

**AccuNet**  
**Multimedia Archive**  
Photos - Text - Audio - Graphics

Rep: [REDACTED] UpShot ID: [REDACTED]

Client: Regents of the University of California on behalf of the California Digital Library

Address: Office of the President - 415 20<sup>th</sup> Street 4<sup>th</sup> Floor

City, State, Zip Code: Oakland, CA 94612-2901 Telephone: [REDACTED]

Billing Address: \_\_\_\_\_

Start Date: 07/01/2010 End Date: 06/30/2011 Length of Agreement: 12 months

Contact: [REDACTED] Email: [REDACTED]

1.

|                                     |                                                                |
|-------------------------------------|----------------------------------------------------------------|
| <input checked="" type="checkbox"/> | Save                                                           |
| <input type="checkbox"/>            | New Client                                                     |
| <input type="checkbox"/>            | Straight Renewal - Automatically renews                        |
| <input type="checkbox"/>            | Straight Renewal - D/N/A/R - new agreement needs to be written |
| <input type="checkbox"/>            | Increase                                                       |
| <input type="checkbox"/>            | Decrease Why: _____                                            |
| <input type="checkbox"/>            | Supersede                                                      |
| <input type="checkbox"/>            | Cancel Why: _____                                              |

2.

|                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------|
| Details: <u>See attached setup list</u>                                                                                                |
| Package Description: <u>They are FedExing two originals to us today for full execution and return at that point ok to send invoice</u> |

3.

|                                                                  |                                                   |
|------------------------------------------------------------------|---------------------------------------------------|
| Total # of Users: <u>shared pool of 10 simultaneous users</u>    |                                                   |
| <input checked="" type="checkbox"/> Photo/Graphics               | <input checked="" type="checkbox"/> Text          |
| <input checked="" type="checkbox"/> Audio                        | <input checked="" type="checkbox"/> Remote Access |
| <input type="checkbox"/> Premium Service                         |                                                   |
| K-12 <input type="checkbox"/> Elementary                         | <input type="checkbox"/> Middle School            |
| <input type="checkbox"/> High School                             |                                                   |
| Academic FTEs: _____                                             |                                                   |
| Public Library <input type="checkbox"/> Population Served: _____ |                                                   |
| Rate Card: _____                                                 |                                                   |

4.

|                                  |
|----------------------------------|
| Start Revenue: [REDACTED]        |
| Finish Revenue: [REDACTED]       |
| Increase/Decrease: <u>\$0.00</u> |

ACCU WEATHER SALES AND SERVICE, INC.  
ACCU NET™/AP® MULTIMEDIA ARCHIVE DIVISION  
PLAIN LANGUAGE SUBSCRIBER AGREEMENT

06/10/2010

Date of Agreement

1. Name and Address of Parties:

A. AccuWeather Sales and Service, Inc., 385 Science Park Road, State College, PA 16803-2215

B. Subscriber:  
Regents of the University of California on behalf of the  
California Digital Library

Subscriber Site(s)

See attached list of subscribers

Primary Contact Person

Name of Subscriber

Office of the President, 415 20th Street, 4th Floor

Subscriber Telephone Number

Street Address

Oakland CA 94612-2901

E-mail Address

City, State, Zip Code

2. Start Date: 07/01/2010

3. Length of User Agreement: ☒ One Year ☐ Two Years ☐ Three Years ☐ Other \_\_\_\_\_

4. Product: ☒ Photo Archive ☒ Graphics ☒ Audio Soundbank ☒ Text News Files

5. Service Level:

Subscriber Fee: Year one [redacted]  
Year two [redacted]  
Year three [redacted]

- Payable Annually in Advance

Number of Concurrent Authorized Users: Shared pool of 10 simultaneous users

The maximum number of subscribers users logged on to the service at any given point in time.

6. The Archive shall be used by Subscriber for Authorized Use only. "Authorized Use" shall mean the use, other than an Unauthorized Use, of the Archives by Authorized Users for educational purposes only, including any or all of the following to the extent such are for educational purposes:

- (a) electronically viewing, listening to and/or downloading the contents of an Archive on a computer that is located on the premises of such Library or School or through remote means accessed through such Library's or School's intranet or similar network or server; through AccuWeather's AP page URL; and/or AP's URL using an authorized user name and password;
- (b) making dot matrix, ink jet, laser jet-quality or similar prints and also audio recordings of Archive files on a computer that is located on the premises of such Library or School or through remote means accessed through such Library's or School's computer system, intranet or similar network or server; through AccuWeather's AP page URL; and/or AP's URL using an authorized user name and password;
- (c) emailing a limited number of individual components of the Archive, on a component by component basis;
- (d) using the contents of the Archive in electronic presentations related to such Library User's or School User's curricular and/or educational activities.

Subscriber shall not use the Archive for Unauthorized Use. "Unauthorized Use" shall mean any and all of the following activities:

- (a) any use of the Archives by other than an Authorized User;
  - (b) any access or use by a Subscriber or any Archive, or any constituent thereof, that is not expressly authorized thereto under this Agreement;
  - (c) using an identification number and/or password to access any Archive from locations other than specifically allowed for within this Agreement; provided, however, that access from locations other than Subscriber Sites which go through a School or Library intranet, similar network or server to any Archives is considered an Authorized Use;
  - (d) using an identification number and/or password belonging to another Sublicensee or assigned to another Sublicensee Site;
  - (e) electronic transmission by a Subscriber or an Authorized User thereof of any Archive or any constituent elements thereof in any manner that is otherwise not in strict compliance with the terms of this Agreement and a Sublicense Agreement;
  - (f) republication of or distributing any Archive and/or any constituent element thereof to, or incorporating any Archive and/or any constituent element thereof into, any newspapers, newsletters, magazines, brochures, catalogs, commercial announcements, yearbooks, calendars, posters, and other similar materials;
  - (g) editing or otherwise modifying the Archives or any constituent elements thereof;
  - (h) any commercial use by a Subscriber or an Authorized User thereof of the Archives or any constituent elements thereof; or
  - (i) any other use of the Archives or the Interface that is not expressly authorized pursuant to this Agreement.
7. Subscriber hereby certifies that it is a School or Library. "School(s)" shall mean any individual, group, or district of public, private and parochial school, college, or university, and/or consortiums involving such schools. "Library(ies)" shall mean any Public Libraries; libraries of educational institutions; and/or consortiums involving such libraries. Subscriber agrees to use the Archive for educational interest and information only. Subscriber agrees not to use the Archive for any commercial or commercially related, business or business related, job or job related purpose whatsoever except for educators or librarians who are using it for their educational function.

THE SUBSCRIBER ACKNOWLEDGES THAT SUBSCRIBER HAS READ AND UNDERSTANDS THIS AGREEMENT AND HAS HAD THE OPPORTUNITY TO HAVE IT REVIEWED BY LEGAL COUNSEL. IT SHALL NOT BE CONSTRUED MORE STRICTLY AGAINST ONE PARTY THAN THE OTHER AND THE MEANINGS AND PURPOSES ATTACHED TO ITS VARIOUS PROVISIONS SHALL BE THOSE REASONABLY INTENDED BY ACCU WEATHER, INC.

THE PARTIES, INTENDING TO BE LEGALLY BOUND, HAVE EXECUTED THIS AGREEMENT. THE SIGNERS REPRESENT THAT THEY HAVE FULL AUTHORITY TO EXECUTE THIS AGREEMENT ON BEHALF OF ACCU WEATHER, INC. AND SUBSCRIBER RESPECTIVELY AND TO LEGALLY BIND SAME AND THAT THEY HAVE READ AND UNDERSTAND THE IMPORTANT TERMS AND CONDITIONS ON THE REVERSE SIDE AND WHICH ARE A PART OF THIS AGREEMENT.



ACCU WEATHER SALES AND SERVICE, INC.

DATE: 8/5/10 BY: [REDACTED]

Manager - Legal Services  
Productions

SUBSCRIBER

DATE: 8-3-10 BY: [REDACTED]

PRINT NAME AND TITLE  
Executive Director

#### SERVICE TERMS AND CONDITIONS

**A. Equipment.** Subscriber shall, at its own cost, obtain, maintain and operate all terminals, communication devices and other equipment needed for accessing the Archive(s). Subscriber acknowledges that AccuWeather Sales and Service shall not be liable for the suitability, delivery, performance or maintenance of any terminal or other equipment or for the hook-up of any terminal or equipment to suitable telephone lines or other communications links.

**B. Access.** During the term of this Agreement, AccuWeather Sales and Service will provide the Archive(s) through communication facilities it may from time to time select and Subscriber shall have access rights to the Archive(s). Access to the Archive(s) shall be authorized by AccuWeather Sales and Service to begin upon the Starting Date and end upon termination of this Agreement. Subscriber agrees that it shall receive the Archive(s) only at the site(s) listed in this Agreement. Access Codes and information furnished by AccuWeather Sales and Service to Subscriber are intended for Subscriber's sole and exclusive use and shall be considered proprietary information, ownership of which shall remain with AccuWeather Sales and Service. Subscriber shall be fully responsible for maintaining confidentiality of its account access information and for all charges made to its account. Should Subscriber's Access Information be lost, stolen, or fall into the hands of an unauthorized user or users, it is Subscriber's responsibility to immediately notify AccuWeather Sales and Service in writing.

**C. Subscription Fees.** Subscriber agrees to pay to AccuWeather Sales and Service the fee set forth in this Agreement. The fees may be invoiced in advance. This is a fixed fee, lump sum contract. Payment shall be due and payable at AccuWeather Sales and Service's office in State College, Pennsylvania at the beginning of each contract month or contract year without notice. Failure of payment shall render due and payable all sums payable during the initial period of this Agreement and any subsequent renewal period plus a late payment charge of one and one-half percent per month. All prices stated herein are in U.S. dollars. Subscriber shall pay the fees that are due and owing under this Agreement to AccuWeather Sales and Service within 30 days from the date of invoice. If Subscriber fails to perform any of its obligations under this Agreement, including but not limited to, failure to pay the fees that are due and owing, AccuWeather Sales and Service will have the right to notify Subscriber of such failure and Subscriber will have 30 days to cure such failure. If the failure is not cured within the 30-day cure period, AccuWeather Sales and Service will have the right to terminate this Agreement at any time thereafter immediately upon notice to Subscriber.

**D. Term.** This Agreement shall remain in full force and effect for the period specified on the front hereof, beginning on the specified "Starting Date."

**E. Copyright, Storage and Ownership of Service.** All information, data images and other elements comprising the Archive(s) are the sole and exclusive property of The Associated Press ("AP"). Subscriber shall not archive nor develop a library of the constituents of the Archive(s) and shall not permit its Authorized Users to archive or develop a library of the constituents of the Archive. Upon termination of this Agreement, all elements of the Archives shall be deleted from any storage medium of Subscriber. Subscriber acknowledges that The Associated Press retains sole and exclusive right, title and interest in and to the copyrights for all elements contained in the Archive(s) and understands and acknowledges that no title to or ownership of any of the elements of the Archive(s) are hereby transferred to Subscriber hereunder. AP has delegated to AccuWeather the right to enforce this provision.

**F. Assignability.** Neither this Agreement nor any rights or obligations hereunder may be assigned by Subscriber without the express written consent of AccuWeather Sales and Service, Inc. and written acceptance of the contract by the Assignee. Payment may be made by a third party. This Agreement constitutes the entire agreement between the parties. No collateral or prior statements, representations, understandings or agreements survive or are a part of this Agreement. No modifications to this Agreement shall be made except by written addendum signed by both parties hereto. The invalidity of any paragraph, subparagraph or portion of this Agreement shall not affect the validity of any other paragraph, subparagraph or portion hereof. The failure of AccuWeather Sales and Service to require the performance of any term of this Agreement or the waiver by AccuWeather Sales and Service of any breach under this Agreement shall not prevent a subsequent enforcement of such term by AccuWeather Sales and Service nor be deemed a waiver of any subsequent breach.

**G. Performance.** In the case of failure of payment by Subscriber, AccuWeather Sales and Service shall have the right to claim a sum equal to twenty-five percent of such payment due but not paid, that AccuWeather Sales and Service may sustain by reason of Subscriber's failure to so perform this Agreement. Subscriber's breach of any of the terms, covenants or conditions of this Agreement or other claims against AccuWeather Sales and Service, Inc. arising from this Agreement as a liquidated amount for attorney's fees. AccuWeather Sales and Service, Inc. shall defend, indemnify, and hold harmless Subscriber, their officers, agents and employees from all damages, liabilities, costs, fees, including, but not limited to attorney's fees, resulting from any judgment or settlement agreement arising out of the claim of a third party that AccuWeather Sales and Service, Inc.'s sale of products to Subscriber or Subscriber's use of said products consistent with the terms of this Agreement constitutes an infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary or contractual right of any third party. **NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION.** Subscriber shall give prompt notice of an infringement claim to AccuWeather Sales and Service, Inc., provided such corporation and assistance to AccuWeather Sales and Service, Inc. as is reasonably necessary to defend the claim, and shall allow AccuWeather Sales and Service, Inc. to have sole control of the defense, provided, however, that Subscriber retains the right to participate in the defense at its own expense.

**H. Damages.** ACCU WEATHER, WHICH PROVIDES SUBSCRIBERS WITH ACCESS TO THE ARCHIVE(S) HEREUNDER AND THE ASSOCIATED PRESS, WHICH OWNS THE ARCHIVE(S), EXPRESSLY DISCLAIM ANY RESPONSIBILITY OR LIABILITY FOR ANY LOSS, WHETHER DIRECT, CONSEQUENTIAL OR INDIRECT RESULTING TO SUBSCRIBER, ANY AUTHORIZED USER OR ANY THIRD PARTY FROM ERRORS OR OMISSIONS IN THE ARCHIVES, THE SYSTEM OR THE INTERFACE OR ARISING FROM ANY USE BY SUBSCRIBER OR ITS AUTHORIZED USERS, DELAYS IN PERFORMANCE, OR NON-PERFORMANCE CAUSED BY UNAVAILABILITY OF THE ARCHIVE(S) OR ANY FORCE MAJEURE EVENT. IN NO EVENT WILL THE ACCUWEATHER OR THE ASSOCIATED PRESS BE LIABLE TO SUBSCRIBER FOR DIRECT, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR ANY OTHER TYPE OF DAMAGES, IN CONTRACT, TORT OR OTHERWISE, EVEN IF ACCUWEATHER AND/OR THE ASSOCIATED PRESS HAVE BEEN ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH LOSS, COST OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. ACCUWEATHER'S SOLE LIABILITY TO SUBSCRIBER FOR FAILURE TO RECEIVE ACCESS TO THE ARCHIVE(S) PURSUANT TO THIS

AGREEMENT OR INABILITY TO USE THE ARCHIVE(S) AS AUTHORIZED HEREUNDER, SHALL BE LIMITED TO THE FEE PAID BY SUBSCRIBER TO ACCU WEATHER HEREUNDER.

**I. Warranties.** THE PARTIES HEREBY DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, CONCERNING ANY PRODUCTS OR SERVICES PROVIDED HEREUNDER INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY OF NON-INFRINGEMENT. THE ARCHIVE(S) ARE BEING PROVIDED TO SUBSCRIBER ON AN "AS IS" BASIS. ACCUWEATHER IS LICENSING THE ARCHIVE(S) TO SUBSCRIBER PURSUANT TO RIGHTS THAT THE AP HAS LICENSED TO ACCUWEATHER.

**J. Headings and Captions.** The headings and captions used in this Agreement are for convenience only, they are not to be considered a part of the Agreement; they in no way define, limit, or describe the scope of intent of the paragraphs of this Agreement nor in any way affect this Agreement.

**K. AP's Status.** AP is an express third party beneficiary of the rights afforded AccuWeather hereunder.

**L.** When accepted, this Agreement shall supersede, supplant and replace the prior AP Photo Archive Service being provided to Subscriber.

IP Address: \_\_\_\_\_

Initials: \_\_\_\_\_ Date: \_\_\_\_\_



| Institution            | Resource  | Term start | Term End  | Status  | Cost | # Users | Username |
|------------------------|-----------|------------|-----------|---------|------|---------|----------|
| 12721 UC Berkeley      | AP Images | 7/1/2010   | 6/30/2011 | Renewal | 0    | Single  | cad101   |
| 12722 UC Irvine        | AP Images | 7/1/2010   | 6/30/2011 | Renewal |      | Single  | cad103   |
| 12724 UC Merced        | AP Images | 7/1/2010   | 6/30/2011 | Renewal |      | Single  | merced   |
| 12725 UC Riverside     | AP Images | 7/1/2010   | 6/30/2011 | Renewal |      | Single  | cad105   |
| 12726 UC San Francisco | AP Images | 7/1/2010   | 6/30/2011 | Renewal |      | Single  | cad106   |
| 12727 UC Santa Cruz    | AP Images | 7/1/2010   | 6/30/2011 | Renewal |      | Single  | cad108   |
| 12729 UC Davis         | AP Images | 7/1/2010   | 6/30/2011 | Renewal |      | Single  | cad102   |
| 12730 UC Los Angeles   | AP Images | 7/1/2010   | 6/30/2011 | Renewal |      | Single  | cad104   |
| 12732 UC San Diego     | AP Images | 7/1/2010   | 6/30/2011 | Renewal |      | Single  | cad109   |
| 12733 UC Santa Barbara | AP Images | 7/1/2010   | 6/30/2011 | Renewal |      | Single  | cad107   |

12720 Regents (parent)

Not fully executed  
(but much more legible)

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06/10/2010

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B. Subscriber:

Regents of the University of California on behalf of the  
California Digital Library

Subscriber Site(s)

See attached list of subscribers

Name of Subscriber

Office of the President, 415 20th Street, 4th Floor

Street Address

Oakland CA 94612-2901

City, State, Zip Code

Primary Contact Person

Subscriber Telephone Number

E-mail Address

2. Start Date: 07/01/2010

3. Length of User Agreement: ☒ One Year ☐ Two Years ☐ Three Years ☐ Other \_\_\_\_\_

4. Product: ☒ Photo Archive ☒ Graphics ☒ Audio Soundbank ☒ Text News Files

5. Service Level:

Subscriber Fee: Year one [REDACTED]  
Year two [REDACTED]  
Year three [REDACTED]

Number of Concurrent Authorized Users: Shared pool of 10 simultaneous users

The maximum number of subscriber's users logged on to the service at any given point in time.

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- (c) using an identification number and/or password to access any Archive from locations other than specifically allowed for within this Agreement; provided, however, that access from locations other than Subscriber Sites which go through a School or Library intranet, similar network or server to any Archives is considered an Authorized Use;
- (d) using an identification number and/or password belonging to another Sublicensee or assigned to another Sublicensee Site;
- (e) electronic transmission by a Subscriber or an Authorized User thereof of any Archive or any constituent elements thereof in any manner that is otherwise not in strict compliance with the terms of this Agreement and a Sublicense Agreement;
- (f) republication of or distributing any Archive and/or any constituent element thereof to, or incorporating any Archive and/or any constituent element thereof into, any newspapers, newsletters, magazines, brochures, catalogs, commercial announcements, yearbooks, calendars, posters, and other similar materials;
- (g) editing or otherwise modifying the Archives or any constituent elements thereof;
- (h) any commercial use by a Subscriber or an Authorized User thereof of the Archives or any constituent elements thereof; or
- (i) any other use of the Archives or the Interface that is not expressly authorized pursuant to this Agreement.

7. Subscriber hereby certifies that it is a School or Library. "School(s)" shall mean any individual, group, or district of public, private and parochial school, college, or university, and/or consortiums involving such schools. "Library(ies)" shall mean any Public Libraries; libraries of educational institutions; and/or, consortiums involving such libraries. Subscriber agrees to use the Archive for educational interest and information only. Subscriber agrees not to use the Archive for any commercial or commercially related, business or business related, job or job related purpose whatsoever except for educators or librarians who are using it for their educational function.

THE SUBSCRIBER ACKNOWLEDGES THAT SUBSCRIBER HAS READ AND UNDERSTANDS THIS AGREEMENT AND HAS HAD THE OPPORTUNITY TO HAVE IT REVIEWED BY LEGAL COUNSEL. IT SHALL NOT BE CONSTRUED MORE STRICTLY AGAINST ONE PARTY THAN THE OTHER AND THE MEANINGS AND PURPOSES ATTACHED TO ITS VARIOUS PROVISIONS SHALL BE THOSE REASONABLY INTENDED BY ACCU WEATHER, INC.

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201

ACCU WEATHER SALES AND SERVICE, INC.

SUBSCRIBER

DATE: \_\_\_\_\_ BY: \_\_\_\_\_

DATE: 3 3 10 BY: \_\_\_\_\_

PRINT NAME AND TITLE

Executive Director

### SERVICE TERMS AND CONDITIONS

**A. Equipment.** Subscriber shall, at its own cost, obtain, maintain and operate all terminals, communication devices and other equipment needed for accessing the Archive(s). Subscriber acknowledges that AccuWeather Sales and Service shall not be liable for the suitability, delivery, performance or maintenance of any terminal or other equipment or for the hook-up of any terminal or equipment to suitable telephone lines or other communications links.

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**C. Subscription Fees.** Subscriber agrees to pay to AccuWeather Sales and Service the fee set forth in this Agreement. The fees may be invoiced in advance. This is a fixed fee, lump sum contract. Payment shall be due and payable at AccuWeather Sales and Service's office in State College, Pennsylvania at the beginning of each contract month or contract year without notice. Failure of payment shall render due and payable all sums payable during the initial period of this Agreement and any subsequent renewal period plus a late payment charge of one and one-half percent per month. All prices stated herein are in U.S. dollars. Subscriber shall pay the fees that are due and owing under this Agreement to AccuWeather Sales and Service within 30 days from the date of invoice. If Subscriber fails to perform any of its obligations under this Agreement, including but not limited to, failure to pay the fees that are due and owing, AccuWeather Sales and Service will have the right to notify Subscriber of such failure and Subscriber will have 30 days to cure such failure. If the failure is not cured within the 30-day cure period, AccuWeather Sales and Service will have the right to terminate this Agreement at any time thereafter immediately upon notice to Subscriber.

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**E. Copyright, Storage and Ownership of Service.** All information, data images and other elements comprising the Archive(s) are the sole and exclusive property of The Associated Press ("AP"). Subscriber shall not archive nor develop a library of the constituents of the Archive(s) and shall not permit its Authorized Users to archive or develop a library of the constituents of the Archive. Upon termination of this Agreement, all elements of the Archives shall be deleted from any storage medium of Subscriber. Subscriber acknowledges that The Associated Press retains sole and exclusive right, title and interest in and to the copyrights for all elements contained in the Archive(s) and understands and acknowledges that no title to or ownership of any of the elements of the Archive(s) are hereby transferred to Subscriber hereunder. AP has delegated to AccuWeather the right to enforce this provision.

**F. Assignability.** Neither this Agreement nor any rights or obligations hereunder may be assigned by Subscriber without the express written consent of AccuWeather Sales and Service, Inc. and written acceptance of the contract by the Assignee. Payment may be made by a third party. This Agreement constitutes the entire agreement between the parties. No collateral or prior statements, representations, understandings or agreements survive or are a part of this Agreement. No modifications to this Agreement shall be made except by written addendum signed by both parties hereto. The invalidity of any paragraph, subparagraph or portion of this Agreement shall not affect the validity of any other paragraph, subparagraph or portion hereof. The failure of AccuWeather Sales and Service to require the performance of any term of this Agreement or the waiver by AccuWeather Sales and Service of any breach under this Agreement shall not prevent a subsequent enforcement of such term by AccuWeather Sales and Service nor be deemed a waiver of any subsequent breach.

**G. Performance.** In the case of failure of payment by Subscriber, AccuWeather Sales and Service shall have the right to claim a sum equal to twenty-five percent of such payment due but not paid, that AccuWeather Sales and Service, may sustain by reason of Subscriber's failure to so perform this Agreement. Subscriber's breach of any of the terms, covenants or conditions of this Agreement or other claims against AccuWeather Sales and Service, Inc. arising from this Agreement as a liquidated amount for attorney's fees. AccuWeather Sales and Service, Inc. shall defend, indemnify, and hold harmless Subscriber, their officers, agents and employees from all damages, liabilities, costs, fees, including, but not limited to attorney's fees, resulting from any judgment or settlement agreement arising out of the claim of a third party that AccuWeather Sales and Service, Inc.'s sale of products to Subscriber or Subscriber's use of said products consistent with the terms of this Agreement constitutes an infringement of any patent, copyright trademark, trade name, trade secret, or other proprietary or contractual right of any third party. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION. Subscriber shall give prompt notice of an infringement claim to AccuWeather Sales and Service, Inc., provided such corporation and assistance to AccuWeather Sales and Service, Inc. as is reasonably necessary to defend the claim, and shall allow AccuWeather Sales and Service, Inc. to have sole control of the defense, provided, however, that Subscriber retains the right to participate in the defense at its own expense.

**H. Damages.** ACCU WEATHER, WHICH PROVIDES SUBSCRIBERS WITH ACCESS TO THE ARCHIVE(S) HEREUNDER AND THE ASSOCIATED PRESS, WHICH OWNS THE ARCHIVE(S), EXPRESSLY DISCLAIM ANY RESPONSIBILITY OR LIABILITY FOR ANY LOSS, WHETHER DIRECT, CONSEQUENTIAL OR INDIRECT RESULTING TO SUBSCRIBER, ANY AUTHORIZED USER OR ANY THIRD PARTY FROM ERRORS OR OMISSIONS IN THE ARCHIVES, THE SYSTEM OR THE INTERFACE OR ARISING FROM ANY USE BY SUBSCRIBER OR ITS AUTHORIZED USERS, DELAYS IN PERFORMANCE, OR NON-PERFORMANCE CAUSED BY UNAVAILABILITY OF THE ARCHIVE(S) OR ANY FORCE MAJEURE EVENT. IN NO EVENT WILL THE ACCUWEATHER OR THE ASSOCIATED PRESS BE LIABLE TO SUBSCRIBER FOR DIRECT, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR ANY OTHER TYPE OF DAMAGES, IN CONTRACT, TORT OR OTHERWISE, EVEN IF ACCUWEATHER AND/OR THE ASSOCIATED PRESS HAVE BEEN ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH LOSS, COST OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. ACCUWEATHER'S SOLE LIABILITY TO SUBSCRIBER FOR FAILURE TO RECEIVE ACCESS TO THE ARCHIVE(S) PURSUANT TO THIS

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**I. Warranties.** THE PARTIES HEREBY DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, CONCERNING ANY PRODUCTS OR SERVICES PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY OF NON-INFRINGEMENT. THE ARCHIVE(S) ARE BEING PROVIDED TO SUBSCRIBER ON AN "AS IS" BASIS. ACCUWEATHER IS LICENSING THE ARCHIVE(S) TO SUBSCRIBER PURSUANT TO RIGHTS THAT THE AP HAS LICENSED TO ACCUWEATHER.

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**K. AP's Status.** AP is an express third party beneficiary of the rights afforded AccuWeather hereunder.

**L.** When accepted, this Agreement shall supersede, supplant and replace the prior A/P Photo Archive Service being provided to Subscriber.

**IP Address:** \_\_\_\_\_

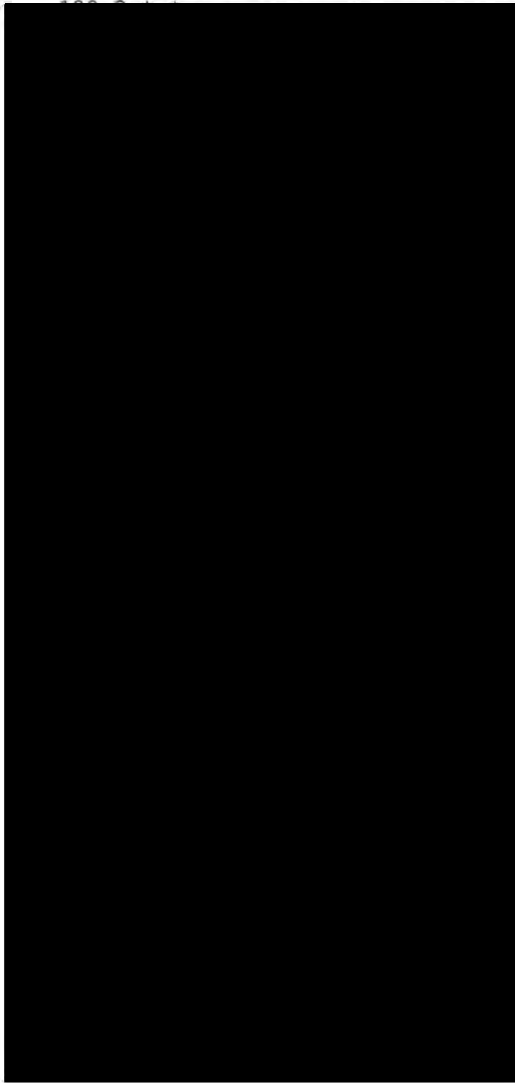
Initials: \_\_\_\_\_ Date: \_\_\_\_\_

col



University of California IP Addresses by Campus 8/1/09

UC Berkeley (including Lawrence Berkeley Laboratory)



UC Davis



UC Irvine



UC Los Angeles



UC Merced



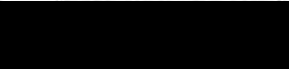
UC Riverside



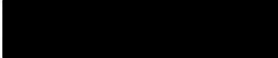
UC San Francisco



UC Santa Barbara



UC Santa Cruz



UC San Diego

