

**ADDENDUM TO SMARTNET NORTH AMERICA REFERENCE NETWORK
REFERENCE STATION HOST AGREEMENT
Laramie County/ Leica Geosystems Inc.**

THIS ADDENDUM is made and entered into by and between Laramie County, Wyoming, P. O. Box 608, Cheyenne, Wyoming 82003-0608, ("COUNTY") and Leica Geosystems Inc., a Delaware Corporation, 5051 Peachtree Corners Circle, Suite 250, Norcross, GA 30092 (hereinafter, "LEICA").

I. PURPOSE

The purpose of this Addendum is to modify the SmartNet North America Reference Network Reference Station Host Agreement between COUNTY and LEICA, attached hereto as Attachment 'A' and fully incorporated herein (hereinafter "Agreement").

II. TERM

This Addendum shall commence on the date last executed by the duly authorized representatives of the parties to this Addendum and Agreement and shall remain in full force pursuant to the terms of the Agreement and this Addendum.

III. MODIFICATIONS

- A. Section 10 of the Agreement is stricken and of no force and effect.

IV. ADDITIONAL PROVISIONS

1. Entire Agreement: The Agreement (4 pages) and Addendum (4 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.

2. Applicable Law and Venue: The parties mutually understand and agree 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. Indemnification: Each party to this agreement shall be responsible for any liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the other.

8. Force Majeure: Neither party shall be liable to perform under this Agreement and Addendum if such failure arises out of causes beyond control, and without the fault or the negligence of said party. Such causes may include, but are not restricted to, Act 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.

9. 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.

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

SIGNATURE PAGE TO FOLLOW

**ADDENDUM TO SMARTNET NORTH AMERICA REFERENCE NETWORK
REFERENCE STATION HOST AGREEMENT
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SIGNATURE PAGE

LARAMIE COUNTY, WYOMING

By: _____ Date _____
Chairman, Laramie County Commissioners

ATTEST:

By: _____ Date _____
Laramie County Clerk

LEICA GEOSYSTEMS, INC.

By: Wendy Watson Date 9/14/2021
Wendy Watson, Director of SmartNet NA

REVIEWED AND APPROVED AS TO FORM ONLY

By: [Signature] Date 10/18/21
Laramie County Attorney's Office

SMARTNET NORTH AMERICA REFERENCE NETWORK REFERENCE STATION HOST AGREEMENT

LEICA Geosystems Inc. and Host wish to contract for Host to participate in the SmartNet GNSS Reference Network on the terms and conditions set forth in the Agreement (all as defined below).

Accordingly, in consideration of the mutual agreements contained herein, each of Leica Geosystems, Inc. and Host acknowledges that it has received and reviewed this Agreement and agrees to be bound by the same.

Host	<u>Laramie County Government</u>
Station Name:	<u>BURN</u>
Effective Date:	<u></u>

1. **Definitions**. Certain terms used and not otherwise defined in this Agreement have the following definitions or meanings:

“**GNSS**” means global navigation satellite system

“**Agreement**” means this agreement together with the standard SmartNet Terms & Conditions and any agreed upon Appendices

“**Leica**” means Leica Geosystems, Inc., a Delaware corporation.

“**Network**” means the Reference Network marketed under the brand SmartNet, a real-time GNSS network anticipated to provide spatial information to a diverse user community in proximity to the Site.

“**Party**” or “**Parties**” means either Leica or Host, individually, or both Leica and Host, collectively.

“**Reference Station**” means the Leica GNSS reference station and associated or ancillary equipment located at the Site.

“**Site**” means the real property and improvements of the Host where the Reference Station is located.

“**Term**” means the period commencing with the Effective Date identified on the first page of this Agreement and continuing thereafter, unless terminated in accordance with the provisions of Section 4.

2. **Host Obligations.** Host hereby grants to Leica and its employees, agents, designees and/or contractors (hereinafter "Licensee") right of ingress and egress to the Site to install, maintain, repair and/or operate the Reference Station during regular business hours, if the Site is an occupied edifice, and at any reasonable time if unoccupied. No ownership, leasehold or other rights to the Site shall vest in Licensee by virtue of this Agreement. Host agrees and licenses Licensee to erect the Reference Station in a place on the Site and to a standard consistent with the standards for the Network as established by Leica from time to time. Host also agrees to (i) provide access to and maintain an internet connection for the Reference Station and (ii) provide power.

3. **Network License.** As full and valid consideration for the obligations to Host set forth herein, Leica grants Host access for one GNSS RTK Rover to the Network pursuant to the terms and conditions set forth in the standard SmartNet Terms & Conditions, incorporated herein by reference. The access will remain in effect during the term of this Agreement.

4. **Termination.**

a. Either Party may terminate this Agreement immediately by delivery of notice to Host at any time if the other Party materially breaches this Agreement.

b. Either Party may terminate this Agreement for any reason or no reason upon 60 days' written notice.

5. **Notices.** All notices, authorizations, directions, consents, and other communications to, upon, and between the parties shall be in writing and shall be deemed to have been duly made, delivered and received when delivered personally or by nationally recognized courier service or when mailed by certified mail, postage prepaid and return receipt requested, or when transmitted, and receipt confirmed, by facsimile or electronic transmission to each Party at the address, facsimile number or electronic address set forth under the name of that Party on the first page of this Agreement or to either Party at such other post office address, facsimile number or electronic address as that Party may specify by notice to the other Parties.

6. **No Joint Venture or Partnership.** This Agreement shall not be deemed nor construed to create a joint venture or partnership between Host and Leica, nor shall this Agreement be deemed or construed as making either Party the agent or representative of the other Party. Neither Party shall have the authority to bind the other Party in any respect.

7. **Modifications.** This Agreement may not be modified, waived, amended, discharged, terminated or supplemented, or otherwise changed, except by a document executed by an authorized representative of each Party.

8. **Non-Waiver of Rights and Breaches.** Except as provided in Paragraph 10, no failure or delay of any Party in the exercise of any right given to such Party hereunder shall constitute a waiver thereof, nor shall any single or partial exercise of any such right preclude other or further exercise thereof or of any other right. The waiver by a party of any default of any other Party

hereunder shall not be deemed to be a waiver of any such subsequent default or other default of any party. No action or forbearance by any Party contrary to the provisions of this Agreement shall be construed to constitute a waiver of any of the express provisions hereof.

9. **Successors and Assigns.** Either Party may assign this Agreement (a) to one or more affiliates in connection with an internal corporate reorganization or restructuring (in which case the Party shall remain liable for its obligations hereunder notwithstanding such assignment) or (b) to a third party in connection with the sale of substantially all of a Party's assets to, or the merger of the Party into, a third party.

10. **Limitation of Remedies.** Neither Party shall seek, and each hereby irrevocably waives, monetary damages, whether direct, consequential, indirect, or punitive, as a consequence, or arising from, this Agreement or its breach. This Paragraph does not waive or affect either Party's remedies in cases of fraud or intentional torts. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFIT OR LOST OPPORTUNITY.

11. **Construction.** Each Party acknowledges that it has participated in the negotiation of this Agreement, had the opportunity to consult with legal counsel prior to executing the Agreement, and that no provision of this Agreement shall be construed against or be interpreted to the disadvantage of any Party hereto by any court or other governmental or judicial authority by reason of such Party having or deemed to have structured, dictated or drafted such provision.

12. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, with such counterparts together constituting one and the same instrument. Alternatively, the Parties acknowledge and agree that this Agreement may be, for convenience, executed in duplicate originals, each of which is intended to be and is as valid as its counterpart original.

13. **Invalidity.** If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Agreement will remain in full force and effect and will in no way be affected, impaired or invalidity.

LEICA GEOSYSTEMS, INC.

HOST

Signature: _____

Signature: _____

Printed Name: Wendy WatsonPrinted Name: Gunnar MalmTitle: Director of SmartNet NATitle: Laramie CountyCommission, Chairman

Date: _____

Date: _____

Address: _____

Address: _____

5051 Peachtree Corners Circle

310 W 19th Street

Suite 250

Suite 300

Norcross, GA 30092

Cheyenne, WY 82001Attention: Wendy WatsonAttention: Jordan EvansFax Number: 470-745-0669

Fax Number: _____

Email Address: contracts@smartnetna.comEmail Address: jevans@clcgisc.com

SITE LOCATION

Station Name BURNSite Address 406 5th StreetSite City BurnsSite State/Province WYSite Zip/Postal Code 82053Site Phone Number 307-245-4100For general questions or issues, you may also contact us at support@smartnetna.com