

**ADDENDUM TO THE CONTRACT**  
**Between**  
**METALS TREATMENT TECHNOLOGIES, LLC AND**  
**LARAMIE COUNTY SHOOTING SPORTS COMPLEX**

THIS ADDENDUM is made and entered into by and between Laramie County, 13802 Bullseye Blvd., Cheyenne, Wyoming 82009 ("COUNTY") and Metals Treatment Technologies, LCC ("CONTRACTOR"), 14045 West 66<sup>th</sup> Ave., Arvada, Colorado 80004.

**I. PURPOSE**

The purpose of this Addendum is to modify the Project Contract (1 page) and the General Conditions (3 pages) for the performance of OSHA auditing services at the Laramie County Shooting Sports Complex (together "Agreement").

**II. TERM**

This Addendum and the Agreement shall commence on the date last executed by the duly authorized representatives of the parties and shall remain in full force and effect until performed or otherwise terminated as described herein.

**III. RESPONSIBILITIES OF CONTRACTOR**

CONTRACTOR shall provide and complete the OSHA auditing services described in the Agreement's Project Contract and General Conditions, both of which are attached hereto and fully incorporated herein as the parties' Agreement.

**IV. MODIFICATIONS TO AGREEMENT**

- A. The Section titled "Terms of Payment" in the Project Contract and Section 11.1 labeled "Payment Terms" under General Conditions are excluded, are of no force and effect, and are replaced with the following language:

CONTRACTOR shall bill COUNTY by detailed invoice submitted to the Laramie County Clerk, Finance Office. Payments shall be in accordance with WYO. STAT. § 16-6-602, as amended. No payment shall be made before the last signature is affixed to this Agreement.

- B. The first sentence in Section 10.0 titled "Termination" under General Conditions is modified to state as follows:

This Agreement may be terminated upon fifteen (15) days' written notice for County's convenience without regard to any fault or failure to perform by any party.

- C. Section 13.0 "Disputes" under General Conditions (including Sections 13.1, 13.2, and 13.3) is excluded and is of no force and effect.
- D. The second Paragraph of Section 16.0 "Force Majeure" under General Conditions is excluded and is of no force and effect and is replaced with the following language:

Neither party shall be liable to perform under this Agreement and Addendum if such failure arises out of causes beyond the control, and without the fault or negligence of said party. Such causes may include, but are not restricted to, Acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. In every case, however, a failure to perform must be beyond the control and without the fault or the negligence of said party.

- E. Section 18.0 "Confidential Information and Technology" under General Conditions, is modified to include language at the end of the section to the effect that "The requirements of this Section notwithstanding, County and Contractor shall comply with the Public Records Act and any other state or federal law with respect to the disclosure of the information otherwise covered by this Section, and if the Public Records Act or any other state or federal law shall require disclosure of the information otherwise covered by this Section, then this Section shall not apply."

## V. ADDITIONAL PROVISIONS

A. **Independent Contractor:** The services to be performed by CONTRACTOR are those of an independent contractor and not as an employee of COUNTY. CONTRACTOR is not eligible for Laramie County Employee benefits and will be treated as an independent contractor for federal tax filing purposes. CONTRACTOR assumes responsibility for its personnel who provide services pursuant to this contract and will make all deductions required of employers by state, federal and local laws and shall maintain liability insurance for each of them. CONTRACTOR is free to perform the same or similar services for others.

B. **Entire Agreement:** The Agreement (5 pages) and Addendum (5 pages) represents the entire and integrated agreement and understanding between the parties in regard to the subject matter herein and supersedes all prior negotiations, statements, representations and agreements, whether written or oral.

C. **Assignment**: Neither this Agreement and Addendum, nor any rights or obligations hereunder shall be assigned or delegated by a party without the prior written consent of the other party.

D. **Modification**: This Agreement and Addendum shall be modified only by a written agreement, duly executed by all parties hereto.

E. **Termination**: This Agreement may be terminated (a) by either party at any time for failure of the other party to comply with the terms and conditions of this agreement; (b) by either party, with thirty (30) days' prior written notice to the other party; or (c) upon mutual written agreement by both parties.

F. **Invalidity**: If any provision of this Agreement and Addendum is held invalid or unenforceable by any court of competent jurisdiction, or if the COUNTY is advised of any such actual or potential invalidity or unenforceability, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties the provisions of this Agreement and Addendum are fully severable.

G. **Applicable Law and Venue**: The parties mutually understand and agree that this Agreement and Addendum shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement and Addendum or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming or the Federal District Court, District Of Wyoming. This provision is not intended nor shall it be construed to waive COUNTY's governmental immunity as provided in this Agreement and Addendum.

H. **Discrimination**: All parties agree they will not discriminate against any person who performs work under the terms and conditions of this Agreement and Addendum because of race, color, gender, creed, handicapping condition, or national origin.

I. **ADA Compliance**: All parties agree they will not discriminate against a qualified individual with disability, pursuant to a law as set forth in the Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101, *et seq.*, and/or any properly promulgated rules and regulations relating thereto.

J. **Governmental/Sovereign Immunity**: COUNTY does not waive its Governmental/Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 *et seq.*, by entering into this Agreement and Addendum. Further, COUNTY fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement and Addendum.

K. **Third Parties:** The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement and Addendum shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement and Addendum shall operate only between the parties to the Agreement and Addendum, and shall inure solely to the benefit of the parties to this Agreement and Addendum.

L. **Indemnification:** To the fullest extent permitted by law, CONTRACTOR agrees to indemnify and hold harmless COUNTY, its elected and appointed officials, employees and volunteers from any and all liability for injuries, damages, claims, penalties, actions, demands or expenses arising from or in connection with work performed by or on behalf of CONTRACTOR for COUNTY except to the extent liability is caused by the sole negligence or willful misconduct of COUNTY or its employees. CONTRACTOR shall carry liability insurance sufficient to cover its obligations under this provision and provide COUNTY with proof of such insurance.

M. **Conflict of Interest:** COUNTY and CONTRACTOR affirm, to their knowledge, no CONTRACTOR employee has any personal beneficial interest whatsoever in the agreement described herein. No staff member of CONTRACTOR, compensated either partially or wholly with funds from this Agreement, shall engage in any conduct or activity which would constitute a conflict of interest relative to this Agreement.

N. **Limitation on Payment:** COUNTY's payment obligation is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services and equipment provided by CONTRACTOR the Agreement may be terminated by COUNTY at the end of the period for which funds are available. COUNTY shall notify CONTRACTOR at the earliest possible time of the services which will or may be affected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if COUNTY knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to COUNTY in the event this provision is exercised, and COUNTY shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision. This provision shall not be interpreted or construed to permit COUNTY to terminate this Agreement in order to acquire similar services from another party.

O. **Notices:** All notices required and permitted under this Agreement shall be deemed to have been given, if and when deposited in the U.S. Mail, properly stamped and addressed to the party for whom intended at such parties' address listed herein, or when personally delivered personally to such party. A party may change its address for notice hereunder by giving written notice to the other party.

P. **Addendum Controls:** Where a conflict exists or arises between any provision or condition of this Addendum and the Agreement, the provisions and conditions set forth in this Addendum shall control.

Q. **Compliance with Law:** The parties agree that they shall comply with all applicable laws, regulations and ordinances, whether Federal, State or Local.

LARAMIE COUNTY, WYOMING

By: \_\_\_\_\_  
Chairman, Laramie County Commissioners


Date \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Debra Lee, Laramie County Clerk

Date \_\_\_\_\_

Metals Treatment Technologies, LLC

By:  \_\_\_\_\_  
Authorized Signature: James M Barthel, CEO

Date 9/16/19

REVIEWED AND APPROVED AS TO FORM ONLY

By:  \_\_\_\_\_  
Laramie County Attorney

Date 9/23/19



# Project Contract

|                 |  |   |   |
|-----------------|--|---|---|
| Date:           | April 16, 2019   | Client  | Laramie County Shooting Sports Complex            |
| Job Number      | TBD  | Contact   | Keith Tast, 307-775-7484, ktast@laramiecounty.com |
| Prevailing Wage | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>                                | Location  | 13802 Bullseye Blvd, Cheyenne, WY 82009           |
| Contractor      | Metals Treatment Technologies, LLC<br>14045 West 66 <sup>th</sup> Avenue<br>Arvada, Colorado 80004 | THE CONTRACT TERMS APPEARING BELOW TOGETHER WITH THE GENERAL CONDITIONS PRINTED ON THE FOLLOWING PAGE AND ATTACHMENTS HERE TO FORM THE SOLE PROVISIONS OF THE ENTIRE CONTRACT |   |

## CONTRACT TERMS

Description of the Work Perform services as outlined below

Drawings and Specifications None

**Time of Performance** Audit date based on MT2's schedule, as early as second quarter 2019. MT2 will work with client to best obtain a mutually agreed upon date, but recommends scheduling on busiest days.

**Price Check** boxes for selected services; service selections and/or changes must be made at least two weeks prior to MT2 mobilization.

| Service Selections                  | Item  | Qty | Unit     | Unit Rate | MT2 Pricing |
|-------------------------------------|---|-----|----------|-----------|-------------|
| <input checked="" type="checkbox"/> | <b>OSHA Audit Defender Program<sup>1/</sup></b><br>- 1-Day Site Visit / Mock OSHA Audit<br>• Audit performed by a Certified Industrial Hygienist / Certified Safety Professional, and former OSHA Compliance Safety Health Officer<br>• 12+ hours spent onsite<br>- Range Photos<br>- Limited document review and site safety review<br>- Sampling (up to:)<br>• 25 Lead-wipe samples <sup>2/</sup><br>• Up to 2 Noise exposure monitoring (8-12 hours)<br>• Up to 2 Personal air exposure monitoring (8-12 hours)<br>• Air velocity measurements across 2 firing lines<br>- Summary Safety (8 hrs.) and Industrial Hygienist (8 hrs.) Reports Including:<br>• Summary of sample results<br>• Supporting documentation<br>• Recommendations | 1   | Lump Sum | \$4,500   | \$4,500     |

<sup>1/</sup> Should there be a change in the scope of work (e.g., review of additional programs), additional work can be performed upon an agreed hourly basis if approved prior to onsite work, or can be provided as a separate proposal prior to performing the additional work


<sup>2/</sup> There will be an additional laboratory analysis cost of \$200 for every 25 lead wipe samples analyzed should the client want to assess surface levels for comparison to the US Department of Housing and Urban Development (HUD) and the US Environmental Protection Agency (EPA) limits.

**Terms of Payment:** Payment due to MT2 within 15 days of Client receipt of MT2 invoice (Net 15 days). Payment invoice will be submitted to Client along with Summary Report and project documentation (as applicable). Client agrees to pay MT2 an additional 1.5% per month on the account and all collection fees for any past due amount owed MT2

**Address for Correspondence/Notices** See above

Attachments (as checked) ☒ General Conditions  
☐ Other (Specify)

☐ Affidavit  
 A.

|             |   |           |  |
|-------------|---|-----------|--|
| Contractor: | Metals Treatment Technologies, LLC  | Client:   | Laramie County Shooting Sports Complex |
| Signature   |  | Signature |  |
| Date        | 9/16/19   | Date      |  |



# General Conditions

## 1.0 RESPONSIBILITY

Contractor shall perform the work with diligence, in accordance with good construction practices and in accordance with the drawings, specifications, procedures, and other requirements of this contract. Contractor shall furnish all supervision, labor, facilities, storage, equipment, materials, supplies, and services necessary to perform the work unless otherwise specified in the Project Offer. Contractor shall be solely responsible for payment of all insurance premiums required hereunder. The cost of all wages, salaries, tools, supplies, parts, machinery, equipment, and expenses of whatever nature or description arising out of this contract are to be borne by Contractor.

## 2.0 INDEPENDENT CONTRACTOR

Contractor shall perform the work as an independent contractor with exclusive control of the methodology and means of performing the work. Contractor has no authority to act or make any agreements or representation on behalf of Client and this contract shall not be construed as creating, between Client and Contractor, the relationship of Principal and Agent, Joint Ventures, Co-Partners or any other such relationship, the existence of which is hereby expressly denied.

## 3.0 EXAMINATION OF JOBSITE

Contractor warrants that it has examined the jobsite, and has satisfied itself as to the nature and location of the work, the general and local condition, and ground conditions at the jobsite.

## 4.0 SUPERVISION BY CONTRACTOR

Contractor shall retain at the jobsite a competent manager who shall represent Contractor and, who shall have full and complete authority to act in behalf of Contractor.

## 5.0 INDEMNITY

Contractor shall indemnify and hold Client harmless and assume the defense for losses, damages, settlements, costs, charges or other expenses or liabilities arising out of or relating to liabilities, losses, liens, demands, obligations, actions, proceedings, or causes of action of every kind arising out of any actual: 1) failure of Contractor to comply with any law, ordinance, regulation, rule or order of any governmental or regulatory body; 2) improper, sub-standard, inadequate, willful or negligent performance of this contract.

## 6.0 SCHEDULES

Contractor shall execute the work diligently with sufficient numbers of qualified personnel, equipment, materials, and supplies to accomplish the work. Any special working hours will be subject to prior approval of Client

## 7.0 TERM

Contractor at its sole discretion may offer Client an opportunity to renew this Agreement for an additional four (4) one (1) year term(s). Client understands and acknowledges that any future contracts or renewals are neither automatic nor implied by this Agreement. The continuing purchase by Client of the Services set forth in this Agreement is subject to Client's needs and to Client's annual appropriation of sufficient funds in Client's fiscal year in which such Services are purchased. In the event Client does not appropriate or budget sufficient funds to perform this Agreement, this Agreement shall be null and void without further action by Client.

## 8.0 SAFETY AND CLEANUP

Contractor shall be responsible for the health and safety of its employees while present at the jobsite. Contractor shall comply with all applicable laws, rules and other regulations relating to safety, including but not limited to, those set forth in the Occupational Health and Safety Acts (OSHA). Contractor shall keep the premises and vicinity of the work clean of debris and rubbish.

## 9.0 SUBCONTRACTING AND ASSIGNMENT

Contractor shall not assign or further subcontract any major portion of the work to be performed under this contract without Client's prior written consent. Contractor shall include these general conditions as part of its contract agreement. Any subcontracting shall not relieve the Contractor of its duties and obligations under this contract.





## **General Conditions**

### **10.0 TERMINATION**

This Agreement may be terminated upon seven (7) days' written notice for Client's convenience without regard to any fault or failure to perform by any party. If within five (5) days written notice by Client to Contractor specifying any deficiency in the work, the promptness with which it is being performed, Contractor has not commenced to correct and within a reasonable time corrected such deficiency to the satisfaction of Client; or if Contractor becomes bankrupt or insolvent or goes or is put into liquidation or dissolution, either voluntarily or involuntarily, Client may terminate the contract.

If work of Contractor is suspended or terminated by Client for whatever reason, Contractor will be paid for the work actually completed and for costs incurred for partially performing and closing out work not completed.

### **11.0 PAYMENT TERMS AND CONDITIONS**

#### **11.1 Payment Terms**

Upfront payment prior to Contractor mobilization as specified in Contractor Proposal. Balance of Payment due to Contractor Net 30 days upon Client receipt of monthly Contractor invoice. If Client payment is late, Client agrees to pay Contractor an additional 1.5% per month on the account and all collection fees for any past due amount owed to Contractor.

#### **11.2 Changes to the Work**

Client may in its absolute discretion restrict, modify or extend the obligations of Contractor under this Agreement and to the extent that Client's direction results in increasing or decreasing the scope of Contractor's Services under this agreement, the compensation paid to Contractor will be equitably adjusted by Client based upon mutual agreement with Contractor.

### **12.0 RECORDS AND ACCOUNTS**

Contractor will maintain good accounting and personnel records reflecting performance of the work and shall preserve such records for a period of three (3) years after completion and acceptance of the project as a whole.

### **13.0 DISPUTES**

#### **13.1 Direct Dispute Resolution Effort**

In the event of a question, claim, or dispute between the Contractor and Client (the Parties) arising out of or relating to this contract or the breach thereof, except for claims which have been waived by the making or acceptance of final payment, such question, claim, or dispute shall be settled by mutual agreement between the Parties. The Parties shall attempt in good faith to resolve through negotiation any claim, dispute, controversy, or counterclaim arising out of or relating to this Contract. Either Party may initiate dispute negotiations by providing written notice in letter form to the other Party, setting forth the nature of the dispute and the relief requested. The recipient of such notice shall respond within five (5) business days with a written statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each Party with full settlement authority shall meet at a mutually agreeable time and place within ten (10) business days from the date of the initial notice (unless otherwise mutually agreed between the Parties) to exchange relevant information and perspectives, and to attempt to resolve the dispute. If agreement between the Parties cannot be reached within 15 calendar days from date of initial written notice, either Party may file for mediation.

#### **13.2 Mediation**

All claims, disputes and other matters in question arising out of or related to this Agreement remaining after the 15-day Direct Dispute Resolution Effort shall be subject to 30-day mediation period (unless otherwise mutually agreed between the Parties) as a condition precedent to arbitration. Client and Contractor shall endeavor to resolve claims, disputes and other matters in question between them in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing no sooner than 30 days after written dispute notification between the parties. The parties shall share the mediator's fee and filing fees equally. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

#### **13.3 Arbitration**

Subject to the condition precedent set forth in Mediation (above) of this Agreement, all claims, disputes and other matters in question arising out of or relating to this Agreement or breach thereof shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, unless the parties mutually agree otherwise. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law and shall be initiated upon written notice by either party. The arbitration shall not exceed 60 days unless extended by mutual agreement between the Parties. The award rendered by the Arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.





## General Conditions

### 14.0 WORKMEN AND EMPLOYMENT PRACTICES

Contractor shall not discriminate against any employee or applicant for employment because of race, color, national origin, religion, sex, age, or for any reason prohibited by law.

### 15.0 INSURANCE

Contractor shall provide insurance for the benefit of Contractor, and Client, with minimum coverage's and limits as follows:

- |   |                 |
|---|-----------------|
| (a) Workmen's Compensation  | Statutory       |
| (b) Employer's Liability  | \$1,000,000 CSL |
| (c) Comprehensive General Liability   | \$9,000,000 CSL |
| (d) Automotive Liability covering owned, non-owned and hired automobiles, for Bodily Injury and Property Damage |                 |
| (e) Pollution Liability   | \$9,000,000     |

Note: Comprehensive General Liability: Covering bodily injury and property damage, and including contractual liability, independent contractors, products/completed operations, broad form property form property damage and hazards.

### 16.0 FORCE MAJEURE

An event of "Force Majeure" occurs when an event beyond the control of the Party claiming Force Majeure prevents such Party from fulfilling its obligations. An event of Force Majeure includes, without limitation, acts of God (including floods, hurricanes and other adverse weather), war, riot, civil disorder, acts of terrorism, disease, epidemic, strikes and labor disputes, actions or inactions of government or other authorities, law enforcement actions, curfews, closure of transportation systems or other unusual travel difficulties, or inability to provide a safe working environment for employees.

In the event of Force Majeure, the obligations of Contractor to perform the Services shall be suspended for the duration of the event of Force Majeure. In such event, Contractor shall be equitably compensated for additional expenses incurred during the event of Force Majeure and the schedule shall be extended by a like number of days as the event of Force Majeure. If Services are suspended for thirty (30) days or more, Contractor may, in its sole discretion, upon seven (7) days prior written notice, terminate this Agreement. In the case of such termination, in addition to the compensation and time extension set forth above, Contractor shall be compensated for all reasonable termination expenses.

### 17.0 LAWS

This contract shall be construed and governed by laws of the state in which the project is located. Contractor shall comply with laws, statutes, ordinances, rules and regulations of any governmental entity having jurisdiction over the work.

### 18.0 CONFIDENTIAL INFORMATION AND TECHNOLOGY

Processes and techniques used by Contractor are considered proprietary and confidential technologies belonging exclusively to Contractor. The Client acknowledges this statement and agrees not to copy, adapt or re-engineer the processes and techniques of lead recovery developed and used by Contractor for the Client own use. The Client also agrees not to commercialize and/or market the processes and techniques developed by Contractor to provide lead recovery services to other clubs, organizations or businesses involved with shooting ranges. Client may not capture Contractor's equipment, processes, or techniques (whether electronic or film) without explicit approval by the Contractor. Dissemination of photos or videos without written approval by Contractor is prohibited. Any requests should be submitted to the Corporate Headquarters in Arvada, Colorado.