employer's liability insurance with limits not less than US $1 MILLION; (c) Commercial General Liability, including Products and completed Operations and Contractual Liability, with a minimum combined single limit of US $2 MILLION per occurrence; (d) Excess Liability Insurance with limits not less than US $5 MILLION; and (d) Aviation Liability Insurance of US $10 MILLION per occurrence. Vaisala shall, at its own expense, maintain with a reputable insurer (and provide written certificate(s) of insurance to Customer if and when requested) for a period of one (1) year after the fulfillment of the SOW under the Agreement. IN CONNECTION WITH ANY INDEMNITY BY VAISALA HEREUNDER, VAISALA'S ENTIRE LIABILITY SHALL BE LIMITED ONLY UP TO THE AMOUNTS OF AVAILABLE

INSURANCE COVERAGE AVAILABLE IN CONNECTION WITH THE CLAIM MADE; AND THEREFORE, IN NO EVENT SHALL VAISALA BE LIABLE FOR ANY AMOUNTS BEYOND THE LIMITATIONS OF INSURANCE COVERAGE RECITED HEREIN FOR ANY CLAIMS MADE UNDER VAISALA'S INDEMNIFICATION OF CUSTOMER UNDER SECTION 6.5.

7. FORCE MAJEURE

7.1 Neither party shall be deemed to have breached the Agreement by reason of delay or failure in performance resulting from causes beyond the control, and without the fault or negligence, of the party. Such causes include, but may not be limited to, an act of God, an act of war or public enemy, riot, epidemic, fire, flood, quarantine, embargo, epidemic, unusually severe weather or other disaster, or compliance with laws, governmental acts or regulations, in any case, not in effect as of the date of the Agreement, or other causes similar to the foregoing beyond the reasonable control of the party so affected. The party seeking to avail itself of any of the foregoing excuses must promptly notify the other party of the reasons for the failure or delay in connection with the performance hereunder and shall exert its best efforts to avoid further failure or delay. However, the Agreement shall terminate, as provided under Section 4, if such delay or failure persists for one-hundred twenty (120) consecutive days and there is no foreseeable remedy or cure available.

8. ASSIGNMENT

8.1 Customer shall not be permitted to assign, in whole or in part, the Agreement or any rights or obligations hereunder except with the written authorization of Vaisala, which authorization shall not be unreasonably withheld. In the event of any permitted assignment or transfer of the Agreement or the obligations under the Agreement, the parties agree that such obligations shall be binding upon the assigning or transferring party's executors, administrators and legal representatives, and the rights of assignor or transferor shall inure to the benefit of assignee or transferee. Any attempted transfer, assignment, sale or conveyance, or delegation in violation of this Section 8 shall be null and void.

9. CONFIDENTIAL AND/OR PROPRIETARY INFORMATION

9.1 During the Term of the Agreement, each party may be exposed either in writing, orally or through observation to the other party's confidential and/or proprietary information ("Information"). Information includes, but is not limited to, product specifications, drawings, design plans, product blueprints, ideas, inventions, methods, processes, chemical formulations, chemical compounds, mechanical/electrical specifications, current and future product plans, system architectures, product strategies, software (object, source or microcode), scientific or technical data, prototypes, demonstration packages, documents, marketing strategy, customer lists, equipment, personnel information, business strategies, financial information, instruction manuals, the Agreement and any other business and/or technical information related to the atmospheric and weather technology fields, or any Information marked with a disclosing party's confidential or similar type legend. If the Information is orally or visually disclosed, then such Information shall be reduced to a summary writing by the disclosing party within thirty (30) days of such disclosure, marked as "confidential" and delivered to the receiving party.

9.2 The receiving party shall use the Information only for the purposes of the Agreement and for no other purpose whatsoever. The receiving party shall not disclose, disseminate or distribute the Information to any third party. However, Vaisala shall be permitted to disclose Information to agents, employees, subcontractors and consultants, who have a definable need to know, and who are under written obligations commensurate with the terms and conditions recited herein. The receiving party shall protect the Information by using the same degree of care, but no less than a reasonable degree of care, it would to protect its own information of a like nature. Information shall remain confidential for a period of two (2) years following termination of the Agreement; except that any Information which is designated as a trade secret shall remain confidential until one of the events recited in Section 9.3 occurs.

9.3 The receiving party shall not be obligated to maintain the confidentiality of the Information if such Information: a) is or becomes a matter of public knowledge through no fault of the receiving party; b) is disclosed as required by law; provided that, the receiving party promptly notifies the disclosing party of such request to disclose so that disclosing party has the opportunity to seek a protective or similar order to prevent such disclosure of Information; c) is authorized, in writing, by the disclosing party for release; d) was rightfully in the receiving party's possession before receipt from disclosing party; or e) is rightfully received by the receiving party from a third party without a duty of confidentiality.

9.4 No license under any trademark, patent, copyright or other intellectual property right is granted, either expressed or implied, by the disclosing of such Information by the disclosing party to the receiving party.

10. DISPUTES/ARBITRATION/GOVERNING LAW/OTHER

10.1 The parties shall first try to resolve any dispute relating to or arising from the Agreement through good faith negotiations and agreement by the parties. If the parties are unable to resolve the dispute through negotiation and still seek resolution, the dispute may be submitted to, and settled by binding arbitration, by a single arbitrator chosen by the American Arbitration Association in accordance with the Commercial Rules of the American Arbitration Association. The prevailing party shall be entitled to reasonable and documented attorney's fees and administrative fees in the event an action is brought. Notwithstanding the foregoing, the arbitrator shall award any damages subject to the limitations on liability and indemnification recited herein. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator. Service of a petition to confirm the arbitration award may be made by First Class mail or by commercial express mail, to the attorney for the party or, if unrepresented, to the party at the last known business address.

10.2 With regard to the subject matter recited herein, the Agreement (including addenda or amendments added hereto) comprises the entire understanding of the parties hereto and as such supersedes any oral or written agreement. Any inconsistency in the Agreement shall be resolved by giving precedence in the following order:

a) The Order and Pricing Schedule

b) The SOW

c) This Attachment 1

d) Any addenda added hereto

10.3 This Agreement shall not be modified or amended except by written amendment executed by both parties. All requirements for notices hereunder must be in writing. The parties further acknowledge that facsimile signatures or signatures in PDF are fully binding and constitute a legal method of executing the Agreement.

10.4 Sections 4, 5, 6, 7, 9 and 10 shall survive termination of the Agreement.

10.5 If any of the provisions of the Agreement are declared to be invalid, such provisions shall be severed from the Agreement and the other provisions hereof shall remain in full force and effect. The rights and remedies of the parties to the Agreement are cumulative and not alternative.

10.6 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, taken together, shall be deemed to constitute a single instrument.

10.7 This Agreement is made under and shall be construed according to the laws of the State of Colorado, notwithstanding the applicability of conflicts of laws principles.

10.8 The parties shall adhere to all applicable U.S. Export Administration Laws and Regulations and shall not export or re-export any technical data or materials received under the Agreement or the direct product of such technical data or materials to any proscribed country or person listed in the U.S. Export Administration Regulations unless properly authorized by the U.S. Government.