

June 13, 2022 Agreement # 230008B County of Napa Contract 100963



Attn: Julia Shackford Julia.Shackford@countyofnapa.org; Matthew Wightman Matthew.Wightman@countyofnapa.org; Elena Guzman elena.guzman@countyofnapa.org; Ileana Paredes Ileana.Paredes@santacruzcounty.us

AviatCare Services

Table of Contents

- 1. EXECUTIVE SUMMARY 2
- 2. AVIATCARE SERVICES: MAINTENANCE COVERAGE ("SERVICES") 2
- 3. DURATION OF SUPPORT PERIOD 2
- 4. SUPPORT COSTS 3
- 4.1 OPTIONAL AND TRUE-UP SUPPORT FEES: 4
- 4.2 SERVICE LEVEL SUPPORT DESCRIPTION 5
 - 4.2.1 REPAIR SERVICES 5
 - 4.2.2 ADVANCE REPLACEMENT 8
 - 4.2.3 REPAIR LOGISTICS PROGRAM (RLP) 9
 - 4.2.4 REMOTE TECHNICAL SUPPORT 24 X 7 10
 - 4.2.5 PROVISION SUPPORT 24 X 7 - OPTIONAL 11
 - 4.2.6 CORRECTIVE MAINTENANCE - OPTIONAL 12
 - 4.2.8 PREVENTIVE MAINTENANCE - OPTIONAL 13
 - 4.2.9 REMOTE MONITORING SERVICES - OPTIONAL 14
- 5. AVIAT NETWORKS CONTACTS 17
- 6. ADDITIONAL TERMS AND CONDITIONS 17
 - 6.1 SCOPE OF SERVICES 18
 - 6.2 PRICES/PAYMENT/TAXES/SHIPPING 19
 - 6.3 EXPORT AND RE-EXPORT RESTRICTIONS 19
 - 6.4 EXPORT DOCUMENTS 20
 - 6.5 EXCUSABLE DELAY 20
 - 6.6 TERMINATION 20
 - 6.7 ASSIGNMENT 20
 - 6.8 GOVERNING LAW, VENUE AND JURISDICTION 21
 - 6.9 ENFORCEABILITY 21
 - 6.10 LIMITATION OF LIABILITY 21
 - 6.11 COMPLIANCE WITH LAW 21
 - 6.12 ENTIRE AGREEMENT 22
- 7. INSURANCE ADDENDUM 22
- 8. SIGNATURES 23

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.

Pricing 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, airconditioners, 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"/> Remote 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"/> Other |
| <input type="checkbox"/> Hosted FAS | |

3 DURATION OF SUPPORT PERIOD

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

	START	FINISH
REPAIR SERVICES	July 1, 2022	June 30, 2023
ADVANCE REPLACEMENT	July 1, 2022	June 30, 2023
REPAIR LOGISTICS PROGRAM	July 1, 2022	June 30, 2023
REMOTE TECHNICAL SUPPORT 24 X 7	July 1, 2022	June 30, 2023
PROVISION SOFTWARE SUPPORT	July 1, 2022	June 30, 2023
CORRECTIVE MAINTENANCE	OPTIONAL SUPPORT SERVICES – Request for quote	
PREVENTIVE MAINTENANCE		
REMOTE MONITORING		

4. SUPPORT COSTS

AVIATCARE SUPPORT PRICING				
Services	Services Part Number	Product Qty	Price per T/R	Extended Cost
WarrantyPlus ✓ Priority Technical Support: Available 24 X 7 ✓ AviatCloud Support Portal: Available 24 X 7 ✓ Repair Services: ✓ Unlimited 20 Calendar Day turnaround time on Aviat Networks manufactured equipment ✓ Advance Replacement – 3-5 Business Day turnaround time Based on availability of inventory (Aviat Manufactured equipment) ✓ Repair Logistics Program on Aviat Manufactured equipment – shipping provided by Aviat to and from customer site, excludes expedited shipping	SNA-BNWXA1001238	(4) IRU600 Radios NA120425-47446; 2326089, 2326088; NEW ATLAS, Oat Hill	\$338	\$1,352
	SNA-BNWXA1001238	(4) IRU600 Radios NA130128-76779; 2400271; NEW ATLAS, Berryessa	\$338	\$1,352
	SNA-BNWXA1001238	(4) IRU600 Radios NA150427-78490; 2408502; Hall of Justice, Mt St Helena	\$338	\$1,352
	SNA-BNWXA1001243	(4) ODU600 Radios NA170428-48695; 2418692; Oathill Water Tank, Napa SAN:B1-1-1	\$348	\$1,392
	SNA-BNWXA1001238	(5) IRU600 Radios NA180723-58051; 2423106; Sugarloaf, St Helena, New Altas Peak	\$338	\$1,690
	SNA-BNWXA1001243	(5) ODU600 Radios NA180723-58051; 2423106; HOJ, B Tank	\$348	\$1,740
Provision Software Support ✓ Provide general availability releases and product updates to the Customer free of charge during the coverage period	SWW-PV85G1XX1299	1-20 nodes		\$3,000
Sub-Total AviatCare				\$11,878
Executive Management Discount (30%)				(\$3,563)
Total AviatCare				\$8,315

3-Year AviatCare (July 1, 2022 – June 30, 2025)	
Sub-Total AviatCare	\$35,634
Executive Management Discount (35%)	(\$12,472)
Total AviatCare (July 1, 2022 – June 30, 2025)	\$ 23,162
Annual Invoice	\$ 7,721

Optional Services – AviatCare Education			
Eclipse Training: ✓ 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. P/P 3-month access 	\$665/ Per student
ProVision Training: ✓ 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 	\$665/ Per student

4.1 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 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

4.2 SERVICE LEVEL SUPPORT DESCRIPTION

Access to Aviat Networks Customer Online Technical Support Site

The Customer will have access to the Aviat Networks Customer Online Technical Support web site 24/7 for a variety of tools and support services. Tools/support services include the following:

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 such as technical notes, frequently asked questions, solutions for commonly asked technical or operational issues.
5. Software Downloads.
6. Sales Order tracking and status (Eclipse Only).

URL: <http://www.aviatcloud.com/>

4.2.1 REPAIR SERVICES

Repair services are available to the Customer during the standard manufacturing equipment warranty period which includes any repair or replacement of defective units during the stated warranty period. Additional charges may apply during the warranty period for customers returning a high volume of No Fault Found units, require advance replacements, or a non-repairable units. Prior to the warranty period expiring, customers may procure ongoing access to this support service through the purchase of an extended warranty program or through one of our AviatCare Maintenance support offerings. Otherwise the Repair service is made available for out of warranty products through a Per Incident billing process that can be enabled through our regional RMA Desk. See further details on how repair services are provided below.

All equipment under this specific Maintenance Level Agreement shall be covered with our standard Repair / Replace policy. There is no limit to the number of units returned for repair but customers are subject to the same limitations for No Fault Found (NFF), damaged beyond repair units, and non-returned Advance Replacement units where additional charges may apply:

- a) **Repair Center Support.** Customer shall place all RMA requests at the following link: https://aviatcloud.com/rma_tracking.asp. This link is available for use 24 hours a day, 7 days a week except where routine maintenance is performed. 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.

In order 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;
 - Whether any special requirements exist;
 - Maintenance Level Agreement contract number (if applicable); and
 - Provide a purchase order at the applicable price for billable requests. Billable requests include any request for express service regardless of warranty status. Contact your local Aviat Networks Repair Center for price information.
- b) **Turnaround Time.** Aviat Networks will provide a Turnaround time on repair as per the following:
- 20 Calendar Day turnaround time on Aviat Networks manufactured equipment
 - 45 Calendar Day turnaround on Aviat Networks Manufactured Discontinued equipment
- c) **Turnaround Time Calculation.** Turnaround time is measured from the time that a returned unit is received at the Aviat Networks Repair Center, which will be advised at time of issuing a RMA, until the time the unit is shipped from the Aviat Networks Repair Center. Thus, the measurement of turnaround time does NOT begin when a returned unit is shipped from the customer's premises and does NOT include the shipping time accrued after the returned unit is shipped from the Aviat Networks Repair Center to the Customer's premises. Additionally, turnaround time will not be guaranteed in the following situations:
- If more than five (5) Units of the same type or more than ten (10) Units of any type are received at the same time.
 - 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 of the shipment of the Returned Unit as the repair 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 shipping.
 - Returned units placed in Isolation.
 - Event of Excusable Delay as described under the [Excusable Delay](#) clause of the Additional Terms & Conditions section of this Agreement.
- d) **OEM.** For OEM, 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. Excludes Tower repair.
- e) **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.

- f) **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.
 - 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 RLP (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 nature such as fire, lightning strikes or flood.

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' standard charges for time and materials, together with all shipping and handling charges arising from such repairs.

- g) **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 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.
- h) **No Fault Found Fee.** If in any given quarter during the Maintenance Level Agreement support period the number of returned units a Customer reports as defective exceeds 10% of the total number of returned units received by Aviat Networks during the same support quarter, but are thereafter found to meet Aviat Networks product test specifications resulting in a No Fault Found repair status, Aviat Networks will charge the Customer the then-current No Fault Found inspection fee for each non-defective returned unit in excess of such ten percent (10%) as a True-Up support fee at the conclusion of the maintenance support quarter.
- i) **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.

4.2.2 ADVANCE REPLACEMENT

Advance Replacement 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.** Customer shall place Advance Replacement requests at the following link: https://aviatcloud.com/rma_tracking.asp. This link is available for use 24 hours a day, 7 days a week. Customers can also email or fax the RMA request to the Aviat Networks Repair Center. Aviat Networks will typically fax or email a confirmation with an RMA Number within one (1) business day. Requests can also be made via telephone during such Aviat Networks Repair Center's Business Hours.
- b) **Shipping Costs.** Customer is responsible for all charges associated with shipping the Returned Unit to the designated Aviat Networks Repair Center, which shall be made pursuant to the delivery term DDU (Delivered Duty Unpaid) Aviat Networks Repair Center (Incoterms:2000). Aviat Networks is responsible for the charges associated with shipping the Returned Unit back to the Customer, which shipment shall be made pursuant to the delivery term DDU (Delivered Duty Unpaid), Customer's premises (Incoterm:2000).
- c) **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.
- d) **Returned Unit.** If this Agreement entitles the Customer to the RLP 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 RLP or the Customer elects to return the returned unit to Aviat Networks via a freight forwarder outside of the RLP, 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.
- e) **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 RLP (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 nature such as fire, lightning strikes or flood.
- f) **No Fault Found Fee.** If in any given quarter during the Maintenance Level Agreement support period the number of returned units a Customer reports as defective exceeds 10% of the total number of returned units received by Aviat Networks during the same support quarter, but are thereafter found to meet Aviat Networks product test specifications resulting in a No Fault Found repair status, Aviat Networks will charge the Customer the then-current No Fault Found inspection fee for each non-defective returned unit in excess of such ten percent (10%) as a True-Up support fee at the conclusion of the maintenance support quarter.
- g) **Limits.** 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.
- h) **Unavailability.** If an Advance Replacement Unit is not available, then Aviat Networks will repair the Returned Unit within a mutually agreed Turnaround time. 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.
- i) **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.

4.2.3 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 DDU (Delivered Duty Unpaid) Customer's premises (Incoterms 2000). 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.

Liability of Units Damaged During Shipping. 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.

4.2.4 REMOTE TECHNICAL SUPPORT 24 X 7

Customer 24 X 7 Remote Support

24 X 7 Remote Support provides around-the-clock (24 X7) telephone access to Aviat Networks' Technical Assurance 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 normal business hours. **OR** 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.** Aviat Networks will route Critical Service Requests to the appropriate TAC subject matter expert within fifteen (15) minutes of call receipt.
- 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.

4.2.5 PROVISION SUPPORT 24 X 7 - OPTIONAL

Aviat Networks shall provide remote technical support to the Customer on ProVision. The remote technical support 24 X 7 shall be provided as per the terms outlined in the Remote Technical Support 24 X 7 section of this Agreement.

Aviat Networks shall provide support on the current and previous 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.

Customer Responsibility

To enable the Aviat Networks TAC to fully investigate 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.

Exclusion from Provision Support 24 X 7

The services to be rendered on 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 using old versions of ProVision. The ProVision Agreement provides regular updates; 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 system was 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 issues, which may be network related rather than 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 work-around's where possible.

4.2.6 CORRECTIVE MAINTENANCE - OPTIONAL

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

CRITICAL FAULTS FOR RADIOS	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.

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.

4.2.7 Emergency onsite Tower Crew - 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 materials 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.

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

4.2.8 PREVENTIVE MAINTENANCE - OPTIONAL

Preventative Maintenance provides a resource to work with the customers in reviewing operational aspects related to the performance of Microwave 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.

An engineer is deployed to site as per the customer and Aviat agreed upon schedule commitment for this service. 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: (Complete Checklist in Attachment 1: Preventive Maintenance Checklist)

4.2.8.1 Ground PM - OPTIONAL

- 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. This preventative service work covers all Aviat Networks Microwave radio equipment, associated OEM equipment, DC systems and the Antenna Systems.

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.

4.2.8.2 Tower PM - OPTIONAL

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

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 either perform or provide authorization to Aviat to perform. This preventative service work covers only Antenna Systems under current Aviat support contract. A final report will be presented to the customer stating findings, conclusions and any further recommendations.

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: Materials are excluded from scope of work and pricing. Materials or special transport equipment (snow cat, boom truck, etc) 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. Assuming all fixes are during maintenance window, Hourly rate will be \$201 for a Lead Microwave Technician and \$302 per Tower Climber. Any materials will be invoiced at time and materials.

4.2.9 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
 - Continuously monitor network elements.
 - Detect / Identify Faults and Alarms
- Event Management
 - Triage
 - Correlate Alarms where appropriate
 - Review Maintenance Schedules / Weather Patterns / Known Issues
 - Assess Severity and Service Impact
 - Troubleshooting
 - Diagnose and isolate the fault / alarm
 - Coordinate restoration and repair – remotely or onsite
 - 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
 - Report events to customer in real-time via Phone / Email / Portal
- Trouble Ticketing
 - Document the fault
 - Manage ticket until fault is resolved
 - Generate trouble ticket reports
 - Capture lessons learned from each incident into our Knowledgebase for future reference
- Call out and Dispatch
 - Dispatch field operations and vendors for physical analysis and repair
 - 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
 - Generate a post mortem report to document issue / lessons learned as appropriate
 - Drive continuous improvement of process and tools
- Reporting
 - 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.

4.2.9.1 Aviat Networks Support process – NOC & TAC

- Tier 1: NOC Personnel
 - 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.

- 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.
- ~90%+ of trouble tickets are resolved within the NOC without any interaction with TAC
- Tier 2: TAC
 - 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 went beyond our accepted timeframe for resolution.
 - 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.
 - ~8% of trouble tickets are resolved within Tier 2 after escalation from the NOC.
- Tier 3: TAC
 - 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.
 - 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.
 - ~2% of trouble tickets are resolved within Tier 3 after escalation from Tier 2.

4.2.9.2 Service Level Agreement (SLA)

SR Priority Level	Alarm Severity	Event / Alarm Ack	Customer Event Alarm Notification	Aviat Reaction Time	Usage	Response
1	<u>CRITICAL (Service Affecting)</u>	<u>< 5 min</u>	<u>< 10 min</u>	<u>< 15 min</u>	<u>Used for events that is currently impacting service or ability to view network elements (LOV).</u>	<u>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.</u>
2	<u>MAJOR (Non Service Affecting)</u>	<u>< 30 min</u>	<u>< 60 min</u>	<u>< 75 min</u>	<u>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.</u>	<u>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.</u>

3	<u>MINOR</u>	<u>< 30 min</u>	<u>Monthly Summary</u>	<u>< 12 hrs</u>	<u>Used for non-service affecting conditions that if not resolved will not result in a Priority 1 or 2 events or issue.</u>	<u>Resolved or referred to Tier II/III support group</u>
---	--------------	--------------------	------------------------	--------------------	---	--

- 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.
- Email response time: Acknowledge email requests by live person within 15 minutes unless there is routine maintenance or down time.
- 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. AVIAT NETWORKS CONTACTS

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

For Questions or concerns on the Agreement either before or after it is in effect, please contact:	
<p>NORTH AMERICA Repairs, Returns & Advance Replacements 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</p>	<p>NORTH AMERICA Technical Assistance 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: TAC.AM@aviatnet.com Online Technical Assistance Request: www.aviatcloud.com</p>

6. ADDITIONAL TERMS AND CONDITIONS

This Agreement is between the party purchasing services described herein (the "Customer"), with Aviat U.S., Inc., a wholly owned subsidiary of Aviat Networks Inc. ("Aviat Networks"), with offices at 200 Parker Drive, Suite C100A, Austin, Texas 78728 .

6.1 SCOPE OF SERVICES

Aviat Networks will furnish the services outlined in the [Service Level Support](#) Section of this Agreement ("**Services**") for the products for Customer as may be required from time to time for the period specified in the [Duration of Support Period](#) Section providing receipt and acceptance of the Customer's purchase order. The Services will be provided in conformity with the terms, conditions, specifications and other requirements of this Agreement and each request for Services will be governed by the terms and conditions stated herein.

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, Inc. 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.

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. Aviat Networks warrants that each Unit that is repaired or replaced under this Agreement, shall, at the time of return to Customer, for a period of ninety (90) days thereafter or until the expiration or termination of this Agreement, whichever is longer, be free from defects in materials and workmanship. Such warranty shall not include any consumable components to which a specific manufacturer's guarantee applies. If any Unit shall prove 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.

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 by reason of any breach of warranty or defect in materials or workmanship.

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. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS CONTRACT, UNDER NO CIRCUMSTANCES SHALL AVIAT NETWORKS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY CLAIMING UNDER 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.

EXCLUSIONS:

Except as set forth below, the following are excluded from the scope of this Agreement:

1. Repair or replacement of Products which have been subjected to:
 - damage as a result of Customer's fault, negligence, improper use or failure to maintain Products in good working order; or
 - accident (including fire, flood, storm, lightning strike, or other act of God)
2. Repair or replacement of Products furnished, modified, altered or repaired by Customer or any other third party other than Aviat Networks or its authorized agent.
3. Repair of Products that are not repairable due to lack of component availability.
4. Expedited Services such as Emergency Repair. Expedited Services may be requested and will be executed based on inventory availability only. Expedited Services will be quoted at time of service request;
5. Repair of Antenna Systems. Tower crews, and the associated dispatch/labor support, for repairing antenna systems are excluded from Warranty and Extended Warranty unless specifically identified as a purchased service option. Field support for antenna repair will be contracted by the Customer on a per incident basis.

6.2 PRICES/PAYMENT/TAXES/SHIPPING

All payments shall be made via check to the accounts specified on the invoice in advance of the commencement of each year of service/coverage. Customer shall make payment of the total amount due to Aviat Networks within thirty (30) days from the invoice date, unless otherwise specified or agreed to in writing by Aviat Networks. In the event any payment by Customer is past due, Aviat Networks reserves the right to withhold Services until such payment is received. Prices and payment terms for Services or Products not included in this Agreement, such as Emergency Repair, etc., will be established on a case-by-case basis subject to the mutual written agreement of the parties.

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.

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. Responsibilities regarding the export of items delivered under this Agreement are detailed in the [Export and Re-Export Restrictions](#) and [Export Documents](#) Sections below.

If payment is not made when due, Aviat Networks may assess interest on the overdue balance at the lesser of 1-1/2% per month or the maximum rate allowed by law.

6.3 EXPORT AND RE-EXPORT RESTRICTIONS

Performance and delivery of the equipment, documents, Services and Software sold or delivered hereunder are subject to export control laws and regulations of the United States, as applicable, and conditioned upon receipt of required U.S. Government licenses and approvals by Aviat Networks. Customers shall not export or re-export Products or technical data delivered hereunder from the United States without complying with regulations of the Bureau of Export Administration of the United States Department of Commerce, as applicable. Customers shall not re-export the Products and technical

data delivered hereunder from the country of delivery or to any facility engaged in the design, development, stockpiling, manufacturing or use of missile, chemical or biological weapons without fully complying with the regulations of the above United States government agencies. Customer warrants that it will comply with the United States Foreign Corrupt Practices act of 1997, as amended. 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.

6.4 EXPORT DOCUMENTS

Customer shipments, under this Agreement, to Aviat Networks shall be 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. 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.

6.5 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, including but not limited to, actions or inactions of government whether in its sovereign or contractual capacity, judicial action, war, civil disturbance, insurrection, sabotage, act of a public enemy, labor difficulties or disputes, failure or delay in delivery by Aviat Networks' suppliers or subcontractors, transportation difficulties, shortage of energy, materials, labor or equipment, accident, fire, flood, storm or other act of God, or Customer's fault or negligence, or where compliance with any applicable environmental law or regulation by Aviat Networks is not reasonably technologically or economically feasible, or would otherwise require Aviat Networks to change its manufacturing process. ("Excusable Delay").

In the event of an Excusable Delay, 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 an extension on at least a day-for-day basis, and (ii) in the event the delay is caused by Customer's fault or negligence, Aviat Networks will be also entitled to an equitable adjustment in the price under this Agreement.

6.6 TERMINATION

Either party may terminate this Agreement immediately upon written notice to the other party if: either party breaches any provision of this Agreement in any respect and such breach remains unremedied for thirty (30) days after written notice from the non-breaching party. In the event this Agreement is terminated due to a breach by 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.

6.7 ASSIGNMENT

Customer may not assign this Agreement in whole or in part without the prior written consent of Aviat Networks which shall not be unreasonably withheld.

6.8 GOVERNING LAW, VENUE AND JURISDICTION

This Agreement will be governed by and construed in accordance with the laws of the **State of California**. 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, **California**.

6.9 ENFORCEABILITY

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.

6.10 LIMITATION OF LIABILITY

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY CLAIMING UNDER THE OTHER PARTY FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, AND CONSEQUENTIAL OR LOSS OF PROFIT TYPES OF DAMAGES AS A RESULT OF A BREACH OF ANY PROVISION OF THIS CONTRACT.

IN NO EVENT SHALL AVIAT NETWORKS' TOTAL LIABILITY TO CUSTOMER OR ANY PARTY CLAIMING THROUGH CUSTOMER EXCEED THE GREATER OF ONE HUNDRED THOUSAND UNITED STATES DOLLARS (\$100,000.00 USD) OR THE ACTUAL SALES PRICE PAID BY CUSTOMER FOR SERVICES SUPPLIED HEREUNDER.

THIS ARTICLE SHALL SURVIVE THE TERM OR EXPIRATION OF THE AGREEMENT. CUSTOMER AGREES TO INDEMNIFY AVIAT NETWORKS AGAINST ALL LOSS OR LIABILITY FROM CLAIMS BY CUSTOMER OR A THIRD PARTY ARISING OUT OF OR RELATING TO CUSTOMER'S INSTALLATION, OPERATION, OR USE OF THE SERVICES OR PRODUCTS PROVIDED HEREUNDER, WHETHER ON ACCOUNT OF NEGLIGENCE OR OTHERWISE.

6.11 COMPLIANCE WITH LAW

- a) 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.
- b) Customer warrants that Customer shall comply with any and all applicable US federal and state laws, and shall operate in good faith to comply with other laws and regulations and industry best practices, applicable to Customer's performance hereunder, and shall promptly act to correct any noncompliance once identified.
- c) EXPORT AND RE-EXPORT RESTRICTIONS. Customer acknowledges that the Equipment and Licensed Programs sold or licensed to it by Aviat Networks under this Agreement may be subject to export controls under the laws of the United States or Canada. Customer will not export or re-export the Equipment or Licensed Programs, technology, or products manufactured from the technology that are the subject of the Agreement in violation of the export control laws of the United States or Canada.

6.12 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. INSURANCE ADDENDUM

Insurance. CONTRACTOR shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage:

(a) Workers' Compensation Insurance. To the extent required by law during the term of this Agreement, CONTRACTOR shall provide workers' compensation insurance for the performance of any of CONTRACTOR's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide COUNTY with certification of all such coverages upon request by COUNTY's Risk Manager.

(b) Liability Insurance. CONTRACTOR shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverages, **issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better, or equivalent self-insurance:**

(1) General Liability. Commercial general liability [CGL] insurance coverage (personal injury and property damage) of ONE MILLION DOLLARS (\$1,000,000) limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of CONTRACTOR or any officer, agent, or employee of CONTRACTOR under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(2) Professional Liability/Errors and Omissions. Professional liability [or errors and omissions] insurance for all activities of CONTRACTOR arising out of or in connection with this Agreement in an amount ONE MILLION DOLLARS (\$1,000,000) per claim. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(3) Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with CONTRACTOR's business of ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If CONTRACTOR owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in subparagraph (b)(1) above. If CONTRACTOR or CONTRACTOR's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person upon request.

(c) Certificates of Coverage. All insurance coverages referenced in 7(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of COUNTY's Risk Manager, demonstrated by other evidence of coverage acceptable to COUNTY's Risk Manager, which shall be filed by CONTRACTOR with the Information Technology Services Department prior to commencement of performance of any of CONTRACTOR's duties.

(1) The certificate(s) or other evidence of coverage shall reference this Agreement by its COUNTY number or title and department; shall be kept current during the term of this Agreement; shall provide that COUNTY shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

(2) Waiver of Subrogation and Additional Insured Endorsements. For the commercial general liability insurance coverage referenced in 7(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 7(b)(3) where the vehicles are covered by a commercial policy rather than a personal policy, CONTRACTOR shall also file with the evidence of coverage an endorsement from the insurance provider naming COUNTY, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers Compensation insurance coverage, CONTRACTOR shall file an endorsement waiving subrogation with the evidence of coverage.

(3) The certificate or other evidence of coverage shall provide that if the same policy applies to activities of CONTRACTOR not covered by this Agreement, then the limits in the

applicable certificate relating to the additional insured coverage of COUNTY shall pertain only to liability for activities of CONTRACTOR under this Agreement, and that the insurance provided is primary coverage to COUNTY with respect to any insurance or self-insurance programs maintained by COUNTY. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, COUNTY's Risk Manager, which approval shall not be denied unless the COUNTY's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of CONTRACTOR by this Agreement. At the option of and upon request by COUNTY's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects COUNTY, its officers, employees, agents and volunteers or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

(e) Inclusion in Subcontracts. CONTRACTOR agrees to require all subcontractors and any other entity or person who is involved in providing services under this Agreement to comply with the Workers Compensation and General Liability insurance requirements set forth in this Paragraph 7.

Hold Harmless/Defense/Indemnification.

(a) In General. To the full extent permitted by law, CONTRACTOR shall defend at its own expense, indemnify, and hold harmless COUNTY and its officers, agents, employees, volunteers, or representatives from and against any and all liability, claims, actions, proceedings, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred in connection therewith, brought for or on account of personal injury (including death) or damage to property, arising from all acts or omissions of CONTRACTOR or its officers, agents, employees, volunteers, contractors and subcontractors in rendering services under this Agreement, excluding, however, such liability, claims, actions, losses, injuries, damages or expenses arising from the sole negligence or willful acts of COUNTY or its officers, agents, employees, volunteers, representatives, or other contractors or their subcontractors. Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

8. SIGNATURES

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

AVIAT U.S., Inc.
DocuSigned by:
By: David Gray
3617AE3BE1A8406...
Name: David Gray
Title: Sr. VP and Chief Financial Officer
Date: 6/28/2022

County of Napa
By: _____
Name: Ryan Gregory
Title: Chair, Board of Supervisors
Date: _____

APPROVED AS TO FORM – Office of County Counsel
By: John L. Myers (e-sign) Date: June 15, 2022 PL No.: 73481