



Helping local communities thrive for over 30 years.

September 23, 2020

Steve Marx
(509) 498-9294
smarx@cityofcheney.org

Cheney City of (WA)
Washington
United States

Tim Clay
tclay@tantalus.com

Tantalus Systems
1130 Situs Ct
Suite 230
Raleigh, North Carolina 27606
United States

SUMMARY				
PRODUCT	DESCRIPTION	SALES PRICE	QTY	TOTAL PRICE
TR-1901	900 MHz LAN Repeater-Router (XR-100 Mounting Brackets Included)	\$289.00	3	\$867.00
SV-1000	Deployment Services, daily rate (Project Management, Project Engineering, Field Services, Deployment, Training, Travel Expenses, does NOT include meter / RT / collector installation)	\$10,830.00	1	\$10,830.00
TCC-2001	TUNet Control Center License - 10K ERML	\$30,000.00	1	N/C for Pilot
VC-931	Versa Collector 250 endpoints	\$1,800.00	1	\$1,800.00
Total:				\$13,497.00

NOTES:

- Prices are in US Dollars and are exclusive of taxes, duties, freight, or insurance.
- Price does not include shipping. All products are shipped FOB Origin.
- Service time does not include installation of meters, collectors, repeaters, or other infrastructure equipment.
- Tantalus service time will be billed at actual. If additional days are necessary, Customer will be billed at the rate of \$1,500.00 per day.
- This quotation may contain allowances, discounts and/or promotional pricing. The prices quoted are valid through Dec 31st 2020.
- Additional equipment purchases and services shall be invoiced at Tantalus' then current List Price.
- Pilot term is six (6) months unless otherwise specified. Hosting and support fees may apply for pilot extensions or longer terms. Please work with your Tantalus account representative to determine specific costs for your equipment.

The attached document Tantalus Systems Inc. Terms and Conditions of Sale is incorporated into and forms an integral part of this quotation.

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TANTALUS SYSTEMS INC.
TERMS AND CONDITIONS OF SALE
(04152018)

Purpose/Goal. These Terms and Conditions of Sale (“Terms”) record the terms and conditions under which Customer agrees to purchase from Tantalus, and Tantalus agrees to sell to Customer, TUNet. Notwithstanding any other provision to the contrary, these Terms become a binding agreement between Tantalus Systems, Inc. (Tantalus) and the Customer when (a) Customer delivers a signed copy of this quotation to Tantalus, which shall be deemed a duly authorized Purchase Order (PO) for the Network Equipment and Services quoted therein; (b) Customer delivers a signed Purchase Order for all or any portion of the Network Equipment and Services or (c) Tantalus ships or provides all or any portion of the Network Equipment or Services covered by this quotation. Except as provided above, any provision in any acceptance or acknowledgment hereof, inconsistent with or in addition to these Terms and Conditions of Sale, are expressly rejected and shall have no force or effect, unless otherwise agreed in writing between the parties. Notwithstanding the foregoing, acceptance of these Terms indicates Customers agreement to execute such additional documents, as required, including, without limitation, the terms, conditions and responsibilities of each party relating to the license and use of the Licensed Software prior to shipment of any Network Equipment to Customer, the provision of Technical Support and the deployment of TUNet.

Purchase Orders. Customer may purchase Network Equipment and Services by issuing properly authorized Purchase Orders to Tantalus. Each type of Network Equipment may have an economic order quantity or minimum order quantity, meaning that no Purchase Order may be placed for a quantity of those units of Network Equipment which is less than the minimum number of units specified on the then current Tantalus price list and designated as the “economic order quantity” or “minimum order quantity”. Each Purchase Order issued by Customer shall have a lead-time of at least 90 days. Lead-time means the time extending from the date the Purchase Order is received by Tantalus to the specified delivery date. Each Purchase Order shall reference these Terms and shall state product description, quantity of Network Equipment and Services ordered, part number, desired delivery date and Destination, method of shipment, unit price for each unit ordered and total purchase price. In the event of any inconsistency or conflict between any terms of a Purchase Order, order confirmation, invoice or any other commercial form used by the parties and these Terms, these Terms shall govern. No oral, electronic, or written additional or different provisions proposed by either party in any acceptance, confirmation, or acknowledgment shall apply. Purchase Orders, once accepted, may not be cancelled, except as outlined below.

Acceptance, Rejection or Changes to Purchase Orders. Tantalus will notify Customer of its acceptance or rejection of each Purchase Order as soon as practicable and notice of acceptance shall include confirmation of requested quantities and prices consistent with these Terms. Once a Purchase Order is accepted by Tantalus, the quantities and prices within that acceptance, unless otherwise noted on such acceptance, are committed to and cannot be changed without the consent of both Tantalus and Customer. If the parties agree to changes to a Purchase Order, those changes will be incorporated in a replacement Purchase Order, which will follow the same process outlined above referencing the Purchase Order to be replaced.

Pricing. The prices provided to Customer under this Quotation may contain promotional or one-time pricing. Future prices shall be as set forth on Tantalus’ then current price list and do not include taxes. In addition, Tantalus shall bear the costs and charges to ensure that all Network Equipment purchased by Customer is cleared for importation into the United States, if applicable, and delivered to the Shipping Point. Customer will be responsible for and pay all applicable federal, state, municipal or other governmental sales use, excise, value-added taxes, occupational or other taxes, tariffs, duties and surcharges now in force or enacted in the future which are associated with the provision of Network Equipment and Services by Tantalus, excluding taxes on Tantalus’ income generally.

Price Changes. Tantalus reserves the right, in its sole discretion, to revise the prices on thirty (30) days prior written notice to Customer by whichever of the following is greater: (i) the immediately preceding year’s percentage increase in the Consumer Price Index For All Urban Customers, All Cities Average, All Items (CPI-U”), as published by the Bureau of Labor Statistics, U.S. Department of Labor in the “Summary Data from the Consumer Price Index New Release” for the 12-month period ending at December 31st of the calendar year immediately preceding

the adjustment date; or (ii) the average percentage change during the most recent 12-month period to Tantalus’ published price list, or (iii) 3.5% per year. Notwithstanding the foregoing, the original price of any Network Equipment and Services covered by Purchase Orders issued by the Customer, and which Purchase Orders are confirmed and accepted by Tantalus prior to the Effective Date of such price revision, will not be changed for such Purchase Orders issued and accepted as of the Effective Date.

Payment. ~~Customer agrees to pay an advance payment (the “Deposit”) equal to twenty-five percent (25%) of the total purchase price of the Network Equipment and Services specified on each Purchase Order. The Deposit will be due and payable, notwithstanding the absence of the applicable Tantalus’ invoice, within ten (10) days of the date of the Tantalus order acknowledgement issued in connection with an accepted Purchase Order. Failure to pay the Deposit by such due date shall result in the cancellation of the Purchase Order by Tantalus, without requirement for any further action, or notice to Customer, by Tantalus. Notwithstanding the foregoing, if Customer places a single blanket Purchase Order that is at least 12 months in duration and represents greater than thirty percent (30%) of their total customer base, the Deposit amount will be reduced to ten percent (10%) on that Purchase Order and subsequent Purchase Orders that are also at least 12 months in duration and represent greater than thirty percent (30%) of their total customer base. (This section to be struck pending approval by Tantalus legal counsel)~~

Payment Terms. Tantalus shall invoice Customer for Network Equipment and Services purchased upon delivery of Services and such Network Equipment to Customer at the Shipping Point. ~~Deposit amounts paid will be reflected as a credit to the total purchase price due and owing upon delivery completion of the total Purchase Order.~~ Payment terms are net thirty (30) days from date of Tantalus’ invoice. All payments shall be in U.S. dollars, unless otherwise agreed to between Tantalus and Customer. In addition to any other remedies Tantalus may have for late payments, Customer will be charged interest at 1½% per month (equivalent to an annual rate of interest of 18%), payable monthly on all overdue amounts. Customer shall also be responsible for collection costs associated with the late payment, if any, including reasonable attorney’s fees. Payments will be applied first to interest payable and then principal owing. Tantalus may modify the preceding payment terms if, in its reasonable opinion, the payment record or financial condition of Customer so justifies.

Delivery and Risk of Loss. Tantalus shall deliver the Network Equipment to Customer at the Shipping Point (cleared for export, if applicable) and title (other than title to Licensed Software which shall remain with Tantalus) and risk of loss of Network Equipment shall pass from Tantalus to Customer at the Shipping Point. If any loss of or damage to the Network Equipment occurs prior to delivery to Customer, regardless of passage of title prior to such delivery, Tantalus shall without cost to the Customer, promptly make all repairs or replacements necessary to place the Network Equipment in the condition required by these Terms. Customer will notify Tantalus within five (5) days of delivery of any damage to Network Equipment and/or within 10 days of shipping should an order not be received. If the Shipping Point and Destination are not the same, Customer shall be responsible for and shall pay all transportation and insurance costs for Network Equipment from the Shipping Point to the Destination, provided however that upon request by Customer, Tantalus shall make the arrangements for such transportation and insurance and will invoice Customer for reimbursement at cost. The payment terms described herein shall apply to such invoices, *mutatis mutandis*. Delivery dates are approximate only. Tantalus shall notify Customer in writing, if Tantalus has knowledge of any event that is reasonably likely to materially delay any specified delivery date or change any specified delivery date.

Third Party Products, Services and Software. Customer may elect to use the Third Party Products, Third Party Services and/or Third Party Software. Unless otherwise specifically set forth in writing (and subject to applicable pass through terms and conditions) upon mutual agreement of all involved Parties, Tantalus does not warrant Third-party Products, Third-party Services and/or Third-party Software and disclaims all responsibility and liability for these items, their access to the Network Equipment and TUNet, including their modification, deletion, disclosure or collection of Customer information.

Insurance. During all times in which Customer has possession of Network Equipment for which Tantalus has not received payment in full, Customer shall ensure that comprehensive general liability insurance with limits at least equal to the total value of all such Network Equipment is obtained and, upon request, provide Tantalus with a certificate evidencing such coverage.

No Resell. Customer acknowledges and agrees that it has no rights to market and resell the Network Equipment. The purchase and sale of Network Equipment hereunder is solely for Customer and its Affiliates' requirements.

Confidentiality. Each party shall treat as confidential all Confidential Information of the other party, shall not use such Confidential Information except as expressly set forth herein or otherwise authorized in writing, shall implement reasonable procedures to prohibit the disclosure, unauthorized duplication, misuse or removal of the other party's Confidential Information and shall not disclose such Confidential Information to any third party except as may be necessary and required in connection with the rights and obligations of such party under these Terms, and subject to confidentiality obligations at least as protective as those set forth herein. Without limiting the foregoing, each of the parties shall use at least the same procedures and degree of care which it uses to prevent the disclosure of its own confidential information of like importance to prevent the disclosure of Confidential Information disclosed to it by the other party under these Terms and Conditions, but in no event less than reasonable care. The receiving party will not commingle or mix the other party's Confidential Information with other information.

Authorized Disclosure. In addition, each party shall be entitled to disclose the other party's Confidential Information to the extent such disclosure is necessary to comply with reporting requirements for public companies and as requested by the order or requirement of a court, administrative agency, or other governmental body; provided, that the party required to make the disclosure shall: (i) provide prompt, advance notice thereof to enable the other party to seek a protective order or otherwise prevent such disclosure; and (ii) seek treatment of the Confidential Information to the highest level of protection afforded under relevant laws and policies.

Remedies. If either party breaches any of its obligations with respect to confidentiality, or if such a breach is likely to occur, the other party shall be entitled to all relief, remedies and recourses available at law or in equity. In addition to all other remedies available at law and at equity, the other party shall be entitled to seek specific performance or a restraining order, decree or injunction.

Warranty. With respect to new equipment, for a period of one (1) year from the date of shipment of each unit of Network Equipment to Customer from Shipping Point, Tantalus warrants that: (i) each unit of Network Equipment will be free from defects in material, workmanship and manufacture under normal use and service, (ii) title to each unit of Network Equipment shall be free and clear of all liens, financial encumbrances and security interests, (iii) all materials, parts, components and other items initially incorporated in the Network Equipment will be new; and (iv) each unit of Network Equipment shall be compliant with, and perform in accordance with its Specifications. The warranty for replaced or repaired Network Equipment originally warranted under this paragraph shall be thirty (30) days from date of return to Customer or the balance of the original warranty period, whichever is greater. With respect to refurbished equipment, for a period of 30 days from the date of shipment of refurbished Network Equipment to Customer from Shipping Point, Tantalus warrants that: (i) each unit of refurbished Network Equipment will be free from defects in material, workmanship and manufacture under normal use and service, (ii) title to each unit of refurbished Network Equipment shall be free and clear of all liens, financial encumbrances and security interests; and (iii) each unit of refurbished Network Equipment shall be compliant with, and perform in accordance with its Specifications. The aforementioned warranties apply only when all three of the following conditions prevail: (i) the unit of Network Equipment is owned by the original Customer and not by an assignee; (ii) the Customer is not the subject of bankruptcy or comparable proceedings; and (iii) while Tantalus has not invoked a subsisting remedy in respect of Force Majeure. The aforementioned warranties will not apply to Licensed Software which is sold "as is" with no warranty, in accordance with the applicable End User License, will not cover any third party products provided by Tantalus or third party products or services provided to Customer by Third Party Suppliers. Any warranty for such products will be between Customer and the third party manufacturer or supplier. To the fullest extent allowed, Tantalus will assign all third party warranties to Customer.

Warranty Returns. For any breach of warranty, Tantalus' sole obligation shall be to, at its sole option and expense, repair or replace defective Network Equipment

or refund the purchase price thereof, within 60 days of receipt of such defective Network Equipment at its designated depot, provided that the Customer has returned the defective Network Equipment to Tantalus no later than four weeks after the expiry of the applicable warranty period set forth herein. Customer will be responsible for removing defective Network Equipment from the installation point and returning the defective Network Equipment, transportation charges prepaid by Customer, to Tantalus at its designated depot, together with Tantalus' return material authorization number ("RMA") and completed problem sheet. Tantalus will be responsible for paying all shipping and other costs incidental to the return of repaired or replacement Network Equipment to Customer. Customer will be responsible for re-installing such repaired or replacement Network Equipment. To the extent Tantalus determines that the Network Equipment returned under warranty is not defective (that is, no fault found), Customer will pay for the return of the Network Equipment and will pay Tantalus the fee of US\$150 per no fault found Network Equipment. Tantalus will make available out-of-warranty repairs in accordance with its programs in effect at the relevant time. Services for out-of-warranty repairs will be provided at Tantalus' then current time and materials fees and rates.

No Warranty. The warranties described herein will not cover Network Equipment: (i) units whose original bar code, copyright notices and proprietary legends, if any, have been spoiled or altered, (ii) units that were not installed or de-installed as per Tantalus' specifications or serviced by Tantalus or a person authorized by Tantalus to do so, (iii) units that were the subject of repair, modification or alteration without Tantalus's approval, (iv) units damaged or defective because of reasonable wear and tear, (v) units that were not operated in accordance with the Specifications; (vi) units damaged or defective because of problems with electrical power, (vii) units damaged or defective because of acts of God, (viii) units that in Tantalus's reasonable opinion have been misused, altered, abused or subject to abnormal conditions of operation or handling, and (ix) units damaged or defective due to an Excusing Event.

DISCLAIMER. TANTALUS DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF OTHER'S INTELLECTUAL PROPERTY RIGHTS AND DURABILITY.

Relief for patent and copyright matters. Tantalus, at its expense, shall defend any court suit brought against Customer by a third party alleging that units of Network Equipment purchased by Customer infringe US or Canadian patent or copyright. Tantalus's obligation to defend is effective only if Customer is not in breach of any of these Terms and of any other agreement between the parties, and if Tantalus is notified promptly and given complete information, assistance and authority by Customer to conduct the defense. If any unit of Network Equipment: (a) is adjudicated by a court of competent jurisdiction after appeals therefrom are exhausted, as infringing any US or Canadian patent or copyright or (b) has its use enjoined by such court, Tantalus will, at its election: (i) procure for the Customer the right to continue using said unit; (ii) replace it with non-infringing and functional equivalent; (iii) modify it to become non-infringing; or (iv) if none of the aforementioned options are reasonably available, refund to Customer all amounts paid for the infringing Network Equipment, depreciated on a straight line basis over a ten (10) year period. Tantalus's obligation to defend includes the sole right to settle. Tantalus's obligation to defend does not apply to the following: (A) Network Equipment based on a design, specifications or instructions supplied or requested by Customer; (B) use of Network Equipment in combination with any other hardware or software not provided by Tantalus, if infringement would not have occurred but for such combination; (C) use of any release of Licensed Software or any firmware other than the most current release made available to Customer; (D) use of Network Equipment other than as permitted under these Terms, or as intended by Tantalus, if the infringement would not have occurred but for such use; or (E) modifications made to Network Equipment not made by Tantalus or approved by Tantalus. The foregoing states Tantalus's entire liability with respect to intellectual property infringement by any unit of Network Equipment.

General Indemnity. Tantalus shall defend, indemnify and hold Customer harmless from all loss, expense or damages (including without limitation, reasonable attorney's fees) which may be incurred by Customer as a result of any claims or actions resulting from: (a) damage to tangible personal property owned by Customer and caused by the gross negligence of Tantalus; and (b) death of or bodily injury to a Customer employee or third party to the extent caused by Tantalus' gross negligence. Customer will provide Tantalus with prompt, written

notice of any claim covered by this indemnification. Unless Tantalus fails to defend Customer, Customer shall not undertake the defense of any such claim. Tantalus, at its sole expense, shall defend all such claims and actions against Customer, whether brought informally or through court or administrative procedures.

Customer Indemnity. The relationship of Tantalus and Customer established by these Terms are that of independent contractors and neither party is an employee, agent or joint venture of the other. All financial obligations associated with Customer's business are the sole responsibility of Customer. Except for warranty claims under these Terms, Customer shall indemnify, defend and hold harmless Tantalus from and against any and all claims, liabilities, damages, debts, settlements, costs, attorneys' fees, expenses and liabilities of any type whatsoever that may arise on account of Customer's activities, or those of its employees or agents, including, without limitation, (i) all sales and use taxes and similar charges arising in connection with the purchase of Network Equipment and Services hereunder and all other federal, state and municipal taxes, interest, fines and penalties arising in connection with Customer's business activities and (ii) those relating to Customer's use of the Network Equipment or Customer's breach of any term, representation or warranty of these Terms.

Limitations. NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, OTHER THAN FOR GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY (I) SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OR LOSSES INCLUDING, WITHOUT LIMITATION, LOSS OR CORRUPTION OF DATA, LOSS OF REVENUE, SAVINGS OR PROFITS, CLAIMS BY USERS AND THIRD PARTIES, LOSS OF GOODWILL, BUSINESS INTERRUPTION OR OTHER PECUNIARY LOSS WHETHER ARISING FROM BREACH OF WARRANTY OR CONDITION, BASED ON CONTRACT, TORT, RELIANCE, FUNDAMENTAL BREACH, STATUTE, OR ANY OTHER THEORY, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (II) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES. NOTWITHSTANDING ANYTHING ELSE IN THESE TERMS AND WITHOUT LIMITING THE FOREGOING, TANTALUS WILL NOT BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THESE TERMS UNDER ANY CONTRACT, NEGLIGENCE, CIVIL LIABILITY, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR: (A) ANY AMOUNTS IN EXCESS OF THE AGGREGATE AMOUNTS PAID TO TANTALUS FOR NETWORK EQUIPMENT AND SERVICES GIVING RISE TO SUCH LIABILITY IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM; (B) ANY FAILURE OR DELAY DUE TO FORCE MAJEURE; OR (C) ANY ALLOCATION OF NETWORK EQUIPMENT AND SERVICES AMONG ITS CUSTOMERS IN THE EVENT OF A SHORTAGE. LIMITATIONS OF LIABILITY WILL NOT BE ASSERTED TO THE EXTENT PROHIBITED BY RELEVANT LAWS AND POLICIES. TANTALUS' PRICING REFLECTS THIS ALLOCATION OF RISKS AND THE LIMITATION OF LIABILITY.

Ownership of Intellectual Property. Except for licenses otherwise expressly granted under these Terms, the sale of Network Equipment hereunder does not convey to Customer any Proprietary Rights in the Network Equipment and Customer acknowledges Tantalus's exclusive rights thereto. Neither the sale of Network Equipment nor any provision of these Terms will be construed to grant to Customer, either expressly, by implication or by way of estoppel, any license under any other Proprietary Rights of Tantalus covering or relating to any other product or invention of Tantalus, or any combination of the Network Equipment with any other product of Tantalus.

Term. Unless terminated earlier as provided herein, these Terms shall have an initial term of one (1) year commencing on the execution date of these Terms (Initial Term) and shall automatically renew for successive one (1) year periods thereafter, until terminated in accordance with these Terms.

Termination. Either party may terminate these Terms effective upon the delivery of written notice of such termination to the other party, if the other party: becomes insolvent, is generally not paying its debts as such debts become due, makes an assignment for the benefit of creditors, is the subject of any voluntary or involuntary case commenced under the federal bankruptcy laws, as now constituted or hereafter amended (which, in the case of involuntary bankruptcy, is not dismissed within 30 days), or of any other proceeding under other applicable laws of any jurisdiction regarding bankruptcy, insolvency, reorganization, adjustment of debt or other forms of relief for debtors, has a receiver, trustee, liquidator, assignee, custodian or similar official appointed for it or for any substantial part of its property, or is the subject of any dissolution or liquidation

proceeding; breaches its obligations related to confidentiality; or is in default in any material respect in the performance of any its obligations under of these Terms, provided that the party not at fault has given the other party forty five (45) days prior written notice of such default and such other party has not remedied the default; provided however if the defaulting party is Customer and such default is attributable to or includes Customer's failure to pay any amount when due, then the aforementioned 45 day cure period will be reduced to five (5) days. Either party may terminate these Terms, at any time and for any reason, on ninety (90) days' prior written notice to the other party, provided however that if terminated by Customer, Tantalus shall take commercially reasonable efforts to cancel any deliveries to Customer which are scheduled to be made after the termination date. Customer shall be responsible for actual costs reasonably incurred in performing before termination, including the cost of Network Equipment released or received by Customer, or that has been shipped within 45 days, prior to the date of the notice. Prior to the effective termination of these Terms, all of the terms and conditions of, and the respective rights and obligations of the parties to, these Terms will remain completely valid and enforceable; provided however that, in the event Tantalus terminates these Terms for cause, then any deliveries of Network Equipment and Services to Customer which are scheduled to be made subsequent to the effective date of termination shall be cancelled. Termination is not the sole remedy available under these Terms and, whether or not termination is effected; all other legal remedies will remain available. Notwithstanding anything to the contrary in these Terms, no expiration or termination of these Terms by either party shall affect any rights or obligations of either party: (i) which are vested pursuant to these as of the effective date of such expiration or termination, (ii) any other provisions intended by the parties to survive such expiration or termination including, but not limited to, Purchase Orders accepted pursuant to these Terms.

Dispute Resolution. Except for disputes related to nonpayment or as otherwise provided herein, neither party shall resort to formal litigation proceedings until the parties have attempted to resolve the Dispute through non-binding mediation. The party raising a Dispute shall submit to the other party a written notice and supporting material describing all issues and circumstances related to the Dispute (a "Dispute Notice"). A designated senior management representative of each party shall attempt to resolve the Dispute. If the parties' representatives fail to resolve the Dispute within thirty (30) days from receipt of a Dispute Notice, the Dispute shall be referred to a mediator in the jurisdiction set forth under the Governing Law section of these Terms, as mutually agreed between the parties. If the use of non-binding mediation is not successful, either party may commence formal litigation proceedings to resolve the Dispute. This Section shall not be construed to prevent a party from instituting litigation proceedings earlier than as indicated in this section to: (a) avoid the expiration of any applicable limitations period, (b) preserve a superior creditor position or (c) seek injunctive relief to prevent irreparable harm, including without limitation, harm caused by a breach of confidentiality obligations.

Notices. Any notification, notice, approval, confirmation or consent required or permitted to be given under these Terms must be in writing and signed by an authorized Representative of a party (whether a party hereto or a third party, as the case may be), and be either: (i) personally delivered, (ii) sent by prepaid, certified first class mail, return receipt requested, or (iii) sent by facsimile to (919) 900-8978 (provided confirmation of delivery is obtained at the time of transmission). Communications to Tantalus must be addressed to: Peter A. Londa, President & CEO, Tantalus Systems, Inc. 1130 Situs Court, Suite 230, Raleigh, NC 27606. Unless expressly set out to the contrary herein, consent or approval that is explicitly required herein of a party hereto will not be unreasonably delayed, withheld or withdrawn by it. Either party may change the address for service by giving 15 days advance written notice to the other party. All notices will be effective upon receipt and will be deemed received: (i) upon delivery, if personally delivered, (ii) upon signature by the receiving party, if sent by certified mail, or (iii) upon the date stated in the facsimile delivery confirmation, if sent by facsimile.

Severability. If any provision or term of these Terms is determined to be invalid or unenforceable, the invalidity or unenforceability of that provision or term will not affect the validity or enforceability of the remaining provisions and terms or the validity or enforceability of that provision or term in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify these Terms so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

Amendment and Waiver. No amendment or waiver of any provision of these Terms shall be effective unless it is in writing and signed by the party against which it is sought to be enforced. No waiver by any party or any breach or series of breaches in performance by the other party, and no failure, refusal or neglect to exercise any right, power or option given to either party to insist upon strict compliance with or performance of the obligations hereunder, will constitute a waiver of the provisions hereof with respect to any subsequent breach thereof or a waiver by such party of its right at any time thereafter to require strict compliance with the provisions hereof.

Governing Law. These Terms shall be governed by, and construed under, the laws of the State of Delaware without regard to conflicts of law provisions thereof and without regard to the United Nations Convention on Contracts for the International Sale of Goods. Tantalus and Customer waive a trial by jury in any such suit, action or proceeding.

Force Majeure. No default, delay or failure to perform on the part of either Party shall be considered a breach of these Terms where such default, delay or failure is due to a force majeure or to circumstances beyond its control. Such circumstances will include, without limitation, strikes, riots, civil disturbances, actions or inactions concerning government authorities, epidemics, war, terrorist acts, embargoes, severe weather, fire, earthquakes, acts of God or the public enemy or default of a common carrier or other disasters or events. Lack of funds or credit will not constitute a Force Majeure.

Successors and Assigns. These Terms bind, and inures to the benefit of, the parties and their respective successors. These Terms shall not be assigned by either party without the prior written consent of the other party, except that Customer agrees that Tantalus may assign, without notice to Customer, any account receivable arising under these Terms in connection with a factoring arrangement.

Definitions and Interpretation. “**Affiliate**” means, with respect to any Party, any legal entity that such Party owns, is owned by, or is under common control with such Party. For purposes of the foregoing definition of “Affiliate,” the terms “control” and “own” mean possessing a 50% or greater interest in an entity or the right to direct the management of the entity. “**Business Day**” means any day that is not a Saturday, Sunday or a state or federal holiday. “**Confidential Information**” of a party is information (in tangible or intangible form) that it owns or has license for, and discloses to the other party, that: (i) derives economic value, actual or potential, from not being generally known to, and is not readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its confidentiality; and includes technical information (such as formulas, data, programs, methods, techniques and processes), business information (such as information about finances, customers and potential customers, marketing plans and business strategies), and the terms of these Terms; but Confidential Information does not include information that the receiving party establishes: (i) it developed independently; or (ii) was generally available to the public through no fault of its own; or (iii) was possessed by it before its receipt thereof from disclosing party; or (iv) was acquired from a third party without the breach of any confidentiality obligation; or (v) five (5) years after its disclosure, does not constitute a trade secret under relevant laws and policies. Confidential Information shall also include all notes, copies and summaries, in any media, and recollections of a receiving party of Confidential Information. “**Destination**” means Customer’s designated destination point for the delivery of Network Equipment. “**Dispute**” means any dispute, controversy, difference or claim, arising under or in connection with these Terms, including its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims. “**Excusing Event**” means any (i) Force Majeure or other event outside of Tantalus’ reasonable control; (ii) failure, act or omission of Customer or its agents, employees, suppliers, subcontractors or consultants, including without limitation improper performance of Customer’s responsibilities under the Agreement, or unreasonable delay or failure of Customer to approve changes that are relevant to an applicable failure; (iv) failure, act or omission of any third party (including any Third Party Supplier) or its agents, employees, suppliers, subcontractors or consultants; or (v) failure of any components (hardware, software, network, maintenance) provided and/or maintained by Customer. “**Licensed Software**” means all Tantalus software and firmware

residing on, or provided in connection with, each unit of Network Equipment purchased under these Terms, together with all software documentation related thereto and any and all updates thereto. The terms and conditions of EULA will apply to the Licensed Software provided to Customer. “**Network Equipment**” means the equipment manufactured by or for Tantalus for use as part of TUNet and its associated Licensed Software that are or will be under these Terms physically deployed in the Customer’s service territory. For clarity, Network Equipment does not include the system backhaul, network operations center, meters or any Third-Party Products, Third-Party Services, or Third-Party Software. “**Purchase Orders**” means purchase orders issued, from time to time, by Customer to Tantalus pursuant to which Customer will purchase Network Equipment and Services in accordance with these Terms and Conditions of Sale. Each Purchase Order will be deemed to include these Terms, even if not specifically stated on the Purchase Order. “**Services**” means deployment engineering support services as described on the price list that Tantalus provides from time to time. For clarity, Services do not include Technical Support; “**Shipping Point**” means the designated depot or depots in North America selected by Tantalus as its shipping point for Network Equipment. “**Specifications**” means the design, performance and regulatory requirements for each Network Equipment, as such may be amended from time to time by Tantalus. “**Third-Party Product**” means a product or application that is produced by a company other than Tantalus. Third-Party Products may have the benefit of a manufacturer’s warranty provided by the product manufacturer. “**Third-Party Services**” means those services that are offered or provided by a company other than Tantalus. “**Third-Party Software**” means software that is licensed by a company other than Tantalus. Use of Third-Party Software is subject to end-user’s acceptance of the third-party End User’s License Agreement (EULA). Third-party software may have the benefit of warranties provided by the third-party software licensor. “**TUNet®**” means the TUNet smart grid network provided by Tantalus pursuant to these Terms and does not include Third-Party Products, Third-Party Services or Third-Party Software. **Interpretation Not Affected by Headings, etc.** The division of these Terms into sections and other portions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof. **Date For Any Action.** In the event that any date on which any action is required to be taken hereunder by any of the parties hereto is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day. **Authorship.** Authorship of these Terms will have no bearing on the construction of any terms hereof or ambiguities thereof.

Quotation as Purchase Order. Signature below shall constitute submission by the Customer and acceptance by Tantalus of the foregoing quotation as an authorized Purchase Order for the equipment and services listed thereon, subject to the foregoing Terms and Purchase of Sale. The Purchase Order may not be modified, added to or rescinded except through mutual agreement and acceptance in writing by both Parties.

AGREED AND ACCEPTED:

Cheney City of (WA)

BY: _____
Name: _____
Title: _____
Date: _____