

CONTRACT APPROVAL

SUGGESTED MOTION:

Move to approve the following contracts submitted by respective department head, subject to State's Attorney approval, and authorize the Chairman to sign.

Received as of August 17, 2023:

- Lindeman Concrete Construction, LLC—home demolition at 17373 26th Street Southeast in Argusville, ND, Lilleberg flood buyout property
- Aviat U.S., Inc.—Cass County radio system microwave infrastructure annual service agreement



Highway Department

Telephone: 701-298-2370

Fax: 701-298-2395

SMB-HWY@casscountynd.gov

MEMORANDUM

TO: Cass County Commission

FROM: Jason Benson, County Engineer *JB*

DATE: August 10, 2023

SUBJECT: Consent Agenda Item for August 21, 2023 Commission Meeting: Argusville Home Demo

Attached are the contract documents for Lindemann Concrete Construction, LLC for the home demo at 17373 26th St SE, Argusville, ND (Lilleberg Flood Buyout Property)

This property was approved for Buyout by the ½ cent sales tax committee meeting on April 18, 2022. A request for Home Demo quotes were sent out to six contractors with only two responses.

Engineer's Estimate	Argusville Property	Total
	\$30,000.00	\$30,000.00

The quotes were received as follows:

Contractor	Argusville Property	Total
Lindemann Concrete Construction, LLC	\$19,560.00	\$19,560.00
Industrial Builders, INC.	\$45,416.00	\$45,416.00

SUGGESTED MOTION:

MOVE TO APPROVE THE CONTRACT DOCUMENTS WITH LINDEMANN CONCRETE CONSTRUCTION, LLC FOR THE HOME DEMOLITION STATED ABOVE SUBJECT TO STATE'S ATTORNEYS APPROVAL.

J:\Admin-Eng\Commission Corrsp\2023 Commission Correspondence\Chad L Home Buyout\Consent Agenda Memo Lindemann Concrete Cons Home Demo 081023.docx

CONTRACT APPROVAL REQUEST

COMPANY REQUESTING CONTRACT:

Lindemann Concrete Construction, LLC, 6823 County Road 17, Harwood, ND 58042

DATE OF REQUEST: August 10, 2023

DATE OF EXPECTED RETURN TO THE COMMISSION OFFICE: August 21, 2023

DEPARTMENT HEAD REQUESTING SIGNATURE: Jason Benson, 701-298-2372



STATE'S ATTORNEY SIGNATURE: _____

STATE'S ATTORNEY COMMENTS: _____

PORTFOLIO COMMISSIONER SIGNATURE: _____

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J:\Admin-Eng\Commission Corrsp\2023 Commission Correspondence\Chad L Home Buyout\Contract Approval Request Home Demo Lindemann Concrete Cons 081023.docx

**CASS COUNTY HIGHWAY DEPARTMENT
CONTRACT**

This agreement made and entered into by Cass County, North Dakota, party of the first part, and Lindemann Concrete Construction, LLC, 6823 County Road 17, Harwood, ND 58042 party of the second part (hereinafter called Contractor), WITNESSETH:

1. That for and in consideration of the payments to be made by the party of the first part, the contractor promises and agrees to furnish and deliver all labor, equipment, and materials, and to pay or cause to be paid as they become due, all claims for any work, labor, materials, equipment, including equipment rental or repair, and other supplies or insurance premiums, all of which are attributable to or utilized in and about the improvement and construction of **Argusville Home Demo**. In accordance and in conformity with the provisions of this contract, the project proposal, the standard specification, supplemental specifications, special provisions, and all of which are hereby made a part of this agreement as fully and to the same effect as if the same had been set forth in the body of this agreement. References in the Standard Specifications for Road and Bridge Construction, 2023 edition, to the North Dakota Department of Transportation or Department must be construed as referring to the owner. Likewise, a reference by the same works to engineer or director must be construed as referring to the owner of the project.

2. The party of the first part agrees and promises to pay to the Contractor for said work, when completed and accepted in accordance with the provisions of this contract, the price set forth in the said proposal, amounting approximately to **Nineteen Thousand, Five Hundred Sixty Dollars and Zero Cents (\$19,560.00)** payments to be made as provided in said specifications upon presentation of the proper certificates of the County Engineer, or his representatives, and under the terms of this contract.

3. The said work shall be done in accordance with the terms of this contract, and the laws of the State of North Dakota, under direct supervision and to the entire satisfaction of the County Highway Department, subject at all times to the inspection and approval of the engineer.

4. The decision of the engineer upon questions connected with the execution of this agreement or any failure or delay in the prosecution of the work by the Contractor shall be final and conclusive.

5. In the employment of labor, other things being equal, preference shall be given to honorably discharged Veterans of the Armed Forces, and bona fide North Dakota residents, as determined by NDCC Section 43-07-20.

6. The Contractor shall begin construction work when so ordered by the Cass County Highway Department and shall maintain at all times thereon a maximum and efficient working force necessary to complete the work within the time established by this contract.

IN WITNESS THEREOF, the parties to this contract have set their hands and seal this ____ day of _____ 2023.

CASS COUNTY NORTH DAKOTA

Chairperson, Cass County Board of Commissioners

Contractor

WITNESS TO CONTRACTOR'S SIGNATURE

By _____

Title _____

From: Brian Zastoupil
To: [Kaushagen, Taylor](#)
Cc: [Wilson, Robert](#); [Mary Phillippi](#)
Subject: Next Cass County Commissioner meeting?
Date: Tuesday, August 15, 2023 11:02:52 AM
Attachments: [Cass County Government \(ND\) AviatCare Support Quote 31Jul2023.pdf](#)

CAUTION: EXTERNAL EMAIL

Taylor

See attached.

Can this be added to the next/upcoming Cass County Commission meeting for action? **Please advise next date so I can attend (If Cass Co desires)**

Background. The Cass County radio system includes microwave radio infrastructure. This equipment was supported by warranty (Which expired on 7/31/2023) Attached is annual service agreement support for microwave infrastructure is \$13,936.

Based upon review, it is my recommendation to approve this agreement.

Sidenote. I am also working with Motorola to provide a post warranty support agreement. (Currently have not rcvd) Once received, I will advise.

Feel free to contact me with any questions anyone may have. Thanks in advance.

Brian Zastoupil
Radio Systems Coordinator
Red River Regional Dispatch Center
300 NP Avenue Suite 206
Fargo, ND 58102
701 451-7683

SUGGESTED MOTION: Move to authorize the annual service agreement with Aviat U.S. Inc. for Cass County radio system microwave radio infrastructure maintenance.



CONTRACT APPROVAL

REQUIRED BY DEPARTMENT:

DEPARTMENT: Administration DATE OF REQUEST: 08-17-2023

COMPANY REQUESTING CONTRACT: Aviat U.S. Inc

BRIEF PROJECT DESCRIPTION: County radio system microwave radio infrastructure annual service agreement

X NEW CONTRACT OR CONTRACT RENEWAL

REQUIRED BY STATE'S ATTORNEY OFFICE:

STATE'S ATTORNEY SIGNATURE: _____ DATE _____

STATE'S ATTORNEY COMMENTS:



JULY 31, 2023

Cass County Government

Attn: Brian Zastoupil BZASTOUPIL@RRRDC.COM

AVIATCARE SUPPORT AGREEMENT

Contract 142940

Note: All correspondence such as Purchase Order must reference the above Contract Number for processing

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AVIATCARE AGREEMENT

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1. EXECUTIVE SUMMARY

The included Aviat proposal specifies the services and responsibilities applicable to contract support of microwave and associated products from Aviat U.S., Inc. (“Aviat Networks” or “Aviat”) and its partners. The Services listed in this proposal shall be governed by the terms and conditions set forth in this Agreement and the Aviat Global Support Guidelines (“Agreement”). Neither party is obligated to provide Services until the Agreement is executed by both parties and a Purchase Order has been issued. Any capitalized terms not defined herein shall have the meaning ascribed to it in the Agreement. Should a conflict exist between any other agreement between the parties and this Agreement, this Agreement shall control.

The prices quoted as part of this proposal is valid for 60 days. Services are quoted and payable in US dollars and reflect the scope of work as specified within this proposal. The services listed below shall only be eligible for support, which includes any customer spares purchased under the included Aviat Networks Sales Order Numbers. Consumable items such as cables or batteries are excluded. Unless otherwise specified and additionally included, facility maintenance including but not limited to towers, shelters, air conditioners, generators and fuel storage are also excluded.

2. AVIATCARE SERVICES: MAINTENANCE COVERAGE (“SERVICES”)

Aviat Networks will provide the following services:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Repair Services | <input type="checkbox"/> Network Monitoring 24x7 |
| <input checked="" type="checkbox"/> Advance Replacement | <input type="checkbox"/> Network Monitoring Nights and Weekends |
| <input checked="" type="checkbox"/> Repair Logistics Program | <input type="checkbox"/> Software Upgrade |
| <input checked="" type="checkbox"/> Remote Technical Support 24x7 | <input type="checkbox"/> Performance Management |
| <input checked="" type="checkbox"/> ProVision Support | <input type="checkbox"/> Performance Optimization |
| <input type="checkbox"/> Onsite Ground Corrective Maintenance | <input type="checkbox"/> Change Management |
| <input type="checkbox"/> Onsite Ground Preventive Maintenance | <input type="checkbox"/> Spares Management |
| <input type="checkbox"/> Onsite Tower Corrective Maintenance | <input type="checkbox"/> Site Acceptance |
| <input type="checkbox"/> Onsite Tower Preventive Maintenance | <input type="checkbox"/> Hosted HAS |
| <input type="checkbox"/> Managed FAS | <input type="checkbox"/> Managed HAS |

2.1. DURATION OF SUPPORT SERVICES

The support period of the Maintenance Level Agreement is provided in the table below:

SERVICES	START	END
REPAIR SERVICES	August 1, 2023	July 31, 2024
ADVANCE REPLACEMENT	August 1, 2023	July 31, 2024
REPAIR LOGISTICS PROGRAM	August 1, 2023	July 31, 2024
REMOTE TECHNICAL SUPPORT 24 X 7	August 1, 2023	July 31, 2024
PROVISION SUPPORT 24X7	August 1, 2023	July 31, 2024

3. SUPPORT COSTS

AviatCare Maintenance and Support Services				
Services	Services Part Number	Product Qty	Price Per TR/ODU	Extended Pricing
Warranty Plus Support <ul style="list-style-type: none"> ✓ Priority Technical Support: Available 24 X 7 ✓ AviatCloud Support Portal: Available 24 X 7, Level 2 ✓ Repair Services: <ul style="list-style-type: none"> • 20 Calendar Day turnaround time on Aviat Networks manufactured equipment • Advance Replacement –3- 5 Business Day turnaround time; Based on availability of inventory • Repair Logistics Program – No cost shipping to customer; Aviat handles shipping both ways 	SNA-BNWX1001238	<ul style="list-style-type: none"> • (24) IRU600 Project NA180212-31270; SO: 2425410	\$389	\$9,336
ProVision Software Support: <ul style="list-style-type: none"> ✓ Priority Technical Support: Available 24 X 7 ✓ AviatCloud Support Portal: Available 24 X 7 ✓ Provide general availability releases and product updates to the Customer free of charge during the coverage period 	SWW-PV24G1XX1299	<ul style="list-style-type: none"> • 1-20 Nodes 	\$4,600	\$4,600
Total AviatCare Maintenance and Support			\$13,936	
Optional Services – AviatCare Education				
Eclipse Training: <ul style="list-style-type: none"> ✓ Provide students with an overview of the basic features, equipment configuration, and functionality for the Aviat Eclipse radio platform 	TRN-ECLIPSE-LIB-E	<ul style="list-style-type: none"> • Eclipse Library: A Collection of E-Learning Modules 		\$690/ Per student
ProVision Training: <ul style="list-style-type: none"> ✓ Provide students with an overview of the basic features, equipment configuration, and functionality for the Aviat Provision Element Management Solution. 	TRN-PROV-LIB-E	<ul style="list-style-type: none"> • PROVISION Library: A Collection of E-Learning Modules – P/P – 3-month access 		\$690/ Per student

3.1. OPTIONAL AND TRUE-UP SUPPORT FEES

Aviat Networks quotes onsite support services based on the following factors: network configuration, number of dispatches for the duration of a contract, number of hours onsite per dispatch, tower crew mobilization/demobilization, spares availability, and any specialized site access requirements.

Aviat Networks offers customers the option, where available, to purchase one-time support services which are invoiced at the time-of-service request. In addition, Aviat can supply onsite support services in excess of the negotiated contract terms where the number of dispatch requests exceed the number of quoted dispatches during a given contract period, Aviat

Networks will invoice the customer for the additional services (True-up) at the time of dispatch request. Fees for one-time and True-up callouts are listed below.

Optional, One-Time & True-Up Managed Services Fees		
Managed Network Service: Miscellaneous, Additional Ground Dispatch (Onsite Corrective and Preventive Maintenance)	SWW-MSGENXX10199	Per Occurrence \$2,080
Managed Network Service: Miscellaneous, Additional Tower Dispatch (SLA restrictions apply) - Emergency - Non-Emergency	SWW-MSGENXX20199	Per Occurrence \$11,000 \$ 8,333
Managed Network Service: Miscellaneous, Material	SWW-MSGENXX30199	Per Occurrence Time and Materials
Managed Network Service: Miscellaneous, Travel	SWW-MSGENXX40199	Per Occurrence Time and Materials
Managed Network Service: Miscellaneous, Special Site Access Equipment	SWW-MSGENXX50199	Per Occurrence Time and Materials
Managed Network Service: Miscellaneous, Site Power Support	SWW-MSGENXX60199	Per Occurrence Time and Materials
Miscellaneous, Misc Extra Onsite Work	SWW-MSGENXX70199	Per Occurrence Time and Materials

During the Agreement Term, any number of newly purchased Aviat Networks devices can be added to your AviatCare plan. During annual renewals, the contract price will be “trued-up” (adjusted) to include the addition of new units added during the previous Agreement Term. In case of non-renewal, an invoice reflecting the true-up fees for the expired Term shall be sent to Customer within 30 (thirty) Calendar days following the non-renewal notice or expiry of the previous Term, whichever comes first.

4. PRE-REQUISITES FOR ACTIVATION OF SUPPORT SERVICES

Prior to the activation of the Support Services in accordance with this Agreement, Aviat Networks will confirm the supportability status of the products to be covered under the Agreement. If the standard or extended warranty or existing AviatCare Support Services have expired, Aviat Networks will request validation that the products are operating satisfactorily, in order to activate or put in effect a new AviatCare Agreement.

Aviat Networks may choose to authenticate the applicability of the equipment by performing a network audit of all systems to be covered in this Agreement. The fee for the network audit is incremental to the cost of the Support Services.

Activation of the Support Services assumes that sites under maintenance have undergone full commissioning and proven to be in good working condition prior to the start date of this Agreement. Aviat Networks may request the customer to provide the site commissioning and acceptance data prior to the start of this Agreement.

Activation of the Support Services assumes no failed units are in the customer’s possession prior to the start date of this Agreement. If there are failed units in the Customer’s possession prior to the start date of this Agreement, the customer agrees that this Agreement will not apply retrospectively to those units, and will not apply to any units for which RMA numbers have already been obtained from Aviat Networks prior to the start date of this Agreement.

All equipment maintenance must be continuous with no gaps in coverage period. Renewal requests received by Aviat Networks more than ninety (90) days following expiration of the initial warranty period or a previous AviatCare Agreement may be subject to a reinstatement fee. Aviat Networks reserves the right to confirm the health condition of the equipment prior to accepting service reinstatement. Equipment not meeting the minimum health requirement must be repaired at the Customer’s expense prior to service reinstatement. Reinstatement will be retroactive to the day following the last covered date.

4.1. SUPPORTED PRODUCTS

The Supported Products are the functional equipment containing the hardware and software, which together make up the systems. Notwithstanding the foregoing:

- a) Unless otherwise expressly listed, all third-party computing hardware and OEM are excluded from the definition of Supported Product (and therefore shall not be eligible to receive Support); the Support Services do not cover antennas, Power over Ethernet ("PoE") and ancillaries, any cabling, or any wiring external to the Supported Products, telecommunications devices (including modems), and / or peripheral equipment.
- b) Repairs of antenna systems, tower crews, and the associated dispatch/labor support for repairing antenna systems are excluded from the scope of this Agreement, unless specifically identified as a purchased service option. Field support for antenna repair will be contracted by the Customer on a per incident basis.
- c) Only Aviat Networks systems in the Customer's network shall be deemed Supported Products

5. SUPPORT SERVICES - DETAILED DESCRIPTION

5.1. ACCESS TO CUSTOMER CARE WEB PORTAL

For Aviat Networks Transport Products, Customer will have access to the AviatCare Online Web Portal 24/7 (URL: <http://www.support.aviatnetworks.com/>) for a variety of tools and support services. These tools/services include:

1. RMA Request & Status Updates
2. RMA Reporting such as repair turnaround time performance
3. Technical Support such as Service Request opening, reporting and status
4. Information databases such as technical notes, frequently asked questions, solutions for commonly asked technical or operational issues
5. Software Downloads
6. License Management for software

For Aviat Networks Access Products, Customer will have access to the AviatCare Online Web Portal 24/7 (URL: <https://customers.rdlcom.com/>) for a variety of tools and support services. These tools/services include:

7. RMA Request & Status Updates
8. RMA Reporting such as repair turnaround time performance
9. Technical Support such as Service Request opening, reporting and status
10. Software Downloads
11. Access to the full suite of technical documentation, installation guides, technical notes, user manuals, specification sheets for all related software releases and hardware products

5.2. REPAIR SERVICES

Supported Products for which Repairs Services have been purchased under this Agreement will be covered with our standard Repair / Replace policy. There is no limit to the number of units returned for repair, but the Customer is subject to limitations for No Fault Found (NFF) and damaged beyond repair units where additional charges may apply (see details below). Expedited services such as emergency repairs may be requested and will be executed based on inventory availability only. Expedited Services will be quoted separately and above the standard Repair Services charges at time of expedited service request.

- a) **Repair Center Support.** Customer shall place all RMA requests at the following link: for Aviat Networks Transport Products at <http://support.aviatnetworks.com/frf/main.asp>. and for Aviat Networks Access Products at <https://customers.rdlcom.com/>. These links are available for use 24 hours a day, 7 days a week, except where routine maintenance of a customer care portal is performed.

For Aviat Networks Transport Products, Customers can also email or fax RMA requests to the appropriate Aviat Networks Repair Center. Aviat Networks will typically fax or email a confirmation with an RMA reference number within one (1) business day. Requests can also be made via telephone during such Aviat Networks Repair Center's Business Hours.

For Aviat Networks to process an RMA request, the Customer must provide the following information:

- Company name
- Shipping and billing address
- Part Number
- Serial Number of the defective unit(s)
- Unit software load
- Description of the suspected failure, of the troubleshooting steps previously performed or steps necessary to recreate the fault, if known
- Whether any special requirements exist
- Service Level Agreement contract number; and
- Provide a purchase order at the applicable price for per-incident billable requests. Contact your local Aviat Networks Repair Center for price information.

Note: The Customer must include associated Aviat Care Support Service Agreement contract number in all correspondence(s) in order to avoid being invoiced for services falling within the scope of such Agreement.

Instructions for the shipment of the defective unit to the relevant Repair Center shall be provided to the Customer at the time of the RMA issuance.

b) **Turnaround Time.** Aviat Networks' Turnaround Time on repairs is as follows:

- 20 Calendar Day turnaround time on Aviat Networks manufactured equipment if the Customer has an AviatCare Agreement in place,
- 30 Calendar Day turnaround time on Aviat Networks manufactured equipment under standard warranty coverage
- 45 Calendar Day turnaround on Aviat Networks Manufactured Discontinued equipment.
- For OEM equipment, repair turnaround times are set by the OEM supplier.
- 90 Calendar Days Turnaround Time for repairs of Aviat Networks Access and LTE Products.

c) **Turnaround Time Calculation.** Turnaround time is measured from the time a defective unit arrives at the designated Aviat Networks Repair Center until the time that it is shipped out of the Aviat Networks Repair Center. All shipping related time is excluded from the calculation. Thus, the measurement of turnaround time does NOT begin when the returned unit is shipped from Customer's premises and does NOT include the shipping time accrued after the returned unit is shipped from the Aviat Networks Repair Center to Customer's premises. Additionally, turnaround times will not be guaranteed in the following situations:

- Missing information such as failure details, return shipping address, shipping instructions and/or any other information that may affect the start of the repair process or the shipment of the returned unit as the repair is completed.
- Any returned unit is deemed No Fault Found.
- Any returned unit received due to any of the reasons listed in the Exclusions from Repair & Return Clause of this Section.
- Any returned unit received improperly packaged and therefore sustained physical or electrostatic damage in shipment.
- Returned units placed in isolation (i.e., Damages Beyond Repairs).
- Event of Excusable Delay as described under the Excusable Delay Clause of the Additional Terms & Conditions Section of this Agreement.

- More than five (5) units of the same type are received at the same time, or more than ten (10) units of any type are received at the same time.
- d) **OEM.** For OEM equipment, repair turnaround times are set by the OEM supplier. Aviat Networks close working relationship with OEM suppliers assures the best possible turnaround time. These times will be communicated to Customer at time of RMA issuance.
- e) **Shipping Costs.** Except if Customer has purchased Repair Logistic Services, Customer is responsible for all charges associated with shipping the defective units to the designated Aviat Networks Repair Center. If the Repair Center is located in a country different than the Customer's country of location, shipments to the relevant Repair Center shall be made pursuant to the delivery term of DAP (Delivery at Place) to Aviat Networks Repair Center (Incoterms 2020). Aviat Networks is responsible for the charges associated with shipping the repaired unit back to customer, which shipment shall be made pursuant to the delivery term DAP (Delivery at Place), Customer's premises (Incoterms 2020).
- f) **Packaging and Shipping Procedures.** Both Aviat Networks and Customer are obligated to ensure that all deliveries are packaged in such manner as to achieve suitable mechanical and environmental protection during storage, handling, and transport to the delivery address. Electrostatic Discharge (ESD) precautions should be followed during handling and packaging of all units delivered. For each consignment of units shipped to Aviat Networks, the customer must provide a detailed Packing List and Commercial (Proforma) Invoice to support the delivery. Each Commercial Invoice must clearly state the full description, the value of each unit and the RMA Number. Once a unit has been repaired and shipped to the customer at the address provided by the customer upon RMA request, Aviat Networks will send a pre-alert notification to the customer comprising a faxed copy of the Commercial Invoice and Airway Bill Number pertaining to the shipment.
- g) **Exclusions from Repair & Return.** The services to be rendered by Aviat Networks under this Agreement shall not comprise any damage, defects, malfunctions, or failures caused by one or more of the following:
- Damage caused by mishandling, Customer or third-party negligence, abuse, or operation outside the Aviat Networks environment specifications, or due to a cause not solely attributed to Aviat Networks.
 - Improper or unauthorized testing, operation, maintenance, service, repair, installation, alteration, modification or adjustment of the product or the firmware made other than by Aviat Networks.
 - Damages by persons other than Aviat Networks or its authorized service providers.
 - Any modification, removal or obliteration of a serial number or other identifying mark or any attempts thereof other than by Aviat Networks' authorized personnel.
 - Damage that occurs during shipment from the Customer premises to Aviat Networks' premises outside the Repairs Logistics Program (if applicable).
 - Installed, stored, used, handled, or maintained contrary to Aviat Networks' written instructions.
 - Used in conjunction or combination with third-party material or equipment without the consent of Aviat Networks.
 - Units returned for repair where there has been misuse, neglect, power failures, surges, accident or acts of God such as fire, lightning strikes, or flood, acts of war, vandalism.
 - Normal and customary wear and tear.

Repairs necessitated during the Agreement period by any of the above causes may be made by Aviat Networks, and the customer shall pay Aviat Networks' per-incident repair charges, together with all shipping and handling charges arising from such repairs.

- h) **Stockpiling of Failed Units.** The Customer agrees to obtain an RMA Number for all failed units from an Aviat Networks Repair Center immediately following a failure and return the units for repair immediately after receipt of the RMA Number from Aviat Networks. The Customer agrees that this Agreement will not apply retrospectively to cover any units failed and in the Customer's possession prior to the execution date of this Agreement and will not apply to any units for which RMA Numbers had already been obtained from Aviat Networks prior to the date of execution of this Agreement. Following execution of this Agreement the Customer agrees not to stockpile failed units and accepts that Aviat Networks will not be required to meet the Turnaround Times outlined in this Agreement if the units are not returned to Aviat Networks on receipt of an RMA Number or if they are stockpiled.
- i) **No Fault Found Fee.** If Customer returns units of Supported Products which, after testing by Aviat Networks are found to meet the applicable Product specifications, then Aviat Networks will charge Customer a No Fault Found

(NFF) inspection fee of USD750 for each such non-defective returned unit. The NFF fee may be waived by Aviat Networks if the return of said unit was advised/recommended by an Aviat Networks TAC personnel.

- j) **Damaged Beyond Repair.** Returned units that Aviat Networks (in its sole discretion) determined are damaged Beyond Repair or have been repaired (or otherwise modified) by a party other than Aviat Networks will be placed in isolation. The Customer shall be advised by fax or e-mail, within ten (10) days working days, of the nature and extent of the damage. The Customer shall be responsible for informing Aviat Networks of the next course of action. If the Customer decides to replace the unit(s), they must follow the usual purchasing process. Note: If the returned unit is no longer in current manufacture and/or is OEM, Aviat Networks will not guarantee availability of a unit for sale.

5.3. ADVANCE REPLACEMENT

Advance Replacement services are available for Aviat Networks Transport Products. This Service provides the Customer with shipments of a limited number of units intended as an advanced replacement of returned units, upon the Customer's request. The Service encompasses the following:

- a) **Repair Center Support.** Advance Replacement unit requests are managed through the standard RMA process. First recommended point of contact is via the **AviatCare** Online Web Portal <http://support.aviatnetworks.com/frf/main.asp> where an RMA can be requested 24x7, except where routine maintenance of the AviatCare portal is performed. Given the critical nature of these requests, Customer may also email the request or call one of the regional RMA centers. To ensure a timely response the Customer should utilize the AviatCare Online Web Portal to open an Advance Replacement RMA.
- b) **Packaging and Shipping Procedures.** Both Aviat Networks and the Customer are obligated to ensure that all deliveries are packaged in such manner as to achieve suitable mechanical and environmental protection during storage, handling, and transport to the delivery address. Electrostatic Discharge (ESD) precautions should be followed during handling and packaging of all units delivered. For each consignment of units shipped to Aviat Networks, the Customer must provide a detailed Packing List and Commercial (Proforma) Invoice to support the delivery. Each Commercial Invoice must clearly state the full description, the value of each unit and the RMA Number. Once a unit has been repaired and shipped to the Customer at the address provided by the Customer upon RMA request, Aviat Networks will send a pre-alert notification to the Customer comprising a faxed copy of the Commercial Invoice and Airway Bill Number pertaining to the shipment.
- c) **Returned unit.** If this Agreement entitles the Customer to the Repairs Logistics Program and the Customer elects to use it for the returned unit, the Customer will be invoiced for the list price of the Advance Replacement unit(s) if Aviat Networks does not receive notification to pick-up the pertinent returned unit, at most, ten (10) days after Customer's receipt of the Advance Replacement unit. In the event that the Customer is not entitled to the Repairs Logistics Program or the Customer elects to return the returned unit to Aviat Networks via a freight forwarder outside of the Repairs Logistics Program, the Customer will be invoiced for the list price of the Advance Replacement unit if Aviat Networks does not receive the pertinent returned unit at the Aviat Networks Repair Center within, at most, thirty (30) days after receipt of the Advance Replacement unit. The returned unit will become the property of Aviat Networks. The Customer agrees that the returned unit must be repairable and does not fall into any of the categories listed in the Exclusion from Advance Replacement clause.
- d) **Exclusion from Advance Replacement.** The services to be rendered by Aviat Networks under this Agreement shall not comprise any damage, defects, malfunctions, or failures caused by one or more of the following:
- Damage caused by mishandling, Customer or third-party negligence, abuse, or operation outside the Aviat Networks environment specifications, or due to a cause not solely attributed to Aviat Networks.
 - Modifications, alterations, or repairs made other than by Aviat Networks.
 - Damages by persons other than Aviat Networks, or its authorized service providers.
 - Any modification, removal or obliteration of a serial number or other identifying mark or any attempts thereof other than by Aviat Networks' authorized personnel.
 - Damage that occurs during shipment from the Customer premises to Aviat Networks' premises outside the Repairs Logistics Program (if applicable).
 - Installed, stored, used, handled, or maintained contrary to Aviat Networks' written instructions.
 - Used in conjunction or combination with third-party material or equipment without the consent of Aviat Networks.

- Units returned for repair where there has been misuse, neglect, power failures, surges, accident or acts of God such as fire, lightning strikes, or flood.
- k) **No Fault Found Fee.** If Customer returns units of Supported Products which, after testing by Aviat Networks are found to meet the applicable Product specifications, then Aviat Networks will charge Customer a No Fault Found (NFF) inspection fee of USD750 for each such non-defective returned unit. The NFF fee may be waived by Aviat Networks if the return of said unit was advised/recommended by an Aviat Networks TAC personnel.
- e) **Limits.** The Customer is entitled to receive a limited number of Advance Replacement units per year. This number is not to exceed ten percent (10%) of the total Repair & Return requests during that year. Accrued Advance replacement units that have not been requested by the Customer may not be carried over to the next year. Additional Advance replacement units will be provided at Aviat Networks' then current prices, terms, and conditions.
- f) **Unavailability.** Aviat Networks cannot guarantee availability of Advance Replacement service for all unit(s). If an Advance Replacement unit is not available, then Aviat Networks will alert the Customer and default to standard Repair and Return Turnaround for repair. Customer agrees that repair of the returned unit shall be Aviat Networks' sole obligation, and the Customer's sole remedy, if an Advance Replacement unit requested by the Customer is not available.
- g) **Turnaround Time Commitments.** Standard Advanced Replacement service ensures Customer will receive a comparable unit to the one being returned within 3 to 5 business days from date of RMA. If Customer requires a replacement unit in a shorter period of time, there is an added charge for this and based on replacement unit availability will be delivered on a next business day basis. Customer will be informed at time of RMA request whether this service can be provided or not depending on component availability. Aviat Networks is not responsible for any delays in delivery related to freight or courier delays, export or Customer regulations or processes.

5.4. REPAIR LOGISTICS PROGRAM (RLP)

Aviat Networks shall provide free freight to the Customer for all units returned via the Aviat Networks Repair Logistics Program (RLP). In the event that the Customer returns units to Aviat Networks via a freight forwarder outside of this Program, all freight expenses and damage liability will be the responsibility of the Customer. Aviat Networks is responsible for all tariffs, duties, or taxes associated with importing units for repair. After the repair, the units shall be returned to the Customer DAP (Delivered at Place) Customer's premises (Incoterms 2020). To implement the return of a unit via this Program the Customer shall request an RMA for the unit using the link in the Repair Services or Advance Replacement Sections or the contact information as listed in the Aviat Networks Contacts Section.

Aviat Networks will assume responsibility for insuring the units against loss or damage that is moving via the RLP. The Customer shall examine the condition of all shipments returned from Aviat Networks via the RLP at the time of delivery. Visible signs of damage shall be brought to the attention of the carrier and the contents shall be examined for damage immediately. Aviat Networks will not be liable for any direct reports by the Customer for units that are found to be damaged upon receipt by the Customer that are made over seven (7) days after the units have been delivered. Units damaged through transit shall be returned for repair at Aviat Networks through the normal return process. Damage or loss incurred to units shipped to Aviat Networks by the Customer outside the RLP shall be the responsibility of the Customer.

5.5. REMOTE TECHNICAL SUPPORT 24 X 7

24 X 7 Remote Support provides around-the-clock (24 X7) telephone access to Aviat Networks' Technical Assistance Center in order to resolve Critical Service Requests, Major Service Requests, Minor Service Requests and Inquiry Service Requests.

- a) **Telephone Number.** Customer may contact Aviat Networks' Technical Assistance Center (TAC) regarding such Service Requests via telephone at any time during the day or night. For night support services (after business hours in the local time zone), Aviat Networks will handle all such requests that are Critical or Major that the Customer reasonably categorizes as being High Priority. In addition with this service, Customer can pre-schedule after hours support when doing a new software installation or a network upgrade related to covered equipment.
- b) **Rapid Response Time.** For Aviat Networks Transport Products, Aviat Networks will route Critical Service Requests to the appropriate TAC subject matter expert within fifteen (15) minutes of call receipt. For Aviat Networks Access Products, all Critical Service requests received by phone will be acknowledged by the Aviat Networks TAC within one (1) hour.
- c) **Service Request Number.** Aviat Networks will assign, to each Service Request, a number that will be logged, tracked, and stored in our Case Management database.

- d) **Service Request Management.** Aviat Networks will dedicate continuous attention to Critical and Major Service Requests until service is restored or request is closed. Aviat Networks will work to resolve the Service Request until Customer accepts the proposed solution, at which point the TAC will close the Service Request.
- e) **Documented Escalation Procedures.** Aviat Networks will implement internal escalation and notification procedures in order to facilitate the timely resolution of Service requests by a TAC Engineer with an adequate level of expertise. The technical support process includes rigid managerial escalations that are intended to facilitate the appropriate handling of recovery efforts and Customers being regularly updated on the status of the Service Request. Additional information on this escalation process is available in our Global Network Service Customer Support guidelines document available on our website at www.aviatnetworks.com.
- f) **Service Request submission.** Under this Agreement, there is no limit to the number of Service Requests that Customer may submit for resolution. Customer may also define and authorize specific users within its organization to have access to this Service Request submission service. To ensure appropriate management of this support Aviat Networks has implemented a Support Assurance Program where an Express PIN will be assigned to each Customer which clearly identifies the level of service a Customer is entitled to receive. All Service Request submissions will require Express PIN information prior to being submitted.

Service Request Severity Classifications

There are four (4) Service Request severity classifications: (a) Critical; (b) Major; (c) Minor; and (d) Inquiry.

Critical, Major and Minor Service Requests pertain to problems in the Product. Inquiry Service Requests pertain to questions about the Product or Services. The four (4) Service Request severity classifications are defined as follows:

- a) **Critical Service Requests** are those that severely affect service, traffic, billing and/or maintenance capabilities, and require immediate corrective action (regardless of the time of day or day of the week).
- b) **Major Service Requests** are those that cause conditions that seriously affect Product operation, maintenance and/or administration, and require immediate attention. The urgency is less than in Critical Service Requests because of a lesser immediate or impending effect on Product performance, Customer and/or network operation and revenue.
- c) **Minor Service Requests** are problems that are tolerable during Product use, do not significantly impair the functioning of the Product and do not significantly affect service to Customers.
- d) **Inquiry Service Requests** are questions about technical details concerning the usage or behavior of the Product.

5.6. SOFTWARE (FIRMWARE) SUPPORT SERVICES

Aviat Networks' Software Support Services provide a new level of support and maintenance capability for software components of Aviat Networks' product lines.

Under the Software Support services, Customer is entitled to the following:

Support Component	Coverage
Access to AviatCare Online Web Portal	24x7
Access to TAC for Software related questions	24x7
Software Maintenance Updates (maintenance releases for bug fixes, includes enhancements (performance improvement) to existing features within same release—ex. 2.1 to 2.x)	Yes
Software Release Upgrades (new major releases ex. 2.x to 3.x)	Yes
Services to test and apply new licenses or releases	No

Exclusions: *New software feature and the incremental maintenance of those new features are not covered by this Agreement and may be purchased by Customer separately.*

Software Support Services remotely provides for the routine maintenance, updates and upgrades of the firmware and software associated with an Aviat Networks product as it becomes required from time-to-time as recommended by the manufacturer. This support service will ensure that the latest mandatory releases are available for the Customer to implement within the network (class 1 maintenance releases, normally addressing software bugs or performance

improvement issues). It is important to note that Aviat Networks does not support products where the operating software is more than two (2) major revisions behind the current production release.

Limitations: Unless a Remote Software Upgrade Support Service is separately purchased by Customer, Aviat Networks will not perform (test and apply) the updates or upgrades remotely during a pre-planned maintenance window. In case such Remote Software Upgrade Service is purchased, Aviat Networks will work with the Customer to discuss appropriate software updates / upgrades based on release content and applicability to the implementation and can schedule implementation of such software application updates / upgrades via agreed-to maintenance window(s).

5.7. PROVISION AND/OR PROVISION+ SUPPORT

Aviat Networks shall provide remote technical support to the Customer on ProVision and/or Provision+, depending on the EMS for which Customer has bought support. The remote technical support shall be available anytime required (24 x 7).

Aviat Networks shall provide support on the current and previous ProVision and/or ProVision+ production release and will investigate all reproducible product anomalies for the supported version. Aviat Networks shall also provide general availability releases and product updates to the Customer free of charge during the coverage period.

- a) **Customer Responsibility.** To enable the Aviat Networks TAC to fully investigate ProVision and/or ProVision+ issues, the Customer shall provide the TAC the appropriated logs and remote access where possible. The Customer will provide the capability to allow Aviat Networks to remotely access the Customer's network by means of a secure internet connection to the Customer's site. This connection process will need to be defined at time of agreement such that any issues arising after Agreement closure can be addressed expeditiously.
- b) **Exclusion from ProVision support.** The services to be rendered on ProVision and/or ProVision+ by Aviat Networks under this Agreement shall not comprise any services, which are required as a result of one or the more of the following:
 - Customers use of old versions of ProVision and/or ProVision+. Customers are required to have the current GA release, or the previous GA release installed and commissioned before they can obtain Aviat Networks technical support.
 - Customer's lack of basic user training. It is expected that all users will have received basic user training when the ProVision and/or ProVision+ system is installed.
 - Network Planning; NMS Integration; Training courses; Installation and Commissioning; on-site Support. These are separate Aviat Networks service offerings, which are not delivered under this Agreement.
 - Due to the complex nature of ProVision and/or ProVision+ issues, which may be network related rather than ProVision and/or ProVision+ related, not all Customer-defined level three product anomalies can be rectified within the commercial bounds in which Aviat Networks operates. Aviat Networks will require that all product anomalies are reproducible, prior to the commencement of any detailed fault analysis or potential product re-engineering. Aviat Networks undertakes to provide a response on all logged product issues and will provide workarounds where possible.
 - Server hardware, O/S systems or networking systems are not included in these Support Services. These services are available as Professional Services (at an incremental cost).
 - Database backups, preventative maintenance, or other professional services are not included. These services are available as Professional Services (at an incremental cost).

5.8. GROUND CORRECTIVE MAINTENANCE - OPTIONAL

Ground corrective maintenance provides for the dispatch of the necessary support personnel and test equipment for the purposes of diagnosing a problem, restoring service, or correcting a service request, including by replacing defective equipment on-site, that Aviat Networks has unsuccessfully attempted to resolve remotely from one of our Technical Assistance Centers.

All sites under maintenance must have undergone full commissioning and proven to be in good working condition. The Customer shall make available site commissioning and acceptance data if requested by Aviat Networks.

The onsite ground corrective maintenance service will be provided on equipment supplied by Aviat Networks only and excludes maintenance of towers or antenna systems.

The service is provided according to the following Service Level Agreement (SLA):

Severity Classification	Response Time
Critical faults	4 Hours

Aviat Networks shall use its best effort to be onsite within four (4) hours of the Aviat Networks first level support personnel receiving emergency onsite support requests. Notwithstanding anything contained herein to the contrary, all services provided may be performed by Aviat Networks directly or through one or more qualified Subcontractors. Aviat Networks shall coordinate, supervise, manage and be responsible for the services of all the Subcontractors.

During the on-site time, Aviat Networks' resource may recommend routine maintenance to the Customer – which will be the responsibility of Customer to perform - and may, with Customer agreement, perform routine upgrades to operating firmware or software that do not require network downtime. After the problem has been identified and addressed, a detailed Corrective Maintenance Report (CMR) will be provided to Customer at the close-out of this service. Prior to closing problem and leaving the specific site, the Technical Support Engineer will perform a visual inspection of the structure and equipment and will then record in the CMR any foreseeable problems they believe may arise which would warrant Customer resolution.

Limitations: In order to meet the on-site SLA response requirements, the Customer is responsible for providing access to difficult to reach sites (i.e., site not accessible by public road using 2 wheel-drive vehicles or those requiring specialized transport vehicles) or to sites that require Customer presence. The Customer is responsible for provisioning and making available spare parts.

Exclusion: Climbing Towers/Antennas is excluded from the scope and pricing of the Ground Corrective Maintenance services.

5.8.1. TOWER CORRECTIVE MAINTENANCE - OPTIONAL

Aviat Networks shall use its best effort to have a Tower Crew onsite with a mean time of 12 hours' time, but not-to-exceed 24 hours, of the Aviat Networks NOC requesting an emergency onsite. Notwithstanding anything contained herein to the contrary, all services provided may be performed by Aviat Networks directly or through one or more qualified subcontractors. Aviat Networks shall coordinate, supervise, manage and be responsible for the services of all the subcontractors. Tower Crew pricing is based on a 2-person crew. If above 250 feet, 3 tower crew resources are required. If above 400 feet, then 4-5 resources are required.

Scope of work includes addressing the issue that is affecting system performance. The closest capable crew will be dispatched to assess the issue and develop a plan requesting material that may be required. All responding members will be trained in the OSHA requirements for safe work.

Note: Issues or concerns that are not essential to the restoration of the network are to be addressed in a separate mobilization.

Limitations:

- Onsite response time is based on weather permitting a tower climb. In order to meet the on-site SLA response requirements, the Customer is responsible for providing approval of additional expense for enabling access to difficult to reach sites (i.e. site not accessible by public road using 4 wheel-drive vehicles or those requiring specialized transport vehicles) or to sites that require Customer presence.
- Customer is responsible for ensuring availability of adequate stock of spares to allow for onsite replacements of equipment.

Generators: When there is an imminent threat of an approaching disaster (e.g., hurricane) Aviat Networks will work with Customer to plan in advance and stage generators that will be needed (after receipt of Customer acceptance to stage and rent generators).

Notes:

- Competency and readiness of Tower Crew and Ground Crew:
 - Tower Crew and Ground Crew are trained for the operation and troubleshooting of all Aviat Network provided equipment.
 - Upon arrival to sites, Tower Crew will be equipped with tools and materials (including but not limited to in-line connector, jumper cable, compression N-type connectors, 400-ft spare LMR400 cable, line sweeper, ground

kits), to resolve the issues described by the dispatcher and to perform common tower/site corrective tasks including but not limited to:

- Performing path alignment of dishes with size up to and including 10-ft
- Performing structural restoration of the dishes
- Performing loop-back tests on the Aviat equipment
- Performing line sweeps and identifying cable faults
- Performing cable/connector replacement
- Performing equipment replacement/removal
- Performing bypassing of surge arrestors with jumper cables and in-line connectors

5.9. PREVENTIVE MAINTENANCE - OPTIONAL

Preventive Maintenance provides a resource to work with the Customers in reviewing operational aspects related to the performance of Aviat Networks equipment and associated software within the Customer's network. A resource will come on-site to all Customer locations covered under the associated agreement for this service. Once analysis is complete, Aviat Networks will provide a written summary of findings and recommendations related to the work that has taken place.

Limitations: The Customer is responsible for providing access to difficult to reach sites (i.e., site not accessible by public road using 2 wheel-drive vehicles or those requiring specialized transport vehicles) or to sites that require customer presence. The customer is responsible for provisioning and making available spare parts.

Exclusion: Materials are excluded from scope of work and pricing. Materials or special transport equipment will be invoiced as time and materials.

NOTES: If additional hours are required to complete out-of-compliance repairs (above the 2 hours), Aviat will true-up with the client at completion of all sites. Any materials will be invoiced at time and materials.

5.9.1. GROUND PREVENTIVE MAINTENANCE - OPTIONAL

An engineer is deployed to site as per the customer and Aviat agreed upon schedule commitment, subject to flights and immigration rules, where applicable. A system health check on Aviat Networks' equipment will be completed which includes performance testing and an analysis of historical data. A visual site audit is included under this service offering, which includes the following:

- Spot check Internal and external grounding
- Visual inspection of indoor and outdoor equipment
- Visual inspection of all cables, connectors, weather proofing
- Visual inspection of antenna installations
- Verify DC power levels.

During the on-site time, the Aviat Networks' resource may recommend routine maintenance to the Customer – which will be the responsibility of the Customer to perform - and the Aviat Networks resource may, with the Customer's agreement, perform routine upgrades to operating firmware or software that do not require network downtime. The ground preventive maintenance covers all Aviat Networks Microwave radio equipment, associated OEM equipment, DC systems and excludes antenna systems.

5.9.2. TOWER PREVENTIVE MAINTENANCE - OPTIONAL

An engineer is deployed to site as per the customer and Aviat agreed upon schedule commitment, subject to flights and immigration rules, where applicable. A system health check on Aviat Networks' equipment will be completed which includes performance testing and an analysis of historical data. A visual site audit is included under this service offering, which includes the following:

- Provide inspection of Condition of Tower
- Provide inspection of Grounding

- Provide visual inspection of Safety Lighting Systems
- Provide inspection of all cables, connectors, weather proofing
- Provide inspection of Waveguide and Pressure Window assemblies if used
- Provide inspection of walkways, platforms, and sensors
- Provide inspection of antenna installation, condition, and alignment

A final report will be presented to the Customer stating findings, conclusions, and any further recommendations. This preventative service work includes one day of time to visit with Customer and review in detail the findings from preventative analysis effort.

5.10. REMOTE MONITORING SERVICES - OPTIONAL

Aviat Networks' Managed Network Services solution provides Customer with a bundled offering that combines traditional network monitoring and event management services with fault resolution to offer end-to-end operations management solutions. When bundled together, services in this portfolio offer a broad, all-in-one-solution set managed through a single point of contact – the Aviat Network Management Center (NMC). Aviat Networks is providing Customer with the following bundled services:

Surveillance and Network Monitoring		<input type="checkbox"/> Continuously monitor network elements. <input type="checkbox"/> Detect / Identify Faults and Alarms
Event Management	Triage	<input type="checkbox"/> Correlate Alarms where appropriate <input type="checkbox"/> Review Maintenance Schedules / Weather Patterns / Known Issues <input type="checkbox"/> Assess Severity and Service Impact
	Trouble shooting	<input type="checkbox"/> Diagnose and isolate the fault / alarm <input type="checkbox"/> Coordinate restoration and repair – remotely or onsite <input type="checkbox"/> Actively manage the event from "cradle to grave." NOTE: Aviat Networks strives to troubleshoot and resolve issue remotely prior to or in place of dispatching field resources to site. This is facilitated through our close linkage between the NOC and our Technical Support staff who are co-located with our primary NOC facility. Allows us to bring 50+ years of Microwave and Wireless Networking experience to bear on an issue.
Notification		<input type="checkbox"/> Report events to customer in real-time via Phone / Email / Portal
Trouble Ticketing		<input type="checkbox"/> Document the fault <input type="checkbox"/> Manage ticket until fault is resolved <input type="checkbox"/> Generate trouble ticket reports <input type="checkbox"/> Capture lessons learned from each incident into our Knowledgebase for future reference
Call out and Dispatch		<input type="checkbox"/> Dispatch field operations and vendors for physical analysis and repair <input type="checkbox"/> Coordinate all aspects of the dispatch to ensure right resource is at the right location with the right tools / equipment to resolve the problem within the SLA commitment.
Failure Analysis		<input type="checkbox"/> Generate a postmortem report to document issue / lessons learned as appropriate <input type="checkbox"/> Drive continuous improvement of process and tools
Reporting		<input type="checkbox"/> Monthly reports – Performance to SLA / Network Performance

Aviat Networks strives to troubleshoot and resolve issues remotely prior to or in place of dispatching field resources to site. When an alarm is received in the Aviat NOC, the team will apply their years of microwave expertise in determining the root cause. We will review and correlate all alarms, look at weather, RSL's, SNR, etc. After troubleshooting and it is determined an emergency onsite dispatch is required, the following process will be followed.

- NOC generates Case to track all aspects of identified issue
- NOC reviews site issues to ensure there are no pre-required approvals needed
- NOC requests dispatch and identifies all pre-requisites including required hardware if hardware failure is identified as the root cause from remote troubleshooting
- NOC confirms dispatch in process to all parties with estimated ETA
- Once Tech onsite, SLA time is logged into case and Conference Bridge is initiated with NOC
- Issue is resolved / workaround completed and Ticket is closed by NOC
- Email notification is sent to all identified parties to alert them to closure
- Tech takes failed unit (assuming hardware failure) and processes through the Aviat RMA process
- Tech also updates Spares inventory identifying hardware removed and what hardware is being processed via the RMA process.

5.10.1. SUPPORT PROCESS – NOC & TAC

Tier 1: NOC Personnel	Tier 2: TAC	Tier 3: TAC
<p>NOC Engineer receives alarm notification from our monitoring tools, opens a Support Case and based on Customer and Product data, reviews potential impact. Looks at all aspects of the site impacted to understand potential impact from Scheduled Maintenance, Weather, and finally the equipment itself. If after initial review of all aspects that NOC can access, NOC will initiate a field dispatch. At the same time, if not successful in identifying the specific issue impacting performance of the network, will escalate to the next tier of support within Aviat (Tier 2). Within the TAC team, NOC escalations take priority over all other customer issues – other than an outage that may be occurring in a customer's network.</p>	<p>If the problem is not resolved within the target resolution time – associated with each of the severity levels, then there is an automatic process by which the issue will escalate to the next level of support to pursue resolution, at this time notification also takes place to Management identifying fact issue has gone beyond our accepted timeframe for resolution.</p>	<p>If the problem is not resolved within the target resolution time, after Aviat Networks initiates the troubleshooting process, then Aviat Networks will escalate to management and next level of support to pursue resolution.</p>
<p>The NOC Engineer will identify the severity (Critical, Major, Minor) at the time of escalation to the TAC team. This is driven based on parameters set in our agreed SLA with the customer and can also be overridden directly by customer requesting a higher level of severity.</p>	<p>Tier 2 generally is required when the issue is beyond simple hardware failures. Usually involves some level of configuration, hardware not operating exactly as specified, or when problem is intermittent in nature.</p>	<p>Tier 3 TSE typically gets involved when there are complex interoperability issues identified between the microwave and other components in the network, when problem appears to be software related (i.e., a bug), or when new products or software have been introduced into the network and cause issues not previously seen before.</p>
<p>~90%+ of trouble tickets are resolved within the NOC without any interaction with TAC.</p>	<p>~8% of trouble tickets are resolved within Tier 2 after escalation from the NOC.</p>	<p>~2% of trouble tickets are resolved within Tier 3 after escalation from Tier 2.</p>

5.10.2. SERVICE LEVEL AGREEMENT (SLA)

SR Priority Level	Alarm Severity	Event / Alarm Ack	Customer Event Alarm Notification	Aviat Reaction Time	Usage	Response
1	CRITICAL (Service Affecting)	< 5 min	< 10 min	< 15 min	Used for events that is currently impacting service or ability to view network elements (LOV).	Outages are referred to Emergency Recovery immediately. Immediate and continuous effort and escalation until resolved or restored to pre-incident condition or work around is implemented. Resolved or referred to Tier II/III support group.
2	MAJOR (Non-Service Affecting)	< 30 min	< 60 min	< 75 min	Used for in-service trouble conditions that does not affect service nor qualify as a loss of redundancy. Typically, these conditions if unresolved will not result in a Priority 1 event.	Resolved or referred to Tier II/III support group. Continuous effort until either a) service level is restored to pre-incident, b) acceptable workaround is implemented, or c) an action plan is instated that will meet MTTR requirements.
3	MINOR	< 30 min	Monthly Summary	< 12 hrs	Used for non-service affecting conditions that if not resolved will not result in a Priority 1 or 2 events or issue.	Resolved or referred to Tier II/III support group

Notes:

1. Phone call wait time: Answer calls by live person within 30 seconds (average) with a maximum wait time of 5 minutes. A direct line will be provided.
2. Email response time: Acknowledge email requests by live person within 15 minutes unless there is routine maintenance or down time.
3. The maximum amount of time between the occurrence of condition that requires crew dispatch, and the crew dispatch phone call is made: < 60 minutes

5.11. SOFTWARE UPGRADE – OPTIONAL

Remote Software Upgrade service allows Aviat to evaluate, plan, manage, and execute network wide software revisions for our customers microwave radios at pre-determined agreed to timelines. Remote software upgrade service may be purchased as a single year option and is recommended every 3-4 years for multi-year maintenance agreements. For multi-year agreements, a fixed number of upgrades are quoted based on; customer RFP requirements, technology refresh projections, or Aviat's recommended best practices, and upgrades are scheduled to occur over the duration of the agreement. Provisions are made available to shift installation timelines should conditions warrant a critical update to the network. To ensure NOC resources are available, Remote Software Upgrades must be scheduled 60 days in advance. While software updates are performed remotely, an onsite tech dispatch is required to verify the site is fully returned to service after the radios are power cycled as part of the final upgrade step. Should an issue arise during this process, the dispatch team is on hand to assist the NOC in system restoral. Aviat supplied onsite support is available* (see Note 1).

Remote Software Upgrade service requires remote access to the customer's ProVision server, routers, and other network devices involved in the upgrade process. For customers without Network Monitoring service, a pre-configured, secure, remote VPN connection to the customer network is required in advance of the upgrade.

During the upgrade, the Aviat NOC will upgrade all nodes / network controller cards to the latest generally available release. This is a three-step process. The first step involves transferring the latest software to each node and confirming the transfer occurred without interruption. The second step performs the software activation during a customer designated maintenance window* (see Note 1). The final step involves power-cycling the radio(s) and verifying proper operation. After operation has been verified by the NOC, the onsite tech will be released.

Notes:

1. Remote Software Upgrade requires a NOC connection. If the customer already has Remote Monitoring, this configuration has been established. For customers without Remote Monitoring, the one-time NOC turn up fee applies. As with Remote Monitoring, NOC turn up fees are waived for multi-year contracts 3 years or longer.
2. Onsite standby support is a requirement for Remote Software Upgrade. This requirement is in place because Aviat is unable to guarantee how a radio will respond during a restart if the radio has not been reset for multiple years. If an error occurs during restart, the onsite personnel will work with the NOC to return the radio to normal operation. The customer may elect to provide their own on-site support in lieu of Aviat personnel.

3. For systems with outdoor radio configurations (e.g., WTM4000), tower crew support is required as part of the onsite dispatch requirement. In order to reduce customer cost for tower crew scheduling, mobilization and rigging, it is highly recommended an annual Tower Preventive Maintenance service be included in conjunction with Remote Software Upgrade service as upgrades for outdoor systems are scheduled during routine maintenance windows to accommodate tower crews.

4. Tower Corrective Maintenance is not included as part of Remote Software Upgrade service and must be contracted separately.

5.12. HOSTED HAS (HEALTH ASSURANCE SOFTWARE) - OPTIONAL

Aviat Health Assurance Software (HAS) solution is a must have for operators who are focused on ensuring the reliability of their networks and lowering operational costs. HAS is a part of Aviat's Assurance Software suite. HAS is an advanced analysis tool that simply shows you where network problems are so you can proactively identify problem links. Automated monitoring of network health will allow you to avoid time-consuming routine manual network analysis and enables rapid troubleshooting to reduce and even avoid the cost of network outages. HAS is extremely intuitive, so you don't need to be a microwave expert to use it, allowing personnel with a minimum of training and expertise to manage and operate a microwave network.

This service is provided through Aviat's AviatCloud service. AviatCloud provides a variety of services that include access to hosted and managed services provided by Aviat. With this service, a private cloud is created with a dedicated fully licensed version of HAS that is connected via VPN to the radios being serviced by this service.

This deployment methodology frees network operators from the cost and complexity of buying servers and updating and maintaining software (Operating System and ProVision Plus software). Aviat Network Operations Center (NOC) personnel ensure that the software is running on the most recent patches and versions of the software and that the servers are correctly sized, and up and operational 24 X 7 X 365. Because this service is hosted in a public cloud environment, it is reliable and resilient and can be reached via any internet connection.

5.13. MANAGED HAS (HEALTH ASSURANCE SOFTWARE) - OPTIONAL

Aviat Managed Health Assurance Software combines the Aviat Remote Monitoring service with the Hosted HAS service. With this service, the Network Operations Center (NOC) personnel use the advanced capabilities of the HAS system in order to provide an improved monitoring and reporting service and this HAS instance is made available via AviatCloud in the same manner as Hosted HAS.

5.14. MANAGED FAS (FREQUENCY ASSURANCE SOFTWARE) - OPTIONAL

Aviat's comprehensive set of Managed Network Services can provide Customers with the flexibility they need to evolve their network, reduce OPEX and CAPEX, and improve network reliability.

Aviat Frequency Assurance Software FAS provides the capability to automatically detect and alert users to external interference occurrences in the network, classify the severity and persistence, analyze the interference at a network level and radio interface deep-dive level, and generate executive and technician level reports.

6. AVIAT NETWORKS CONTACTS

Outlined below is the process to contact Aviat Networks once the Agreement is in effect.

For AVIAT NETWORKS Transport Products, please contact:		
Region	Repairs, Returns & Advance Replacements	Technical Assistance
NORTH AMERICA /LATAM	Phone: 1-800-227-8332 (Selecting Option 2, then 1) Direct number: 1-210-526-6345 Fax: 1-210-526-6315 E-mail: CustomerCare.Americas@aviatnet.com Online RMA Request: https://aviatcloud.com/rma_tracking.asp	Phone: 1-800-227-8332 (Option1, enter PIN, press 1 to confirm PIN, then Option 1 for TAC) Direct number: 1-210-526-6345 Fax: 1-210-526-6315 E-mail: TACAM@aviatnet.com Online Technical Assistance Request: www.aviatcloud.com

7. SUPPORT SERVICES TERMS AND CONDITIONS

7.1. GOVERNING TERMS

Customer's Purchase Order, regardless of any contrary wording, will constitute an offer to purchase only on the terms of this Agreement (which shall be deemed incorporated into the Order). If Customer's Purchase Order or signed Quote or acknowledgment or form of contract sent from the Customer to Aviat Networks or contained in any other communications between the Customer and Aviat Networks should contain any terms and conditions in addition to or in conflict with those contained in this Agreement, Customer, by submission of the Purchase Order or signed Quote, specifically agrees that such additional or conflicting terms are rejected by Aviat Networks and will be void, unless expressly accepted in writing and signed by an authorized representative of Aviat Networks.

The failure of Aviat Networks to object reasonably to any such additional or inconsistent term and condition will not constitute a waiver of the terms of this Agreement. In the absence of Customer's written acceptance of this Agreement, acceptance of or payment for purchases hereunder shall constitute an acceptance of the terms of this Agreement.

Customer's Order shall be deemed accepted by Aviat Networks only when Aviat Networks transmits to Customer its standard Order acknowledgement form.

7.2. CUSTOMER OBLIGATIONS

7.2.1 The Customer must ensure that the Products to be included in this Agreement be in good operating condition prior to the commencement of this Agreement. Aviat Networks reserves the right to inspect any and all of the Products to be included in the Agreement prior to the commencement of the Agreement, and if the Product is found to be defective, the Customer shall be responsible for the cost of repair of the defective units.

7.2.2 An authorization to return units to Aviat Networks under this Agreement must be obtained from an Aviat Networks representative prior to making shipment to the Aviat Networks' Repair Center.

7.2.3 The Customer shall:

a. Ensure that:

- i. The Supported Products, any associated software and equipment are installed and operated according to their manufacturer specifications and recommendations;
- ii. All upgrades or engineering changes to Supported Products, associated software and equipment specified or recommended by Aviat Networks have been procured by Customer and properly installed;
- iii. A continuous, uninterrupted and suitable power supply and temperature, humidity and other environmental conditions recommended by Aviat Networks have been implemented and maintained;
- iv. Suitable surge protection devices have been implemented to protect the Supported Products from electrical power surges;
- v. No other equipment or software having an adverse impact on the Supported Products have been introduced;
- vi. No repair attempts or other changes have been made to the Supported Products, other than by or with the express approval of Aviat Networks;
- vii. The Supported Products have not been mishandled, neglected, abused, vandalized, dropped, jolted, transported to another location, damaged by fire, lightning or water (especially including damage caused by spilled beverages), or otherwise subjected to unusual electrical or physical stress beyond their manufacturer's specified operating capabilities;
- viii. Customer removes or takes other precautions to protect all software, data and removable storage media prior to commencement of the Support Services, and
- ix. Customer periodically makes and stores in a safe place archival copies of all valuable data and software residing on or affected by the operation or malfunction of Supported Products.

b. At all reasonable times permit full and free access, either physically when on-site or electronically when remote, to the Supported Products and provide Aviat Networks with adequate and safe working space, and any other facilities that are reasonably required to enable Aviat Networks to perform the Support Services, including obtaining all necessary permits, authorizations, licenses, and consents for Aviat Networks to deliver the Support Services;

c. Cooperate with Aviat Networks and provide Aviat Networks with any information that is reasonably requested in the delivery of Support Services and ensure that such information is accurate in all material respects. At a minimum, Customer will provide Aviat Networks with sufficient information to establish entitlement, severity and priority for identified problems;

d. Use commercially reasonable efforts to isolate problems and reproduce any identified errors or malfunctions;

e. Take any steps reasonably necessary to ensure the safety of Aviat Networks' personnel when working on-site, encompassing reasonable access, working space and facilities that include heat, air conditioning, ventilation, electric current, electric outlets, and access to a working telephone;

f. Identify to Aviat Networks on or before Agreement Effective Date, any requirement for the use of personal protective equipment ("PPE") or other measures including, but not limited to, specific site safety training. Customer also agrees to provide such equipment and / or training as needed at no charge prior to the start of on-site Support Services.

7.2.4 The Customer agrees to act in a timely manner and to provide properly competent and qualified personnel with respect to its obligations under this Agreement and to any tasks to be undertaken by it, whether expressly set out in this Agreement or otherwise reasonably requested of it by Aviat Networks. Performance of the Support Services is provided on the assumption that the Customer and its personnel will fulfil their obligations and tasks on time and as stated.

7.2.5 If, as a result of any act or omission by the Customer or its personnel (howsoever caused) which is not directly and wholly caused by Aviat Networks (including the provision of any incorrect or inadequate information or data by the Customer), Aviat Networks is prevented or delayed from performing any of its obligations under this Agreement or the cost of such performance increases, then:

- a. the time for performance of Aviat Networks' obligations will be extended for a reasonable period;
- b. the Customer will be responsible at its own cost for storing the Supported Products until the Supported Products are ready for performance of the Support Services; and
- c. the Customer shall pay Aviat Networks on demand:
 - i. at Aviat Networks' standard time and materials rates for any additional time spent and materials used by Aviat Networks with respect to any delays or extra work caused by such act or omission; and
 - ii. all other reasonable costs, loss or damage which Aviat Networks sustains as a direct result of such act or omission.

7.2.6. The Customer shall neither on its own account nor in partnership or association with any person, firm, company or organization, or otherwise and whether directly during, or for a period of six (6) months after expiry or termination of this Agreement, solicit or entice away or attempt to entice away or authorize the taking of such action by any other person, any of Aviat Networks' personnel who have worked on performance of the Support Services provided under this Agreement at any time during the term of this Agreement.

7.3. CONFIDENTIALITY

7.3.1 In this Agreement, "Confidential Information" shall mean any business, marketing, sales, financial (including pricing) or technical information, including, without limitation, any information relating to present or future business affairs, operations, methods, techniques, operations, financial condition, reports, research, product plans, products, developments, processes, models, designs, drawings, formulae, markets, software (including source and object code), algorithms, business plans or agreements with third parties and all other information of any kind which may reasonably be deemed confidential or proprietary, disclosed by one party (the "Disclosing Party") to the other (the "Receiving Party"), whether such information is in written, oral, graphic or machine-readable form and which is designated or identified as "confidential", "proprietary" or in some other manner prior to the disclosure, to indicate its confidential nature. Oral disclosures will be confirmed in written format 30 days following the disclosure.

7.3.2 Non-disclosure.

7.3.2.1 The Confidential Information shall:

- a. be kept confidential by the Receiving Party and not disclosed to any third parties,
- b. not be used by the Receiving Party in any way detrimental to the Disclosing Party, and
- c. not be used other than in connection with the Support Services. The Receiving Party may disclose the Confidential Information to its affiliates and its affiliates' directors, officers, employees, consultants, and agents (collectively, "Representatives") only if such Representatives need to know the Confidential Information in connection with the Support Services and are bound by confidentiality obligations similar to those contained herein.

7.3.2.2 The Receiving Party shall:

- a. inform each of its Representatives receiving Confidential Information of the confidential nature of the Confidential Information and of this Agreement,
- b. direct its Representatives to treat the Confidential Information confidentially and not to use it other than in connection with the Support Services, and
- c. be responsible for any improper use of the Confidential Information by the Receiving Party or its Representatives.

7.3.2.3 Without the prior written consent of the Disclosing Party, the Receiving Party will not, and will direct its Representatives not to disclose to any person that the Confidential Information has been made available to it or that the Support Services are taking place.

7.3.3 Care and Return of Confidential Information.

The Receiving Party shall provide at least the same care to avoid disclosure or unauthorized use of the Confidential Information as it generally provides to protect its own proprietary information, which shall, in all events, equal or exceed a standard and level of care generally recognized as being reasonable for the protection of highly confidential information. All Confidential Information shall be retained by the Receiving Party in a place with access limited only to the Receiving Party's Representatives who reasonably need to know the Confidential Information in connection with the Discussions. Upon the request of the Disclosing Party, the Receiving Party shall destroy or return to the Disclosing Party, or in the case of electronic, magnetic or digital media, at the election of the Disclosing Party, erase or render unreadable, all materials furnished which contain Confidential Information of the Disclosing Party, including, without limitation, documents, drawings, models, prototypes, sketches, designs, lists, papers, magnetic media and other tangible media.

7.3.4 No Licenses.

Neither the execution of this Agreement nor the furnishing of any information under this Agreement shall be construed as granting any party or any of its Representatives, either expressly or by implication, any license or right to use any Confidential Information for its own benefit or the benefit of any other person, firm or entity, and each party expressly agrees not to so use any such information. Nothing contained in this Agreement shall be construed as conferring any rights, by license or

otherwise, to any invention, discovery, or improvement made, conceived, or acquired prior to, during or after the date of this Agreement.

7.3.5 Remedies.

Each party acknowledges that the Disclosing Party would be irreparably harmed by a breach hereof by the Receiving Party or its Representatives and that it is difficult to estimate damages resulting from such a breach and, consequently, the non-breaching party shall be entitled to seek injunctive or other equitable relief to prevent a breach or continued breach of this Agreement, and to secure the enforcement of this Agreement, without foregoing any legal relief to which the non-breaching party may be entitled to recover.

7.3.6 Term.

The restrictions and obligations of this Agreement relative to the use or disclosure of Confidential Information shall survive the termination of this Agreement for a period of five (5) years.

7.3.7 Disclosure Under Court Order or Subpoena.

Should applicable law or any rule or regulation of any governmental entity of competent jurisdiction require disclosure of Confidential Information of the Disclosing Party in the Receiving Party's possession, custody or control, the Receiving Party shall use commercially reasonable efforts to:

- a. give at least ten (10) days prior written notice of such disclosure to the Disclosing Party;
- b. limit such disclosure to the extent practicable; and
- c. make such disclosure only to the extent so required.

7.4. NOTIFICATION OF UNAUTHORIZED USE

Customer shall promptly notify Aviat Networks in writing upon its discovery of any unauthorized use or infringement of the Aviat Networks Transport or Access Products, Software, Documentation or Confidential Information, or Intellectual Property Rights with respect thereto. Aviat Networks shall have the sole and exclusive right to bring an infringement action or proceeding against any infringing third party, and, in the event that Aviat Networks brings such an action or proceeding, Customer shall cooperate and provide full information and assistance to Aviat Networks and its counsel in connection with any such action or proceedings.

7.5. WARRANTY ON THE REPAIRS

Aviat Networks warrants that each unit that is repaired or replaced under this Agreement, shall, at the time of return to Customer, for the Repairs Warranty Period stated below, be free from defects in materials and workmanship.

The Repairs Warranty Period shall be as follows:

- For Aviat Networks Transport Supported Products, a period of 180 days from the return shipment date or until the expiration or termination of this Agreement, whichever is longer
- For the Aviat Networks Access Supported Products, a period of 90 days from the return shipment date, limited to the most-current version of the Access Products.

Such warranty shall not include any consumable components to which a specific manufacturer's guarantee applies.

If any unit covered by this Agreement shall prove, during the Repairs Warranty Period, to be defective in materials or workmanship under normal intended usage, operation and maintenance during the term of this Agreement, as determined by Aviat Networks after examination of the unit claimed to be defective, then Aviat Networks shall repair or replace, at Aviat Networks' sole option, such defective unit, in accordance with procedures specified herein, at no additional cost, exclusive, however, of the cost of labor by the Customer's own employees, agents or contractors in identifying, removing or replacing the defective part(s) of the units.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER ORAL, WRITTEN, EXPRESSED, IMPLIED, OR STATUTORY. IN PARTICULAR, THE IMPLIED WARRANTIES OF FITNESS FOR PARTICULAR PURPOSE AND MERCHANTABILITY ARE HEREBY DISCLAIMED AND SHALL NOT BE APPLICABLE EITHER FROM AVIAT NETWORKS OR ANY OTHER EQUIPMENT MANUFACTURER. AVIAT NETWORKS' WARRANTY OBLIGATIONS AND CUSTOMER'S REMEDIES THEREUNDER ARE SOLELY AND EXCLUSIVELY AS

STATED HEREIN.

LIABILITY OF AVIAT NETWORKS FOR BREACH OF ANY AND ALL WARRANTIES HEREUNDER IS EXPRESSLY LIMITED TO THE REPAIR OR REPLACEMENT OF DEFECTIVE UNITS AS SET FORTH IN THIS AGREEMENT, AND IN NO EVENT SHALL AVIAT NETWORKS BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOSS OF CAPITAL, REVENUE OR PROFITS BY REASON OF ANY BREACH OF WARRANTY OR DEFECT IN MATERIALS OR WORKMANSHIP.

EXCLUDED FROM THE SCOPE OF THIS AGREEMENT AND/OR FROM AVIAT NETWORKS' WARRANTY OBLIGATIONS ARE (A) PRODUCTS WHICH HAVE BEEN SUBJECTED TO NEGLIGENCE OR DAMAGED AS A RESULT OF CUSTOMER'S FAULT OR NEGLIGENCE OR IMPROPER USE OR FAILURE TO MAINTAIN PRODUCTS IN GOOD WORKING ORDER, (B) PRODUCTS DAMAGED BY ACCIDENT (INCLUDING FIRE, FLOOD, STORM, LIGHTNING STRIKE, OR OTHER ACT OF GOD), (C) PRODUCTS WHICH HAVE BEEN FURNISHED, MODIFIED, ALTERED OR REPAIRED BY ANYONE OTHER THAN AVIAT NETWORKS OR AN AGENT AUTHORIZED BY AVIAT NETWORKS, OR (D) PRODUCTS THAT ARE NOT REPAIRABLE DUE TO COMPONENT AVAILABILITY.

7.6. PAYMENT TERMS

Except for pay-per-incident billings, all payments shall be made via bank transfer to the accounts specified on the invoice, in full in Advance of the commencement of each year of service/coverage.

The total amount stated on Aviat Networks' invoices is due and payable to Aviat Networks within thirty (30) days of the invoice date, subject to credit approval.

In the event any payment due by Customer hereunder is past due, Aviat Networks reserves the right to withhold Services until such payment is received.

Late payments shall result in the assessment of a late charge equal to one and one-half percent (1,5 %) per month on any outstanding balance, or the maximum amount of interest chargeable by law, whichever is less.

7.7. TAXES

All prices are exclusive of all sales, use, excise, and other taxes, duties, or charges. Unless evidence of tax-exempt status is provided by Customer, Customer shall pay, or upon receipt of invoice from Aviat Networks, shall reimburse Aviat Networks for all such taxes or charges levied or imposed on Customer, or required to be collected by Aviat Networks, resulting from this transaction or any part thereof.

7.8. SHIPMENT, IMPORT/EXPORT DOCUMENTS, EXPORT AND RE-EXPORT RESTRICTIONS

All shipments made by Aviat Networks under this Agreement are made via the methods (as applicable) outlined in the Repair Services and/or Advance Replacement Sections or the Repair Logistics Program Section (if purchased) of this Agreement. Unless instructed otherwise, Aviat Networks will arrange for standard commercial shipping. In the event Customer requires other than standard commercial shipping, Customer will be responsible for any additional costs incurred.

Customer shall be responsible for insurance and for clearing incoming Products through customs in their country.

Customers shall be responsible for obtaining any necessary import licenses into the country of delivery. Aviat Networks shall provide certificates of delivery, affidavits of origin, and other information under its control which is necessary for Customer to import Products.

Customers shall provide all information, certificates, and Letters of Assurance necessary for Aviat Networks to obtain any export licenses required for Aviat Networks to export Products out of the country for repair, as applicable. Aviat Networks shall be responsible for selection and/or approval of freight forwarder(s). In the event that Customer wishes to utilize a freight forwarder that is not acceptable to Aviat Networks, Customer shall be the shipper of record and shall be responsible for obtaining required export licenses which shall be in the name of the Customer.

Customer acknowledges that the Equipment, Software and Services sold or licensed by Aviat Networks under this Agreement may be subject to export controls under the laws of the United States or Canada, including without limitation, the requirement to obtain necessary approvals and licenses prior to the acceptance of any orders, or the export of Equipment, Software licenses or documentation pertaining thereto or the provision of Services. Such shall also apply, by

way of example only, to spare parts, warranty items delivered by Aviat Networks in connection with the Equipment and/or Software, and the transfer or re-export of any such Equipment, Software licenses, spares, warranty items or documentation pertaining thereto by Customer to its end-users thereafter. Customer shall not export, re-export, sell, lease, release, assign, transfer, convey or in any manner dispose of, either directly or indirectly the Equipment, Software, spares, warranty items or documentation pertaining thereto, or other technology or products manufactured from the items sold or licensed by Aviat Networks under this Agreement in violation of the export control laws of the United States or Canada. Customer agrees to provide Aviat Networks with timely and accurate End-User Statements when Aviat Networks so requires. Aviat Networks shall be excused from performance and liability for failure to deliver Equipment, Software, Services, spares, warranty items or documentation pertaining thereto resulting from the U.S. Government's or Canada Government's denial or withdrawal of approval to export Equipment, Software licenses, Services, spares, warranty items or documentation pertaining thereto to Customer or its end-users. If Aviat Networks has reasons to believe that Customer has misrepresented, or failed to properly disclose, any fact with regard to end use, end users or country of ultimate destination or any other information supplied or requested pursuant to the End-User Statement, Aviat Networks may without liability to Customer terminate the Order for default immediately and discontinue all performance under any other pending or future Order from Customer. Customer shall defend, indemnify, and hold Aviat Networks harmless from and against any loss, damage, or liability arising out of Customer's failure to comply with this Section.

7.9. FORCE MAJEURE AND EXCUSABLE DELAY

Aviat Networks shall be excused from performance under this Agreement and not be liable to Customer for delay in performance attributable in whole or in part to any cause beyond its reasonable control (a "Force Majeure event"), including but not limited to, fire, explosion, power blackout, earthquake, flood, lightning strikes, severe weather conditions, strike, embargo, labor disputes, acts of civil or military authority, war, civil disturbance, insurrection, sabotage, terrorism, acts of God, acts of the public enemy, acts of regulatory or governmental agencies, failure or delay in delivery by Aviat Networks' suppliers or subcontractors, transportation difficulties, shortage of energy, materials, labor or equipment, accident, Customer's fault or negligence or other causes beyond its reasonable control, whether or not similarly to the foregoing.

In the event of a Force Majeure event, Aviat Networks shall make reasonable efforts to notify Customer of the nature and extent of such a delay and Aviat Networks (i) will be entitled to a schedule extension on at least a day-for-day basis, (ii) in the event of Customer's fault or negligence, will be also entitled to an equitable adjustment in the price of this contract.

7.10. TERMINATION

Termination for cause

Either party may terminate this Agreement immediately upon notice in writing to the other party if the other party shall breach any provision of this Agreement in any respect and such breach remains un-remedied thirty (30) days after notice thereof from the non-breaching party. In the event this Agreement is terminated due to the breach of Customer, Aviat Networks shall retain the entire amount of the annual fee paid by Customer.

The right of termination provided herein is absolute and neither party shall be liable to the other for damages or otherwise by reason of such termination.

Termination for convenience

Customer is not entitled to terminate for convenience this Agreement or any Purchase Order issued under this Agreement and any Customer termination in violation of this clause shall entitle Aviat Networks to retain any amounts paid or payable by Customer under this Agreement or Purchase Order issued under this Agreement or claim damages on a full cost basis, whichever is higher.

7.11. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CONTRACT, UNDER NO CIRCUMSTANCES SHALL AVIAT NETWORKS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY CLAIMING THROUGH CUSTOMER FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR LOSS OF CAPITAL, REVENUE OR PROFITS AS A RESULT OF A BREACH OF ANY PROVISION OF THIS CONTRACT.

CUSTOMER HEREBY INDEMNIFIES AVIAT NETWORKS AGAINST ALL LOSS OR LIABILITY FROM CLAIMS BY CUSTOMER OR A THIRD PARTY ARISING OUT OF OR RELATING TO THE INSTALLATION, OPERATION, OR USE OF THE EQUIPMENT, WHETHER ON ACCOUNT OF NEGLIGENCE OR OTHERWISE.

IN NO EVENT SHALL AVIAT NETWORKS' LIABILITY TO CUSTOMER, OR ANY PARTY CLAIMING THROUGH CUSTOMER EXCEED THE LESSER OF \$100,000.00 USD OR THE ACTUAL SALES PRICE PAID BY CUSTOMER FOR ANY ITEMS SUPPLIED HEREUNDER.

7.12. INDEMNIFICATION BY CUSTOMER

Customer will defend, at its expense, any action brought against Aviat Networks to the extent that it is based on a claim by a third party based on the actions or omissions of Customer and Customer will indemnify Aviat Networks from any costs, damages and fees incurred by Aviat Networks from such claim.

7.13. COMPLIANCE WITH LAW

Customer agrees to assist Aviat Networks to comply with any applicable conventions, laws, rules, regulations, and bylaws incident to its activities under this Agreement, including, without limitation, United States export control regulations, the United States Foreign Corrupt Practices Act, and the United States anti-boycott regulations. Customer will promptly deliver to Aviat Networks a copy of any notice or instrument alleging a violation of any of these laws.

7.14. ASSIGNMENT

Customer may not assign this Agreement in whole or in part without the prior written consent signed by an officer of Aviat Networks. Such consent shall not be unreasonably withheld.

7.15. GOVERNING LAW, VENUE AND JURISDICTION

This Agreement will be governed by and construed in accordance with the laws of the **State of Texas**. The parties agree that any action to enforce any provision of this Agreement or arising out of or based upon this Agreement or the business relationship between Aviat Networks and Customer will be brought in a local or Federal court of competent jurisdiction in **Texas**.

7.16. SEVERABILITY

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall in no way be affected or impaired.

7.17. ENTIRE AGREEMENT

This Agreement supersedes all previous communications, transactions, and understandings, whether oral, or written, and constitutes the sole and entire agreement between the parties pertaining to the subject matter hereof. No modification or deletion of, or addition to these terms shall be binding on either party unless made in writing and signed by a duly authorized representative of both parties.

7.18. NOTICES

Notices. Any notice under the Agreement must be in writing and may be delivered by hand, courier, mail, facsimile, electronic mail or other electronic method that provides a paper record of the text of the notice. It must be sent to the Party for whom it is intended at the address stated below. Any notice will be effective on the day it is received at that address.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their respective names.

By: Aviat U.S. Inc.
 Name: _____
 Title: _____
 Date: _____

By: Cass County Government
 Name: _____
 Title: _____
 Date: _____