



July 18, 2023

Ms. Wendy Swindell
Conservation Lands Manager
Indian River County Parks and Recreation
1590 9th Street SW
Vero Beach, Florida 32962

**RE: Civil Engineering and Surveying Services Agreement
Amendment #1 to Work Order #2 - Sebastian Harbor Preserve
Re-Permit Site Plan
City of Sebastian
CAI Project No. 19-045.1 E**

Dear Wendy:

It is our pleasure to present for your acceptance, the following estimate for civil engineering and surveying services amending Works Order #2 for the above referenced project. We propose the following services and corresponding fees in accordance with the Professional Services Agreement (PSA) effective July 10, 2023, between Carter Associates, Inc. (CAI) and Indian River County Parks and Recreation (CLIENT).

PROJECT LIMITS:

This proposal and the services detailed within pertain to the proposed County Park to consist of boardwalks, parking lot, pavilion, and stormwater features located at 184 Englar Drive, Sebastian, Florida 32958.

SCOPE OF SERVICES:

CAI proposes an amendment to the following tasks:

TASK 1 – ADDITIONAL SITE SURVEYS

- Update overall boundary survey for site plan and permitting submittals.
- Perform on-site topographic survey of the right-of-way frontage along Englar Drive for proposed drainage swale improvements. Locate adjacent roadway, drainage, water, and sewer improvements within right-of-way.

TASK 2 – SITE PLAN RE-APPROVAL

- Modify previously approved site plan to reflect drainage outfall and roadside swale improvements. Depict existing boardwalks and proposed parking lot, driveway connection, and buildings (pavilion). Update site data to include land use calculations, setbacks, and open space. Complete and submit applications for site plan approval including all checklist items required by the City of Sebastian (CITY).
- Modify stormwater management report for required retention volume and outfall locations into adjacent wetland.
- Coordinate with landscape architect to meet the minimum requirements of the landscaping code.
- Address CITY departmental staff review comments and re-submit.
- Attend Planning and Zoning Commission meeting for review and approval of Site Plan.

TASK 3 – CONSTRUCTION PLANS AND SPECIFICATIONS

- Modify drainage and grading plans for proposed parking lot and pavilion. Provide details for stormwater feature along with cross-sections. Prepare project specifications sufficient for bidding. Prepare preliminary engineer's cost estimate for construction.

TASK 4 – PERMITTING MODIFICATIONS

- Prepare submittal documents including applications to re-permit the following jurisdictional permits:
 - City of Sebastian Site Plan
 - City of Sebastian Right-of-Way Permit
 - City of Sebastian Land Clearing and Tree Removal Permits
 - St. Johns River Water Management District Environmental Resource Permit.
 - Army Corp of Engineers Nationwide (if applicable)

TASK 5 – UPDATE BID DOCUMENTS

- It is assumed CLIENT will prepare a contract for construction, including bidding requirements and general conditions. CAI will provide technical specifications and project plans in sufficient detail to define the scope and requirements for the site plan and stormwater feature. CAI will assist CLIENT in bidding the project by attending a pre-bid meeting and by addressing inquiries from potential bidders regarding the scope of the proposed work. CAI will assist the CLIENT during project bid review and provide a letter summarizing our recommendations regarding contract award.

TASK 6 - CONSTRUCTION SERVICES

- Review contractor’s material submittals and scheduling. Construction inspection services will be provided for the duration of construction in order to ensure that the contractor’s work conforms to the requirements of the project design drawings and specifications. Provide certifications upon completion of construction and review of contractor provided as-builts.

TASK 7 – REIMBURSABLE EXPENSES

- Reimbursable expenses, such as postage/express mail, mileage, prints, copies, vellum, etc.

COMPENSATION:

Please find below the current billing summary for work performed to date. We recommend authorization of the following amendments to the budgets for this assignment.

TASK NO.	TASK	CONTRACT AMOUNT	BILLING THIS PERIOD	PREVIOUS BILLINGS	TOTAL BILLED	PERCENT COMPLETE	BALANCE TO FINISH
	Contracted Items - Work Order #2						
1	Site Surveys & Soils Investigation	\$7,900.00	\$0.00	\$7,900.00	\$7,900.00	100.0%	\$0.00
2	Site Plan Approval	\$7,400.00	\$0.00	\$7,400.00	\$7,400.00	100.0%	\$0.00
3	Construction Plans and Specs	\$1,700.00	\$0.00	\$1,700.00	\$1,700.00	100.0%	\$0.00
4	Permitting	\$2,900.00	\$0.00	\$2,900.00	\$2,900.00	100.0%	\$0.00
5	Bid Documents	\$2,400.00	\$0.00	\$360.00	\$360.00	15.0%	\$2,040.00
6	Construction Services	\$2,100.00	\$0.00	\$0.00	\$0.00	0.0%	\$2,100.00
7	Reimbursable Expenses	\$500.00	\$0.00	\$386.35	\$386.35	77.3%	\$113.65
	Contract Sub-Totals	\$24,900.00	\$0.00	\$20,646.35	\$20,646.35	82.9%	\$4,253.65
	Permit Application Fees						
	City Land Clearing / Tree Removal	T&M	\$0.00	\$125.00	\$125.00		
	Totals		\$0.00	\$20,771.35	\$20,771.35		

Additional Fees for Tasks Outlined Above:

Task 1-Update Site Surveys & Soils Investigation..... \$+4,150.00.
Task 2-Site Plan Re-Approval..... \$+8,880.00.

Task 3-Construction Plans and Specifications	\$+2,040.00.
Task 4-Permitting Modifications	\$+3,480.00.
Task 5-Update Bid Documents	\$2,880 - \$2,040 Bal = \$+840.00.
Task 6-Construction Services	\$2,520 - \$2,100 Bal = \$+420.00.
Task 7-Reimbursable Expenses	\$600 - \$113.65 Bal = \$+486.35.
TOTAL ADDITIONAL FEES.....\$20,296.35.	

ASSUMPTIONS:

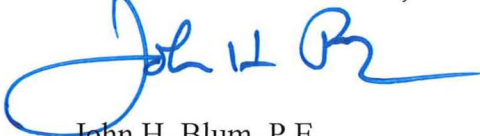
In developing this proposal, CAI represents to the CLIENT that the following assumptions have been made and that deviation from these assumptions may require additional expenditures on behalf of the CLIENT to CAI.

1. This proposal specifically excludes all application and/or impact fees, which shall be the responsibility of the CLIENT.
2. This Scope of Services specifically excludes preparation of legal documents, easement descriptions, structural, mechanical, electrical, and architectural work.
3. It is assumed that there is no new water or sewer improvements associated with this project. In addition, there is an existing fire hydrant located on the north side of Englar Drive near the southeastern corner of the property and is within 500 feet of the proposed pavilion for the required fire protection.
4. Wetland planting design drawings and installation will be provided by others.
5. Construction stakeout and as-builts are not included with this proposal.

Thank you for giving us the opportunity to submit a proposal for our services. We look forward to working with you on this project. Our receipt of a signed copy of this agreement will serve as our notice to proceed. Should you have any questions or need additional information, please do not hesitate to contact me at our office.

Sincerely,

CARTER ASSOCIATES, INC.



John H. Blum, P.E.
Vice President

Agreed to and Accepted:

By: _____

Print Name: _____

Address: _____

Date: _____



PROFESSIONAL SERVICES AGREEMENT

This Agreement prepared on July 18, 2023 is by and between Indian River County Parks and Recreation with address at 1590 9th Street SW, Vero Beach, FL 32962 ("Client") and Carter Associates, Inc. ("CAI"), who agree as follows:

Client engages CAI to perform professional services (the "Services") for the compensation set forth in one or more proposals or work authorizations (the "Proposal(s)") for one or more projects (the "Project(s)"). CAI shall be authorized to commence the Services upon execution of the Proposal(s) by the Client. Client and CAI agree that this Agreement, the Proposal(s), and any attachments herein incorporated by reference (the "Agreement") constitute the entire agreement between them.

I. CAI'S RESPONSIBILITIES: CAI shall perform or furnish the Services described in the Proposals, which shall be combined and attached as part of this Agreement. Where the terms or conditions of any Proposal conflict with those of Parts I-III contained herein, the Proposal shall control for the Services performed under that Proposal only.

II. CLIENT'S RESPONSIBILITIES: Client, at its expense, shall do the following in a timely manner so as not to delay the Services:

1. INFORMATION/REPORTS: Furnish CAI with all information, reports, studies, site characterizations, advice, instructions, and similar information in its possession relating to the Project.

2. REPRESENTATIVE / ACCESS: Designate a representative for the Project who shall have the authority to transmit instructions, receive information, interpret and define Client's policies, and make decisions with respect to the Services, and provide CAI safe access to any premises necessary for CAI to provide the Services.

3. DECISIONS: Provide all criteria and full information as to requirements for the Project, obtain (with CAI's assistance, if applicable) necessary approvals and permits, attend Project-related meetings, provide interim reviews on an agreed-upon schedule, make decisions on Project alternatives, and participate in the Project to the extent necessary to allow CAI to perform the Services.

III. COMPENSATION, BILLING, & PAYMENT: Client shall pay CAI for Services as denoted in the applicable Proposal and in accordance with the standard rate schedule – Attachment B.

IV. STANDARD TERMS AND CONDITIONS: Attachment A.

The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing and each of the undersigned parties has caused this Agreement to be duly executed. This Agreement contains a limitation of liability clause and the Client has read and consents to all terms.

APPROVED FOR "CLIENT"
INDIAN RIVER COUNTY PARKS AND RECREATION

APPROVED FOR "CAI"
CARTER ASSOCIATES, INC.

By: _____

By:  _____

Printed Name: _____

Printed Name: John H. Blum

Title: _____

Title: Vice President

Effective Date: _____

- Attachments:
A – Standard Terms and Conditions
B – Standard Rate Schedule

ATTACHMENT A STANDARD TERMS AND CONDITIONS

1. STANDARD OF CARE. The Services shall be performed with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license. The Services are not subject to, and CAI cannot provide, any warranty or guarantee, express or implied, including warranties or guarantees contained in any uniform commercial code, work authorization, requisition, or notice, except as provided herein.

2. CHANGE OF SCOPE. The scope of Services set forth in any Proposal is based on facts known at the time of execution of the Proposal, including, if applicable, Client Data (defined below). As the Project progresses, facts discovered, including, but not limited to, site conditions or the existence of differing subsurface or physical conditions, may indicate that the scope, pricing, or other terms must be redefined, and the parties shall reasonably cooperate to equitably adjust the scope, pricing, or terms of this Agreement accordingly.

3. SAFETY. CAI has established and maintains corporate programs and procedures for the safety of its employees. Unless included as part of the Services, CAI specifically disclaims any authority or responsibility for general job site safety and safety of persons other than CAI employees.

4. DELAYS. The Services shall be performed expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer. Where CAI is prevented from completing any part of the Services within the schedule provided under the Agreement due to delay beyond its reasonable control, the schedule will be extended in an amount of time equal to the time lost due to such delay so long as CAI provides written explanation of the delay to Client. Except with regard to payment of any amounts due CAI from any Services, neither party shall be liable to the other for any delays or failure to act, due to unforeseeable causes reasonably beyond the control of the party claiming such circumstances.

5. TERMINATION/SUSPENSION. Either party may terminate this Agreement upon thirty (30) days written notice to the other party. In the event of termination, Client shall pay CAI for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination. In the event either party defaults in its obligations under this Agreement (including Client's obligation to make the payments required hereunder), the non-defaulting party may suspend performance under this Agreement. In the event of a suspension of Services, CAI shall have no liability to the Client for delay or damage caused the Client because of such suspension of Services. Before resuming Services, CAI shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of CAI's Services. CAI's fees for the remaining Services and the time schedules shall be equitably adjusted. Obligations under this Agreement, which by their nature would continue beyond the suspension or termination of this Agreement (e.g., indemnification), shall survive such suspension or termination.

6. RELATIONSHIP WITH CONTRACTORS / REVIEW. CAI shall serve as Client's professional representative for the Services, and may make recommendations to Client concerning actions relating to Client's contractors, but CAI specifically disclaims any authority to direct or supervise the means, methods, techniques, security or safety activities, personnel, compliance, sequences, or procedures of construction selected by Client's contractors. For Projects involving bid preparation, CAI may supply standard contract forms, templates, or other documents that will be executed between the Client and contractor(s). It is the Client's responsibility to review those documents and to obtain legal advice thereto. For Projects involving construction, Client acknowledges that under generally accepted professional practice, interpretations of

construction documents in the field are normally required, and that performance of construction-related services by the design professional for the Project permits errors or omissions to be identified and corrected at comparatively low cost. Evaluations of Client's budget for construction and estimates prepared by CAI represent CAI's judgment as a design professional. It is recognized, however, that neither CAI nor Client have control over the cost of labor, materials, or equipment, the contractor's methods of determining bid prices, or competitive bidding, market, or negotiating conditions. Accordingly, CAI cannot and does not warrant or represent that bids or negotiated prices will not vary from Client's budget or from any estimate of costs prepared or agreed to by CAI. Client agrees to hold CAI harmless from any claims resulting from performance of construction-related services by persons other than CAI and CAI shall not be responsible for the contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. In fulfilling its duties pursuant to the Agreement, Client permits CAI to elect to subcontract to others certain tasks in its scope of Services.

7. INSURANCE. CAI will maintain insurance coverage for Professional Liability, Commercial Liability, Auto, and Workers' Compensation in amounts in accordance with legal and business requirements. Certificates evidencing such coverage will be provided to Client upon request. For Projects involving construction, Client agrees to require its construction contractor, if any, to include CAI as an additional insured on its policies relating to the Project. CAI's coverages referenced above shall, in such case, be excess over any contractor's primary coverage. Client shall require its construction contractor to include CAI as an indemnitee under any indemnification obligation of contractor to Client to the fullest extent allowed by law.

8. SITE CONDITIONS. Hazardous, archaeological, paleontological, cultural, biological, or other materials, protected resources, unknown underground facilities, or other conditions ("Conditions") may exist at a site where there is no reason to believe they could or should be present. CAI and Client agree that the discovery of unanticipated Conditions constitutes a changed condition that may mandate a renegotiation of the scope of Services. CAI will notify Client should unanticipated Conditions be encountered. Client acknowledges and agrees that it retains title to all Conditions existing on the site and shall report to the appropriate public agencies, as required, any Conditions at the site that may present a potential danger to the public health, safety, or the environment. Client shall execute any manifests in connection with avoidance, containment, transportation, storage, or disposal of Conditions resulting from the site.

9. INDEMNITY. CAI shall indemnify Client from and against liability for damage to the extent that the damage is actually caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by CAI, CAI's agent, or another entity over which CAI exercises control.

10. LIMITATION OF LIABILITY. Client agrees that, to the fullest extent permitted by law, CAI's total liability to Client for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, CAI's negligence, errors, omissions, strict liability, or breach of contract, and whether claimed directly or by way of contribution, shall not exceed the total compensation received by CAI for the relevant work authorization or proposal under this Agreement. If Client desires a limit of liability greater than that provided above, Client and CAI shall include in Part III of this Agreement the amount of such limit and the additional compensation to be paid to CAI for assumption of such additional risk. **PURSUANT TO F.S. 558.0035, AN EMPLOYEE OR AGENT OF CAI MAY**

NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

11. CONSEQUENTIAL DAMAGES. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES, INCLUDING LOST REVENUES, LOSS OF USE, LOSS OF FINANCING, LOSS OF REPUTATION, LOST PROFITS, DELAYS, OR OTHER ECONOMIC LOSS ARISING FROM ANY CAUSE INCLUDING BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER CAUSE WHATSOEVER, NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY. REGARDLESS OF LEGAL THEORY, CAI SHALL BE LIABLE ONLY TO THE EXTENT THAT ANY DAMAGES SPECIFIED HEREIN ARE FOUND BY A FINAL COURT OF COMPETENT JURISDICTION TO HAVE BEEN THE SEVERAL LIABILITY OF CAI. TO THE EXTENT PERMITTED BY LAW, ANY STATUTORY REMEDIES THAT ARE INCONSISTENT WITH THIS PROVISION OF THE AGREEMENT ARE WAIVED.

12. REUSE OF PROJECT DELIVERABLES. Reuse of any documents or other deliverables, including electronic media, pertaining to the Project by Client for any purpose other than that for which such were originally prepared, or alteration of such without the written verification or adaptation by CAI for the specific purpose intended, shall be at the Client's risk. All title blocks and the engineer's seal, if applicable, shall be removed if Client provides deliverables in electronic media to any third party. Any modification of the plans will be evidenced on the plans and be signed and sealed by a licensed professional prior to re-use of modified plans. Client agrees that relevant analyses, findings, and reports provided in electronic media shall also be provided in hard copy and that the hard copy shall govern in the case of a discrepancy between the two versions, and shall be held as the official set of drawings, as signed and sealed. Client shall be afforded a period of thirty (30) days to check the hard copy against the electronic media. In the event that any error or inconsistency is found during that time, CAI shall be advised and the inconsistency shall be corrected at no additional cost to Client. Following the expiration of this notice period, Client shall bear all responsibility for the care, custody, and control of the electronic media. In addition, Client represents that it shall retain the necessary mechanisms to read the electronic media. Client agrees to indemnify and hold harmless CAI from all claims, damages, and expenses (including reasonable litigation costs) arising out of such reuse or alteration by Client or others acting through Client.

13. CLIENT DATA. Client or any third party designated by Client may provide information, reports, studies, site characterizations, advice, instructions, and similar information in its possession relating to the Project ("Client Data"). CAI may reasonably and in good faith rely upon the accuracy of Client Data and unless described as part of the Services, CAI is not required to audit, examine, or verify Client Data. However, CAI will not ignore the implications of information furnished to CAI and may make reasonable inquiries if Client Data as furnished appears to be incorrect or incomplete. CAI makes no representations or warranties (express or implied) as the quality, accuracy, usefulness, or completeness of any Services to the extent CAI relies on Client Data. CAI, its affiliates, its officers, directors, and employees shall have no liability whatsoever with respect to the use of unreliable, inaccurate, or incomplete Client Data.

14. ASSIGNMENT/BENEFICIARIES. Neither party may assign this Agreement without the written consent of the other party. With the exception of such assignments, nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party, including Client's contractors, if any. The Services may be performed by any affiliated company of CAI under its common insurance program.

15. AMENDMENT, NO WAIVER, & SEVERABILITY. This Agreement can be amended in writing and signed by the parties. No waiver by either party of any default by the other party in the performance of this

Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default, whether like or different in character. The various terms, provisions, and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.

16. INDEPENDENT PARTIES. Each party is an independent entity and is not a partner, agent, principal, or employee of the other party, unless otherwise agreed to by the parties in writing.

17. STATUTE OF LIMITATION. To the fullest extent permitted by law, the parties agree that the time period for bringing claims under this Agreement shall expire one (1) year after Project completion.

18. STATUTORY TERMS APPLICABLE TO STATE POLITICAL SUBDIVISIONS. As provided in F.S. 287.135, CAI certifies that it has not been placed on the Scrutinized Companies that Boycott Israel List, nor is engaged in a boycott of Israel pursuant to F.S. 215.4725, and it has not been placed on the Scrutinized Companies with Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List pursuant to F.S. 215.473, nor is engaged in business operations in Cuba or Syria. This Agreement may be terminated at the option of the Client if CAI is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, or is found to have submitted a false certification as provided under F.S. 287.135 (5), been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria.

19. DISPUTE RESOLUTION. The parties shall attempt to settle all claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including but not limited to breach thereof, by discussion between the parties' senior representatives. If any dispute cannot be resolved in this manner, within five (5) business days, the parties agree to refer such claims, disputes, and controversies to mediation by a mediator mutually agreed to and equally paid for by the parties before, and as a condition precedent to, the initiation of any adjudicative action or proceeding, including arbitration. The mediator shall convene the mediation at the request of either party, and the mediation will last at such times and as long as the mediator reasonably believes agreement is probable. Notwithstanding the foregoing, prior to or during negotiation or mediation, either party may initiate litigation that would otherwise become barred by a statute of limitation. In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to collect its litigation costs including reasonable attorney's fees from the other party.

20. LITIGATION SUPPORT. CAI will not be obligated to provide expert witness or other litigation support related to its Services, unless expressly agreed in writing. In the event CAI is required to respond to a subpoena, inquiry, or other legal process related to the Services in connection with a proceeding to which CAI is not a party, Client will reimburse CAI for its costs and compensate CAI at its then standard rates for the time it incurs in gathering information and documents and attending depositions, hearings, and the like.

21. GOVERNING LAW. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida without giving effect to any conflict or choice of law rules or principles under which the law of any other jurisdiction would apply. Each party hereby submits to the jurisdiction of the federal and state courts located in the county of CAI's address and agrees that such courts shall be exclusive forum and venue for resolving any legal suit, action or proceeding arising out of or relating to this Agreement.

Ver. 16MAY2023

**ATTACHMENT B
STANDARD RATE SCHEDULE
JANUARY 2019**

<u>Staff Type:</u>	<u>Hourly Rates</u>
Engineer (Principal)	\$165.00
Engineer I	\$140.00
Engineer II	\$125.00
Engineer III	\$115.00
Engineer IV	\$105.00
Engineer V	\$ 95.00
Surveyor (Principal)	\$165.00
Surveyor (Sr. Consultant)	\$140.00
Surveyor I	\$140.00
Surveyor II	\$125.00
Surveyor III	\$105.00
CAD/GIS Tech I	\$115.00
CAD/GIS Tech II	\$110.00
CAD/GIS Tech III	\$105.00
CAD/GIS Tech IV	\$ 95.00
CAD/GIS Tech V	\$ 85.00
Administrative Staff	\$ 60.00
Expert Witness	\$300.00
4 Man Survey Crew	\$175.00
3-Man Survey Crew	\$150.00
2-Man Survey Crew	\$135.00
1-Man Survey Crew	\$110.00
Inspector	\$ 65.00

SPECIALIZED EQUIPMENT:

Leica HD P40 Scanner	\$175.00/Hour
Aluminum Boat	\$500.00/Day
All-Terrain Vehicle (ATV)/Trailer	\$250.00/Day
	\$1,000.00/Week

REIMBURSABLE EXPENSES:

Postage, Express Mail, etc.	Cost
Blueprints/Blackline (24" x 36")	\$2.00/Each
Color Prints (24"x36)	\$5.00/Each
Mileage	IRS Standard Rate
Mylar	\$7.00/Each
Photocopies:	
8.5" x 11"	15¢/Each
8.5" x 14"	25¢/Each
11" x 17"	35¢/Each
Concrete Monuments	\$20.00/Each
Rebar	\$ 2.50/Each
Laths	\$ 0.75/Each
Hubs	\$ 1.00/Each

Sub-Consultants

Cost + 10%

Note: These hourly billing rates will remain in effect for the duration of this agreement.