

# REQUEST FOR COUNCIL ACTION



**CITY COUNCIL MEETING DATE:**

**NOVEMBER 17, 2020**

**TITLE:**

**AWARD AGREEMENT TO AQUA-METRIC  
SALES COMPANY IN THE AMOUNT OF  
\$29,683,230 FOR THE IMPLEMENTATION  
OF THE AUTOMATED METERING  
INFRASTRUCTURE PROJECT; APPROVE  
SOFTWARE AS A SERVICE AND  
SPECTRUM LEASE AGREEMENT WITH  
SENSUS USA, INC.; AWARD A HOSTING  
SERVICES AGREEMENT IN THE AMOUNT  
OF \$12,720 AND A SOFTWARE LICENSE  
AND SERVICES AGREEMENT IN THE  
AMOUNT OF \$153,588 TO SMARTWORKS  
FOR A METER DATA MANAGEMENT  
SYSTEM; AND AWARD AN ANNUAL  
SUPPORT SERVICES AGREEMENT TO  
AQUA-METRIC SALES COMPANY IN AN  
AMOUNT NOT TO EXCEED \$84,996  
ANNUALLY  
(NON-GENERAL FUND)**

**/s/ Kristine Ridge**

**CITY MANAGER**

**CLERK OF COUNCIL USE ONLY:**

**APPROVED**

- ☐ As Recommended
- ☐ As Amended
- ☐ Ordinance on 1<sup>st</sup> Reading
- ☐ Ordinance on 2<sup>nd</sup> Reading
- ☐ Implementing Resolution
- ☐ Set Public Hearing For \_\_\_\_\_

**CONTINUED TO** \_\_\_\_\_

**FILE NUMBER** \_\_\_\_\_

## **RECOMMENDED ACTION**

1. Authorize the City Manager to execute an agreement with Aqua-Metric Sales Company for the installation and management of the Automated Metering Infrastructure project, for a total aggregate amount not to exceed \$29,683,230 including contingency, for a term beginning upon execution of the agreement and ending upon project completion, subject to non-substantive changes approved by the City Manager and City Attorney.
2. Authorize the City Manager to execute a Software as a Service and Spectrum Lease Agreement with Sensus USA, Inc. for usage rights to transmit meter-related data on Sensus' spectrum, for a five-year term beginning upon the execution of the agreement, with the option to renew for an additional five-year term, subject to non-substantive changes approved by the City Manager and City Attorney.
3. Authorize the City Manager to execute a Hosting Services Agreement with SmartWorks for data hosting related to a Meter Data Management System for a one-year term beginning on



November 17, 2020 and ending on November 16, 2021 with annual renewal options, in the amount of \$12,720 for the initial term, increasing by approximately 4% each year thereafter, for an annual amount not to exceed \$14,881, subject to non-substantive changes approved by the City Manager and City Attorney.

4. Authorize the City Manager to execute a Software License and Services Agreement with SmartWorks for a Meter Data Management System for a one-year term beginning on November 17, 2020 and ending on November 16, 2021 with annual renewal options, in the amount of \$153,588, which includes a one-time license fee of \$122,870 and an annual maintenance and support fee of \$30,718, with the maintenance and support fee increasing by approximately 4% at each renewal, in an annual amount not to exceed \$35,936, subject to non-substantive changes approved by the City Manager and City Attorney.
5. Authorize the City Manager to execute the Annual Support Services Agreement for hosting services, maintenance and extended warranties with Aqua-Metric Sales Company for a one-year term beginning November 17, 2020 and ending on November 16, 2021 with annual renewal options, in an amount not to exceed \$77,853 annually for the initial term and first renewal, increasing by approximately 3% each year thereafter, for an annual amount not to exceed \$84,996, subject to non-substantive changes approved by the City Manager and City Attorney.
6. Direct staff to pursue financing options for project costs.

## **DISCUSSION**

The Public Works Agency's Water Resources Division, provides potable water to approximately 45,000 customers, which includes all of the City's residents, businesses, and institutions. Water distributed to customers is measured by traditional water meters, which are read manually every two months to gather and process usage data for the water bill.

In October 2016, a feasibility study completed by Black & Veatch, Inc. concluded that upgrading to an Automated Metering Infrastructure (AMI) system would be a more efficient and effective method to meter customer accounts. Subsequently, the Water Resources Division contracted Utiliworks Consulting, Inc. to provide advice on system requirements and capabilities that would most benefit City water customers, as well as assist in the development of procurement documents.

The proposed AMI project will provide for the replacement or retrofit of all City water meters with smart water meters capable of automatically communicating water system data. This will be accomplished via two-way communication equipment to be installed at the existing West, East, and South Pump Stations, and atop City Hall. Procurement of a 'Headend System', which collects the meter data, and a Meter Data Management System (MDMS), which verifies and validates the data before sending it to the City's existing Customer Information System (enQuesta), are also part of the project.



An AMI system will improve the customer experience by providing much greater consumption detail on individual water accounts enabling customers to proactively manage their water consumption. Additionally, through the integration of the MDMS with enQuesta, the Municipal Utility Services department will have the ability to issue water bills on a monthly basis, improving cash flow to the City. The proposed system will also allow for the automation of water meter-related work orders communicated to the Public Works Agency, improving response times and reducing field visits.

With residential customers comprising approximately 87 percent of the water system accounts, staff proposes utilizing water meters with the capability to remotely turn on and shut off accounts, make rate adjustments and perform other meter functions in order to provide a more efficient customer service experience. The residential meters will also incorporate pressure and temperature readings allowing for improved system monitoring and preventative maintenance. All of this equates to a reduction in operations and water loss costs while improving operational efficiencies.

A Request for Proposal (RFP) was advertised on the City's online bid management and publication system, with bids due on February 19, 2020. The RFP was constructed in such a way that bidders could propose on an inclusive turnkey solution, or bid separately for each of the three project components, giving the Public Works Agency the flexibility to select the best option for water customers. Fifty-seven contractors downloaded the project documents. Fourteen proposals were received and evaluated by a selection committee based on criteria as outlined in the RFP. The following four bidders were placed on a short list and invited for follow-up interviews:

<b>Firm</b>	<b>Components Proposed</b>	<b>Rank</b>
Aqua-Metric Sales Company	All	1
Aclara Technologies, LLC	All	2
Badger Meter, Inc.	All	3
SmartWorks	MDMS only	1

In accordance with the criteria set forth in the RFP, staff recommends awarding contracts to Aqua-Metric Sales Company for the coordination and installation of an AMI system (Exhibits 1 and 5), including metering and data transmission hardware; Sensus USA, Inc. for a spectrum lease (Exhibit 2); and SmartWorks for an MDMS that will provide enhanced data analysis capabilities and integration with the existing billing system used by the Municipal Utility Services department (Exhibits 3 and 4). Each proposal demonstrated high technical competency, experience performing the requested services, and a clear path toward achieving the goals set forth in the RFP.

Below is a summary of the project's expected activities and costs by fiscal year:

#### FY 2020-21

This year, the City will launch the project with the Alpha Proof of Concept (POC) Phase, which will include the installation, setup, configuration and integration of all network collector base stations, the Regional Network Interface, the SmartWorks MDMS, and enQuesta billing software. The Alpha



## Approve Agreements for AMI Project Implementation

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Phase will also include the deployment of approximately 100 meters to confirm the accuracy of the network configurations. Costs for FY 2020-21 are estimated at \$1,967,984, as follows:

- Aqua-Metric: \$465,812 materials and supplies; \$356,449 network setup, installation, and configuration; \$664,323 professional services; \$3,267 product storage and warehousing; \$187,352 meter installation; \$124,473 annual fees including data hosting, licensing and support
- SmartWorks: \$122,870 one-time License Fee; \$30,718 Annual Maintenance and Support Fee; \$12,720 Annual Hosting Fee

### FY 2021-22

The Beta POC Phase will roughly coincide with the start of FY 2021-22. The Beta Phase will include the deployment of up to 1,000 smart meters to support acceptance testing. If all Beta Phase criterion are met, the Full Deployment Phase will begin within this fiscal year. Costs for FY 2021-22 are estimated at \$7,220,953 including contingency, as follows:

- Aqua-Metric: \$4,956,716 materials and supplies; \$31,552 professional services; \$36,635 product storage and warehousing; \$1,629,874 meter installation; \$99,125 annual fees including data hosting, licensing and support; \$421,875 contingency
- SmartWorks: \$31,947 Annual Maintenance and Support Fee; \$13,229 Annual Hosting Fee

### FY 2022-23

Full Deployment Phase will continue with large-scale meter installations across the customer base. Costs for FY 2022-23 are estimated at \$10,967,513, including contingency, as follows:

- Aqua-Metric: \$7,796,784 materials and supplies; \$34,799 product storage and warehousing; \$2,424,349 meter installation; \$102,099 annual fees including data hosting, licensing and support; \$562,499 contingency
- SmartWorks: \$33,225 Annual Maintenance and Support Fee; \$13,758 Annual Hosting Fee

### FY 2023-24

Full Deployment Phase will conclude with the installation of all remaining meters and testing to verify system performance and full coverage of all meters. Costs for FY 2023-24 are estimated at \$10,070,920, including contingency, as follows:

- Aqua-Metric: \$7,147,052 materials and supplies; \$31,900 product storage and warehousing; \$2,222,320 meter installation; \$105,161 annual fees including data hosting, licensing and support; \$515,625 contingency
- SmartWorks: \$34,554 Annual Maintenance and Support Fee; \$14,308 Annual Hosting Fee

### FY 2024-25

Project completed, annual fees continue. Costs for FY 2024-25 are estimated at \$159,133, as follows:

- Aqua-Metric: \$108,316
- SmartWorks: \$35,936 Annual Maintenance and Support Fee; \$14,881 Annual Hosting Fee

To determine the level of annual rate revenue required to satisfy projected annual operating and capital cost requirements, the 2019 Water, Recycled Water and Sewer Rate Study Report



developed a multi-year financial forecasting model for the City's Water Enterprise. No additional rate revenue is being proposed or pursued at this time. Staff will explore additional funding options such as the issuance of bonds or low interest loans from the Drinking Water State Revolving Fund to ensure that adequate reserve funds derived from customer revenue are available.

#### **ENVIRONMENTAL IMPACT**

In accordance with the California Environmental Quality Act Exemption 15301(b), the proposed project is exempt from further review. Categorical Exemption ER No. 2018-88 is on file for this project.

#### **FISCAL IMPACT**

The City has received grant funding in the amount of \$4 million from the State Natural Resources Agency and funds are budgeted and available for expenditure. A maximum of \$1,099,080 of State grant funds were allocated to the recent customer service and billing system software upgrade approved in a separate City Council Action on February 18, 2020. The remaining grant funds of \$2,900,920 are available to fund the action items included in this request. The City has received awards totaling \$1.5 million from the Federal Bureau of Reclamation for the AMI Project. These grant funds will be recognized and appropriated for expenditure in Fiscal Year 2021-22.

Funds for the estimated project expenditures of \$1,967,984 in FY 2020-21 are budgeted and available in the accounts listed below. Funding for the subsequent four years will be budgeted in future fiscal years as shown in the table below.

Although the Water Enterprise had an accumulated fund balance of approximately \$47 million at June 30, 2020 (unaudited), there is a series of water infrastructure projects planned that would spend down the accumulated fund balance over the next several years to maintain a target reserve level in the Water Enterprise, as outlined in the 2019 Water, Recycled Water and Sewer Rate Study Report presented to City Council on November 19, 2019. Therefore, staff recommends the pursuit of financing to fund the AMI project. As noted above, the rate structure already approved by City Council is sufficient to pay debt service on such financing. If City Council approves recommendation #6, staff plans to obtain financing by the end of calendar year 2021, which will require further approval from City Council.

<b>Fiscal Year</b>	<b>Accounting Unit - Account No. (Project No.)</b>	<b>Fund Description</b>	<b>Accounting Unit - Account No. Description</b>	<b>Amount</b>
FY 2020-21	06617647-66301 (16-6460)	Acquisition & Construction	Water Utility Capital Projects- Water Capital Project	\$800,072
	06017645-62300 (16-6460)	Water	Water Administration & Engineering, Contract Services-Professional	\$167,912



<b>Fiscal Year</b>	<b>Accounting Unit - Account No. (Project No.)</b>	<b>Fund Description</b>	<b>Accounting Unit - Account No. Description</b>	<b>Amount</b>
	16417642-66220 (16-6460)	PW Water Quality & Control	CA Natural Resources Grant – Improvements Other Than Buildings	\$1,000,000
FY 2020-21 Total				\$1,967,984
FY 2021-22	06617647-66301 (16-6460)	Acquisition & Construction	Water Utility Capital Projects- Water Capital Project	\$3,675,733
	06017645-62300 (16-6460)	Water	Water Administration & Engineering, Contract Services-Professional	\$144,300
	16417642-66220 (16-6460)	PW Water Quality & Control	CA Natural Resources Grant – Improvements Other Than Buildings	\$1,900,920
	16417641-66220 (16-6460)	PW Water Quality & Control	WaterSMART-Watershed Mgmt Prog– Improvements Other Than Buildings	\$1,500,000
FY 2021-22 Total				\$7,220,953
FY 2022-23	06617647-66301 (16-6460)	Acquisition & Construction	Water Utility Capital Projects- Water Capital Project	\$10,818,432
	06017645-62300 (16-6460)	Water	Water Administration & Engineering, Contract Services-Professional	\$149,081
FY 2022-23 Total				\$10,967,513
FY 2023-24	06617647-66301 (16-6460)	Acquisition & Construction	Water Utility Capital Projects- Water Capital Project	\$9,916,897
	06017645-62300 (16-6460)	Water	Water Administration & Engineering, Contract Services-Professional	\$154,023
FY 2023-24 Total				\$10,070,920
FY 2024-25	06017645-62300 (16-6460)	Water	Water Administration & Engineering, Contract Services-Professional	\$159,133
FY 2024-25 Total				\$159,133
Total				\$30,386,503

Fiscal Impact Verified By: Kathryn Downs, CPA, Executive Director – Finance and Management Services Agency



Submitted By: Nabil Saba, P.E., Executive Director – Public Works Agency

Exhibits:

1. Master Project Agreement with Aqua-Metric Sales Company
2. Software as a Service and Spectrum Lease Agreement with Sensus USA, Inc.
3. Hosting Services Agreement with SmartWorks
4. Software License and Services Agreement with SmartWorks
5. Annual Support Services Agreement with Aqua-Metric



**CONTRACTOR AGREEMENT  
CITY OF SANTA ANA**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 (the "Effective Date") by and between Thirkettle Corporation, dba Aqua-Metric Sales Company ("Contractor") located at 4050 Flat Rock Drive, Riverside CA 92505, and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("City").

**RECITALS**

- A. The City desires to retain a Contractor having special skill and knowledge in the field of:

providing and installing a fully functioning Advanced Metering Infrastructure (AMI) / Meter Data Management (MDM) system, and related software and services in accordance with the Exhibits and Appendices herein and upon acceptance by City in accordance with Appendix D.

- B. Contractor represents that Contractor is able and willing to provide such services to the City.
- C. In undertaking the performance of this Agreement, Contractor represents that it is knowledgeable in its field and that any services performed by Contractor under this Agreement will be performed in compliance with such standards as may reasonably be expected from a professional consulting firm in the field.

**NOW THEREFORE**, in consideration of the mutual and respective promises, and subject to the terms and conditions hereinafter set forth, the parties agree as follows:

**1. SCOPE OF SERVICES**

Contractor shall perform during the term of this Agreement, the tasks and obligations including all labor, materials, tools, equipment, and incidental customary work required to fully and adequately complete the services described and set forth in **Scope of Services - Exhibit A**, attached hereto and incorporated by reference. Further, Contractor intends to use the subconsultants below in the performance of this agreement through separate agreements between Contractor and subconsultants, to which City is not a party. Contractor shall be solely responsible to manage the work and deliverables of Contractor's sub-consultants for the timely completion of said project. Contractor's primary subconsultants are:

- Concord Environmental Energy, Inc. dba Concord Utility Services, a California Corporation located at 24619 Washington Ave, Suite 202, Murrieta, CA 92562
- JM Electrical Services, a California based company located at 2581 Union Avenue, La Habra, CA 90631
- SmartWorks, a division of N. Harris Computer Corporation located at 1 Antares Drive, Suite 400, Ottawa, Ontario K2E 8C4 ("Harris")
- Sensus USA Inc., located at 637 Davis Drive, Morrisville, NC 27560

**2. COMPENSATION**

- a. City agrees to pay, and Contractor agrees to accept as total payment for its services for City, the rates and charges identified in **Parts, Material & Pricing - Appendix A**. The total amount to be expended under this Agreement shall not exceed \$29,683,229.61 during the term of this



Agreement, including any extension periods exercised under Section 3.

- b. Payment by City shall be made within forty-five days (45) days following receipt of proper invoice evidencing work performed, subject to City accounting procedures. Payment need not be made for work which fails to meet the standards of performance set forth in the Recitals which may reasonably be expected by City.
- c. Any changes, alterations, additions, or substitution to the services, materials or supplies identified within Exhibit A, Appendix A – Parts, Material & Pricing will be submitted in accordance with the provisioned Change Order process as defined in the Agreement. Additional parts, materials, or services not defined within Appendix A – Parts, Material & Pricing will be quoted at the time of occurrence at the then current market value and be subject to City Council approval in the event an increase to the Project value as identified in Section 2 - Compensation is necessary. No additional parts, materials, or services will be provided under this contract unless authorized upon duly executed Change Order as outlined in the Agreement.
- d. Additional applicable payment terms appear in Exhibit A, Appendix D.

### **3. TERM**

This Agreement shall commence on the Effective Date and shall continue until all work and services are completed in accordance with the Exhibits and Appendices herein and upon acceptance by City in accordance with Appendix D for a fully functioning AMI, MDM for the City, unless terminated earlier in accordance with Section 16, below.

### **4. CHANGE ORDERS**

Contractor and City each acknowledge additional product and services not detailed or described herein may be required to complete the Work. Either Party may initiate a request to modify, add or remove additional product or services. No additional product or service will be inclusive unless upon written authorization from both Parties. Unless otherwise agreed upon, all additional product or services rendered will be quoted at current market values at the time of request.

### **5. PREVAILING WAGES**

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the services being performed are part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

### **5. INDEPENDENT CONTRACTOR**

Contractor shall, during the entire term of this Agreement, be construed to be an independent



contractor and not an employee of the City. This Agreement is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Contractor performs the services which are the subject matter of this Agreement; however, the services to be provided by Contractor shall be provided in a manner consistent with all applicable standards and regulations governing such services. Contractor shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.

## **6. OWNERSHIP OF MATERIALS**

This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Contractor under this Agreement ("Documents & Data"). Contractor shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Contractor represents and warrants that Contractor has the legal right to license any and all Documents & Data. Contractor makes no such representation and warranty in regard to Documents & Data which were provided to Contractor by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

## **7. INSURANCE**

Prior to undertaking performance of work under this Agreement, Contractor shall maintain and shall require its subcontractors, if any, to obtain and maintain insurance as described below:

- a. **Commercial General Liability Insurance.** Contractor shall maintain commercial general liability insurance naming the City, its officers, employees, agents, volunteers and representatives as additional insured(s) and shall include, but not be limited to protection against claims arising from bodily and personal injury, including death resulting therefrom and damage to property, resulting from any act or occurrence arising out of Contractor's operations in the performance of this Agreement, including, without limitation, acts involving vehicles. The amounts of insurance shall be not less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage, in the total amount of \$2,000,000 per occurrence, with \$4,000,000 in the aggregate. Such insurance shall (a) name the City, its officers, employees, agents, and representatives as additional insured(s); (b) be primary and not contributory with respect to insurance or self-insurance programs maintained by the City; and (c) contain standard separation of insureds provisions.
- b. **Business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$2,000,000 per occurrence.** Such insurance shall include coverage for owned, hired and non-owned automobiles.
- c. **Worker's Compensation Insurance.** In accordance with the provisions of Section 3700 of the Labor Code, Contractor, if Contractor has any employees, is required to be insured against liability for worker's compensation or to undertake self-insurance. Prior to commencing the performance of the work under this Agreement, Contractor agrees to



- obtain and maintain any employer's liability insurance with limits not less than \$1,000,000 per accident.
- d. If Contractor is or employs a licensed professional such as an architect or engineer: Professional liability (errors and omissions) insurance, with a combined single limit of not less than \$1,000,000 per claim with \$2,000,000 in the aggregate.
  - e. Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions with appropriate language relating to projects involving environmental hazards, with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
  - f. The following requirements apply to the insurance to be provided by Contractor pursuant to this section:
    - i. Contractor shall maintain all insurance required above in full force and effect for the entire period covered by this Agreement.
    - ii. Certificates of insurance shall be furnished to the City upon execution of this Agreement and shall be approved by the City Risk Management Division prior to issuance of notice to proceed.
    - iii. Certificates and policies shall state that the policies shall not be canceled or reduced in coverage or changed in any other material aspect without thirty (30) days prior written notice to the City.
    - iv. Contractor shall supply City with a fully executed additional insured endorsement.
  - g. Certificate Holder shall be listed as:  
City of Santa Ana  
Risk Management Division  
20 Civic Center Plaza, 4<sup>th</sup> Floor, M-28  
Santa Ana, CA 92702
  - h. If Contractor fails or refuses to produce or maintain the insurance required by this section or fails or refuses to furnish the City with required proof that insurance has been procured and is in force and paid for, the City shall have the right, at the City's election, to forthwith terminate this Agreement. Such termination shall not affect Contractor's right to be paid for its time and materials expended prior to notification of termination. Contractor waives the right to receive compensation and agrees to indemnify the City for any work performed prior to approval of insurance by the City.

## **8. INDEMNIFICATION**

Contractor agrees to defend, and shall indemnify and hold harmless the City, its officers, agents, employees, contractors, special counsel, and representatives from liability: (1) for personal injury, damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including death, and claims for property damage, which may arise from the negligent operations of the Contractor, its subcontractors, agents, employees, or other persons acting on its behalf which relates to the services described in section 1 of this Agreement; and (2) from any claim that personal injury, damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effects arising from this Agreement. This indemnity and hold harmless agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered, or alleged to have been suffered, by reason of the events referred to in this Section or by reason of the terms of, or effects, arising from this Agreement. The Contractor further agrees to indemnify, hold harmless, and pay all costs for the



defense of the City, including fees and costs for special counsel to be selected by the City, regarding any action by a third party challenging the validity of this Agreement, or asserting that personal injury, damages, just compensation, restitution, judicial or equitable relief due to personal or property rights arises by reason of the terms of, or effects arising from this Agreement. City may make all reasonable decisions with respect to its representation in any legal proceeding. Notwithstanding the foregoing, to the extent Contractor's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor.

## **9. INTELLECTUAL PROPERTY INDEMNIFICATION**

Contractor shall defend and indemnify the City, its officers, agents, representatives, and employees against any and all liability, including costs, for infringement of any United States' letters patent, trademark, or copyright infringement, including costs, contained in the work product or documents provided by Contractor to the City pursuant to this Agreement.

## **10. RECORDS**

Contractor shall keep records and invoices in connection with the work to be performed under this Agreement. Contractor shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any services, expenditures, and disbursements charged to the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Contractor under this Agreement. All such records and invoices shall be clearly identifiable. Contractor shall allow a representative of the City to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement during regular business hours. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment to Contractor under this Agreement.

## **11. CONFIDENTIALITY**

If either party hereto receives (the "Receiving Party") information from another party hereto (the "Disclosing Party") which due to the nature of such information is reasonably understood to be confidential and/or proprietary, the Receiving Party agrees that it shall not use or disclose such information except in the performance of this Agreement, and further agrees to exercise the same degree of care it uses to protect its own information of like importance, but in no event less than reasonable care. "Confidential Information" shall include all nonpublic information. Confidential information includes not only written information, but also information transferred orally, visually, electronically, or by other means. Confidential information disclosed to either party by any subsidiary and/or agent of the other party is covered by this Agreement. The foregoing obligations of non-use and nondisclosure shall not apply to any information that (a) has been disclosed in publicly available sources; (b) is, through no fault of the Receiving Party disclosed in a publicly available source; (c) is in rightful possession of the Receiving Party without an obligation of confidentiality; (d) is required to be disclosed by operation of law; or (e) is independently developed by the Receiving Party without reference to information disclosed by the Disclosing Party.

Each party agrees to store and maintain Confidential Information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt Confidential Information in any way. In the event the security or integrity of any Confidential Information has been compromised or is



believed to have been compromised, the party who identifies such breach of Confidential Information shall immediately notify the other party in which event, the parties agree to, in good faith, use all commercially reasonable efforts to cooperate with each other in identifying what information has been accessed by unauthorized means and shall fully cooperate with each other to protect such information from further unauthorized disclosure.

## **12. CONFLICT OF INTEREST CLAUSE**

Contractor covenants that it presently has no interests and shall not have interests, direct or indirect, which would conflict in any manner with performance of services specified under this Agreement.

## **13. DISCRIMINATION**

Contractor shall not discriminate because of race, color, creed, religion, sex, marital status, sexual orientation, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, training, utilization, promotion, termination or other employment related activities. Contractor affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations.

## **14. EXCLUSIVITY AND AMENDMENT**

This Agreement represents the complete and exclusive statement between the City and Contractor, and supersedes any and all other agreements, oral or written, between the parties. In the event of a conflict between the terms of this Agreement and any attachments hereto, the terms of this Agreement shall prevail. This Agreement may not be modified except by written instrument signed by the City and by an authorized representative of Contractor. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, the terms and conditions hereof, shall not bind or obligate Contractor or the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein.

## **15. ASSIGNMENT**

Inasmuch as this Agreement is intended to secure the specialized services of Contractor, Contractor may not assign, transfer, delegate, or subcontract any interest herein without the prior written consent of the City and any such assignment, transfer, delegation or subcontract without the City's prior written consent shall be considered null and void. Nothing in this Agreement shall be construed to limit the City's ability to have any of the services which are the subject to this Agreement performed by City personnel or by other Contractors retained by City.

## **16. SUSPENSION OF WORK.**

Except in the event of force majeure pursuant to Section 18, and notwithstanding anything to the contrary contained herein, in the event of prolonged or indefinite delays or suspension of work caused by City, Contractor may, at its discretion and upon written notice to the City, elect to remove Contractor assets including but not limited to personnel, equipment, storage and disposal facilities, product and materials from the Project worksite. In this event, the City agrees to pay only for fees that were legally or contractually incurred by Contractor related to the Project and before the delay or suspension of work

caused by City.

## **17. TERMINATION**

This Agreement may be terminated by the City upon thirty (30) days written notice of termination for Contractor's failure to perform the deliverables herein (the "breach") in accordance with the terms and conditions of this Agreement; provided breach has not been cured within thirty (30) days of Contractor's receipt of notice from the City, with such period being extended as necessary for Contractor to have a reasonable amount of time to cure, provided Contractor begins to cure such breach or violation within the 30-day period and diligently pursues completion of the same. In the event of termination by City under this section, Contractor shall be entitled to receive and the City shall pay Contractor compensation for all services performed by Contractor prior to receipt of such notice of termination, subject to the following conditions:

- a. As a condition of such payment, the Executive Director may require Contractor to deliver to the City all work product(s) completed as of such date, and in such case such work product shall be the property of the City unless prohibited by law, and Contractor consents to the City's use thereof for such purposes as the City deems appropriate.
- b. Payment need not be made for work which fails to meet the standard of performance specified in the Recitals of this Agreement.

## **18. FORCE MAJEURE**

Neither party shall be held liable for delay in fulfilling or failure to fulfill its obligations under this Agreement, if such delay or failure is caused by force majeure events beyond the reasonable control of such party, including, without limitation, natural calamity, acts of God, terrorist events, pandemic, or delays in product shipment caused by any of the preceding events, provided that the length of such delay or failure may not exceed the duration of the force majeure event. Payment obligations shall not be so excused. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this Agreement within thirty (30) days of the force majeure event.

## **19. INFORMAL DISPUTE RESOLUTION.**

Except in the event of termination pursuant to Section 17, if either the City or Client has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the parties shall first attempt to resolve the matter through this dispute resolution process. The disputing party shall notify the other party in writing as soon as practicable after discovering the claim, dispute, or breach. The notice shall state the nature of the dispute and list the party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both parties shall commence the resolution process and make a good faith effort, either through email, mail, phone conference, in person meetings, or other reasonable means to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with this Agreement. If the Parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, they may seek any other available relief. Notwithstanding the fact that the parties may be attempting to resolve a dispute in accordance with this informal dispute resolution process, the parties agree to continue without delay all of their respective duties and obligations under this Agreement not affected by the dispute. Either party may, before or during the exercise of the informal dispute resolution process set forth herein, apply to a court having jurisdiction



for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests.

## **20. WAIVER**

No waiver of breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure or right, or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

## **21. JURISDICTION - VENUE**

This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

## **22. PROFESSIONAL LICENSES**

Contractor shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws and regulations of the United States, the State of California, the City of Santa Ana and all other governmental agencies. Contractor shall notify the City immediately and in writing of its inability to obtain or maintain such permits, licenses, approvals, waivers, and exemptions. Said inability shall be cause for termination of this Agreement.

## **23. MISCELLANEOUS PROVISIONS**

- a. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify City fully, including reasonable costs and attorney's fees, for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.
- b. All Exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.

## **24. NOTICE**

Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, or sent by fax or other telegraphic communication in the manner provided in this Section, to the following persons:

To City:

Clerk of the City Council

City of Santa Ana  
20 Civic Center Plaza (M-30)  
P.O. Box 1988  
Santa Ana, CA 92702-1988  
Fax: 714- 647-6956

With courtesy copies to:

Executive Director, Public Works Agency City of Santa Ana 20 Civic Center Plaza (M-21) P.O. Box 1988 Santa Ana, California 92702 Fax: 714- 647-5635	City Attorney City of Santa Ana 20 Civic Center Plaza (M-29) P.O. Box 1988 Santa Ana, California 92702 Fax: 714- 647-6515
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To Contractor:

Tommy Thirkettle President/CEO Aqua-Metric Sales Company 4050 Flat Rock Drive Riverside, CA 92505 Fax: (951) 637-1500
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A party may change its address by giving notice in writing to the other party. Thereafter, any communication shall be addressed and transmitted to the new address. If sent by mail, communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by fax, communication shall be effective or deemed to have been given twenty-four (24) hours after the time set forth on the transmission report issued by the transmitting facsimile machine, addressed as set forth above. For purposes of calculating these time frames, weekends, federal, state, County or City holidays shall be excluded.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

**ATTEST:**

**CITY OF SANTA ANA**

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Daisy Gomez  
Clerk of the Council

---

Kristine Ridge  
City Manager

**APPROVED AS TO FORM:**

SONIA R. CARVALHO

**CONTRACTOR:**



City Attorney

By: John M. Funk  
John Funk  
Assistant City Attorney

Tommy Thirkettle  
Tommy Thirkettle  
President/CEO  
Tax ID# 33-0548813

RECOMMENDED FOR APPROVAL:

Nabil Saba, PE  
Nabil Saba, PE  
Executive Director  
Public Works Agency

## **EXHIBIT A**

### **SCOPE OF WORK**

#### **1. Scope of Work Overview**

This Prime Contractor Scope of Work (the “SOW”) is intended to document the planning, work and services by Aqua-Metric Sales Company (“Aqua-Metric”) for the City of Santa Ana, CA (“Santa Ana”) to install Advanced Metering Infrastructure and Metering Equipment, Installation Services and a Meter Data Management System (the “Project”). This SOW shall be used to reach a satisfactory level of mutual agreement between Aqua-Metric and Santa Ana with respect to the objectives and requirements of the Project.

#### **2. Objective**

Santa Ana has engaged Aqua-Metric to furnish the implementation services described hereunder to facilitate a functional Sensus FlexNet Advanced Metering Infrastructure (“AMI”) system for the measurement and metering of Santa Ana’s utility resources.

#### **3. Sub Contractors and Work Relationships**

Aqua-Metric is responsible to complete all work and services identified in this SOW. This SOW shall describe the general work and services that Aqua-Metric will provide either themselves or through their subcontractors: Sensus USA, Inc. (“Sensus”), N. Harris Computer Corporation (“Harris”), Systems & Software, Inc. (“S&S”) and Concord Utility Services (“Concord”). All references in this SOW and associated Appendices to sub-contractor responsibilities are for clarity to understand who will provide specific services or material but does not relieve Aqua-Metric from the requirement to perform said services or provide said material. None of the Appendices or Exhibits are intended, in themselves, to create a separate agreement between Santa Ana and any of the subcontracting entities.

Exhibit A-1 is provided as a reference and provides a visual demonstration of the relationship of the Contractor Agreement, the Exhibits to the Contractor Agreement and the Appendices. It also identifies separate agreements that will survive the completion of this SOW but are necessary for the continued operation and maintenance of the installed Project.

This SOW is intended to serve as a description of such services and shall not supersede any separate agreement(s) with the vendor that is providing those services.

Aqua-Metric and Santa Ana acknowledge and agree the SOW may adjust as necessary without formal Change Order to accommodate changes in the project which do not impact the overall Project cost or timeline. Any significant change(s) to the SOW that would otherwise cause a change in the Project cost or timeline shall be executed upon written Change Order, pursuant to the Contractor Agreement (the “Agreement”), duly signed by an authorized representative of Santa Ana and Aqua-Metric, and approved by City’s City Council if necessary..

#### **4. Key Project Personnel**

##### **4.1. City of Santa Ana**

- A. Rudy Rosas – Principal Civil Engineer (Project Manager)
- B. Nabil Saba – Project Executive Sponsor (Director, Public Works Agency)
- C. Will Holt – Treasury and Customer Services Manager



- D. Jack Ciulla – Chief Technology Innovations Officer
- E. Edmundo Villela – Water Services Supervisor (meters)
- F. Cesar Barrera – Deputy Director Public Works/Water Resources Manager
- 4.2. Aqua-Metric Sales Company
  - A. Anthony Barajas – Project Manager
  - B. Jeff Randolph – Western Sales Manager
  - C. John Shafer – Account Manager
  - D. Chris Berg – Technical Support Specialist
  - E. Jeremy Lancon – Manager of Meter Services
  - F. Alek Cloyd – Meter Services Project Supervisor
- 4.3. Sensus USA Inc.
  - A. Bill Boyd – Senior Account Development Manager
  - B. Ryan Carnathan – Sensus Manager of Technical Solutions
- 4.4. N. Harris Computer Corporation
  - A. Curtis Craig – Senior Sales Account Manager
  - B. Sanjay Singh – Director, Strategic Business Development
- 4.5. Concord Utility Services
  - A. Doug Oberheu - CEO
  - B. Levi Capaci – Vice President / COO

## **5. General Responsibilities**

- 5.1. Aqua-Metric Responsibilities
  - A. Designate a primary point of contact to oversee the project deployment.
  - B. Coordinate kickoff meeting with core project personnel to review the project plan, deliverables, and timeline.
  - C. Develop a project plan and timeline to use as general guidelines for all project deliverables.
  - D. Coordinate with Santa Ana to establish a communication and activity plan with reporting requirements during project deployment.
  - E. Coordinate deliverables with suppliers and subcontractors to ensure project is executed timely.
  - F. Manage product and material acquisition required for deployment of field assets.
  - G. Manage the installation, setup, and configuration of local network infrastructure.
  - H. Oversee and support the deployment and integration of the Harris SmartWorks Compass MDM (“SmartWorks”).
  - I. Oversee and support the integration of the S&S enQuesta and Capricorn environments.

- J. Oversee and support Concord Utility Services through deployment of field assets to install meters, endpoints and supporting material in accordance with Appendix B, Installer SOW.
- K. Oversee and support the deployment and integration of the Sensus Analytics Services Management Application (SA/SMA) module used for the management of the Ally meter population.
- L. Oversee and support the deployment and integration of the NovusCenter WOMS used for mass meter deployment

#### **5.2. Santa Ana Responsibilities**

- A. Appoint a primary point of contact to coordinate with Aqua-Metric through the overall delivery of the solution described herein.
- B. Designate the appropriate city personnel to support and participate throughout the Project.
- C. Provide secure locations identified within the Sensus Propagation Analysis suitable to accommodate network infrastructure.
- D. Perform System Acceptance Testing (SAT) for formal acceptance of the network infrastructure, head end system, SA/SMA and SmartWorks.
- E. Provide a secure location to store product and stage operations throughout the project. Santa Ana shall grant access to Aqua-Metric or Concord's authorized personnel as necessary during normal business hours to carry out daily operations during the deployment of meters and SmartPoints.

### **6. Acceptance Criteria and Project Phases**

Project phases include the Project Initiation and Planning Phase, Alpha POC (Proof of Concept) Phase, Beta POC Phase, and Full Deployment Phase. The project will not proceed to the subsequent phase until approved by Santa Ana using the Project Acceptance Criteria identified in Appendix D.

### **7. Project Initiation and Planning**

- 7.1. Aqua-Metric and Santa Ana will conduct Project Planning and Discovery Workshop(s) to determine the following:
  - A. Core Project Team Organizational Chart
  - B. Project Plan and Timeline
  - C. Project Communication Management Plan
  - D. Product Acquisition Planning
    - i. Complete Customer Information Sheet
    - ii. Define meter and SmartPoint configuration profiles
    - iii. Issue purchase orders for network infrastructure and products used during Alpha POC Phase.
    - iv. Coordinate with supplier(s) to determine manufacturing lead times and adjust Project Timeline as necessary.
  - E. Meter and SmartPoint Installation Planning



- i. Refine installation requirements, expectations, and timelines for each phase.
- ii. Develop community outreach pre-installation and post-installation door hangers.

F. Training Plan

G. Testing Plan and User Acceptance/System Acceptance

## 8. Alpha POC Phase

### 8.1. Network Deployment

#### A. Network Basestations

- i. Aqua-Metric will furnish Sensus M400 Basestations (“Basestation”), Basestation antenna, and cellular backhaul modems, as defined in Appendix A and install one (1) each at the East Station Tank, South Station Tank, West Station Tank, and City Hall locations as detailed in the Sensus Propagation Analysis. Santa Ana will provide access to each location and affirm each location is secure and suitable Basestation hardware.
  - a) West Station Tank Includes:
    - Saw cut, demo, remove and dispose of asphalt for footing, power conduit trench, and bollards; construct new footing and erect 80 ft. Heavy Duty Magnum tower; install new OMNI antenna and coax; install Basestation on footing; install ground ring for tower and equipment; trench, install 2 PVC conduits, and backfill approx. 45 ft.; install new 120v circuit from panel to base station with disconnect; sweep test; remove existing unused cantilever pole with crane; install 4 bollards and paint with high visibility yellow paint; and install sheet metal barrier for the first 10 ft.
  - b) South Station Tank Includes:
    - Saw cut, demo, remove and dispose of asphalt for footing, power conduit trench, and bollards; construct new footing and erect 80 ft. Heavy Duty Magnum tower; install new OMNI antenna and coax; install Basestation on footing; install ground ring for tower and equipment; trench, install 2 PVC conduits, and backfill approx. 10 ft.; install new 120v circuit from panel to base station with disconnect; sweep test; install 6 bollards and paint with high visibility yellow paint; and install sheet metal barrier for the first 10 ft.
  - c) East Station Tank Includes:
    - Construct new footing and erect 80 ft. Heavy Duty Magnum tower; install new OMNI antenna and coax; install Basestation on footing; install ground ring for tower and equipment; trench, install 2 PVC conduits, and backfill approx. 10 ft. from existing pull box to footing; install new 120v circuit from panel to base station with disconnect through existing conduits approx. 165 ft.; sweep test; and install sheet metal barrier for the first 10 ft.
  - d) City Hall Includes:
    - Install new Z brackets and 2"pipe antenna mast; install new Omni antenna and coax; install Basestation on exterior wall under antenna mast; ground Basestation to building steel; install new rigid conduit for power from supplied j-box next to

telecom cabinet next to exit door; install new 120v circuit from j-box provided by Santa Ana next to exit door; and sweep test.

- e) City will be required to supply an electrical source at each Basestation site, as well as provide an electrical base, mounting racks, and/or antenna mounts, as needed.
- f) Basestation installation pricing, as outlined in Appendix A – Parts, Materials & Pricing, will be subject to change based on actual site conditions and changes in scope upon further site visits. Basestation Installation pricing does not include excavating in rock or asphalt repair.
- g) Dig alerts will be marked at the West Station, South Station, and East Station tower sites. Santa Ana to provide contact for dig alert access.
- h) Spare 3/4" conduit will be provided at each tower footing. Rigid conduit to be used at each conduit stub up out of trench with 10mm tape for corrosion protection and for all above ground conduit runs.
- i) Revisions to the pricing will be submitted for approval by Santa Ana as outlined in Appendix D – Acceptance Criteria & Payment Terms hereto.
- i. Aqua-Metric will coordinate and conduct a site visit with Santa Ana at each proposed location prior to installation. Concluding the site survey, Aqua-Metric and Santa Ana will coordinate target dates for Basestation installation.
- ii. Santa Ana will be responsible for providing the following at each Basestation site:
  - a) 120V single phase service with 15-amp breaker;
  - b) 3-wire flex conduit pigtail from the breaker to the Basestation
  - c) Cellular data plan for the backhaul device
- iii. Aqua-Metric shall install and commission the Basestation, antenna, and communications backhaul at each proposed site.

#### B. Head End System

- i. Aqua-Metric will provide the technical resources and identify the detailed steps of the standard integrations to support the implementation, configuration, and integration of the Regional Network Interface (“RNI”) with FlexNet Basestations, SmartWorks, and the S&S enQuesta Customer Information System (“enQuesta”).
- ii. Sensus will setup and configure the hosted RNI environment within Sensus’ data centers. Aqua-Metric and Sensus will configure the RNI for various Sensus systems and acceptance of third-party application integrations. When applicable, Aqua-Metric will provide guidance to Santa Ana on various application configurations when different options are available.
- iii. Aqua-Metric will provide S&S with the requirements needed to facilitate a sync file, interface to receive readings, and the NovusCenter meter swap process to receive meter exchange data within the CIS.

#### C. Harris SmartWorks Compass MDM / Systems & Software enQuesta AMI Integration

- i. Harris will be responsible for providing the professional services necessary to setup and configure SmartWorks to receive and send data (and other event notifications)



to/from the RNI, the Sensus Service Management Application (SMA) and the CIS (to include the Capricorn Web Portal). Aqua-Metric will support Harris' technical resources as necessary to ensure successful integration between the various systems.

- ii. The Harris Scope of Work has been included within Appendix C – MDMS (SmartWorks) SOW attached hereto.
- iii. Harris will engage directly with S&S to facilitate enQuesta integrations. S&S's Statement of Work for integration to SmartWorks and SA/SMA has been included as Appendix C.1 – CIS (S&S enQuesta V6) SOW attached hereto.
- iv. Aqua-Metric will engage, coordinate, and oversee the professional services provided by Sensus, Harris and S&S through integrations between the RNI, SA/SMA, SmartWorks, and enQuesta/Capricorn.
  - a) Sensus Professional Services will conduct a Solution Design workshop with Santa Ana staff to review the business and integration requirements for the purpose of understanding and the development of a plan for integration. The following items are considered in scope for this project:
    1. Sensus Solution Design Workshop
    2. RNI to SmartWorks Integration  
To include: billing reads and alarms, On-Demand Reads and Remote valve control
    3. Sensus Analytics integration with enQuesta and other Santa Ana systems to support the use of SMA and Pressure Profile Application (PPA).
    4. FlexNet RNI to CIS/Billing (enQuesta) integration (for meter lifecycle)
  - b) Sensus Responsibilities
    1. Facilitate and/or participate in workshops and discovery sessions with Santa Ana and Harris.
    2. Complete Harris Integration questionnaire.
    3. Identify which Application Programming Interfaces (APIs) will be needed based on Santa Ana's business requirements.
    4. Share API information with Santa Ana, Harris and enQuesta teams.
    5. Ensure accurate setup and configuration of Integration(s) between the Sensus RNI, SmartWorks and enQuesta.
    6. Verify and validate that the Integration(s) between the Sensus RNI to Harris SmartWorks and enQuesta to ensure data flow and is successful.
    7. Conduct a SA/SMA and PPA kickoff call for the purpose of sharing integration requirements with Santa Ana's CIS and other external systems.
    8. Share Sensus Analytics data sync information (vflex file data attributes guide) with Santa Ana and enQuesta team.
    9. Perform integration testing in production environment (between the Sensus FlexNet systems, SmartWorks, and enQuesta CIS).

c) Sensus Deliverables

1. Workshop summary document including key integration requirements, process flows and integration architecture diagram
2. Successful delivery of meter reads and alarm from the RNI to SmartWorks.
3. Successful execution of two-way communication (On Demand Reads and Remote Valve Control) initiated from SmartWorks.
4. Successful integration of meter lifecycle commands between enQuesta and the RNI.
5. Successful integration of Sensus Analytics with enQuesta

v. Santa Ana Responsibilities:

- a) Santa Ana shall actively participate in, be in compliance with, and support any deliverables outlined herein and within Appendix C – MDMS (SmartWorks) SOW and Appendix C-1 CIS (S&S enQuesta V6) SOW where necessary and applicable.
- b) Santa Ana shall outline and provide its business requirements.
- c) Santa Ana shall grant Harris and S&S personnel access to Santa Ana's premises in the event any such professional services are required to be performed onsite throughout the Project. When remote access is sufficient, Santa Ana shall grant Harris and S&S remote access to any servers or computers as necessary to perform the services.
- d) Santa Ana acknowledges that the success and timeliness of the implementation process shall require the active participation and collaboration of Santa Ana and its staff and agrees to ensure that the Santa Ana shall act reasonably and co-operate fully with Harris to achieve completion of services.
- e) Santa Ana shall install all Updates within a reasonable period of time of Harris' notification of their availability. However, any fix or correction designated as "critical" by Harris shall be implemented by Santa Ana within thirty (30) days of notification from Harris of its availability.
- f) Santa Ana shall immediately notify Aqua-Metric of suspected defects identified by Santa Ana in any of the software supplied by Harris. Santa Ana shall provide, upon request, additional data deemed necessary or desirable by Harris to reproduce the environment in which such defect occurred.
- g) Santa Ana shall allow the use of online diagnostics on the software supplied by Harris to Santa Ana, if required by Harris during problem diagnosis. Santa Ana shall provide Harris access to Santa Ana's computer system via Santa Ana's firewall to communications software (e.g. PC Anywhere, WebEx, Web Demo).
- h) Santa Ana shall ensure that its personnel are, at relevant stages of the project, educated and trained in the proper use of SmartWorks in accordance with applicable SmartWorks manuals and instructions. Any personnel training outside the initial training will be considered out of scope.
- i) Santa Ana shall establish proper backup procedures necessary to replace critical data in the event of loss or damage to such data from any cause. Santa Ana shall provide



Harris with access to qualified functional or technical personnel to aid in diagnosis and to assist in repair of SmartWorks in the event of error, defect or malfunction.

j) Santa Ana shall have the sole responsibility for:

1. the performance of any tests it deems necessary prior to the use of the software.
2. assuring proper designated computer system installation, configuration, verification, audit controls and operating methods.
3. implementing proper procedures to assure security and accuracy of input and output and restart and recovery in the event of malfunction.
4. timely upgrade and keeping current all third-party license releases and/or software products to meet the requirements of SmartWorks.

D. Service Account Database

- i. To facilitate field work orders in a meter exchange project, Aqua-Metric will work with Santa Ana and S&S to use an existing meter swap interface. Most billing vendors have an existing interface that will define the formats required.
  - a) Santa Ana will supply Aqua-Metric with a current export of Santa Ana's billing database.
  - b) Aqua-Metric will coordinate with Santa Ana to reconcile/clean-up database. Any issues or concerns with the data file will need to be resolved prior to meter exchange. Insufficient or inaccurate data may result in delay(s) to the Project Schedule and subject to subsequent fees for additional time spent in the field to locate field assets and/or carry out the services herein. In the event Santa Ana requires assistance with data clean-up, Aqua-Metric will supply a Data Analyst at an hourly rate of Two-Hundred Dollars (\$200.00) per hour.
  - c) When all issues have been resolved, import final billing database into NovusCenter.
- ii. Aqua-Metric will coordinate with City to partition the service area into routes.

E. NovusCenter Work Order Management System ("WOMS")

- i. Aqua-Metric will coordinate with S&S to ensure the electronic meter swap files are formatted correctly for the CIS.
- ii. Aqua-Metric will coordinate with Santa Ana and S&S to test integration prior to requiring any data imports.
- iii. Verify test is successful and NovusCenter is ready for use.
- iv. Aqua-Metric has included pricing for integrating NovusCenter with enQuesta; however, S&S may impose separate fees for extract and meter swap integration with NovusCenter. Aqua-Metric is unable to ascertain or approximate any additional fee(s) (i.e. one-time or ongoing) as such would be facilitated between Santa Ana and S&S exclusively. Aqua-Metric shall not be responsible for any new or revised fee(s) imposed from S&S.

8.2. Product Acquisition

A. Aqua-Metric will work with Santa Ana to setup meter configurations and profiles.

- B. Aqua-Metric will coordinate with Santa Ana to determine meter types and sizes which will be deployed during the Alpha POC Phase.
- C. Aqua-Metric will procure all product(s) needed during the Alpha POC Phase. Aqua-Metric assumes all product(s) needed during the Alpha POC Phase will be delivered and stored within a City provided facility.

#### 8.3. Consumer Notifications

- A. Aqua-Metric will assist in the development of print media needed through the duration of the project. All documents will be drafted with a final proof provided to Santa Ana for approval prior to printing. Santa Ana will be responsible for all costs to reprint materials for alterations or changes in wording or imagery initiated by Santa Ana. For the scope of this project, Aqua-Metric shall provide Santa Ana with the following printed media materials:
  - i. Pre-Installation Door Hangers
  - ii. Post-Installation Door Hangers
  - iii. General Notification Postcards
    - a) Santa Ana will be responsible for providing a current mailing list for all residential and commercial customers.
    - b) All postcards will be marked with a return address of 20 Civic Center Plaza (M-14), Santa Ana, CA 92701. All undelivered postcards will be returned to the City. Aqua-Metric assumes any account which the postcard has failed to deliver will become the responsibility of Santa Ana to notify the end user of the impending meter replacement.

#### 8.4. Deploy Alpha POC Phase Water Meters and SmartPoints

- A. Aqua-Metric will conduct the Alpha POC Phase kickoff meeting with Concord's key personnel. During this meeting, Aqua-Metric shall review project expectations, planned routes, schedules, and training plans.
- B. Aqua-Metric will coordinate postcard mailings to all residents who will be affected by the meter exchange during the Alpha POC Phase four (4) weeks prior to commencing meter exchanges.
- C. Aqua-Metric will coordinate Concord's delivery of door hangers to all residents who will be affected by the meter exchange during the Alpha POC Phase two (2) weeks prior to commencing meter exchanges.
- D. Once applicable notifications have been distributed, Aqua-Metric will permit Concord to proceed with meter exchange services.

#### 8.5. System Integration Testing ("SIT")

- A. Aqua-Metric will confirm Sensus Basestation(s) have been installed with the appropriate hardware and firmware build for RNI, the radio frequency cards are at the required revision and Global Positioning System ("GPS") is configured and functional.
  - i. Update the firmware and/or hardware required for any Sensus Basestation required to function in order to facilitate the RNI implementation.
  - ii. Test Sensus Basestation configuration and communication to the RNI.



- c) Coordinate with Client to test backhaul and ensure that network traffic is being routed properly to the RNI environment.
  - d) Aqua-Metric shall validate and test meter data information and verify traffic is transferred from Sensus Basestation to RNI.
- iii. Issue certain two-way commands to Client specified test meters to ensure two-way communication is working and functional.
- B. Aqua-Metric/Sensus will validate and test all functionality of the system prior to the cut-over production of the RNI environment. Validation and testing include the connectivity to/from the Basestations and integrations between SmartWorks, NovusCenter, and enQuesta.
- C. Aqua-Metric shall verify that all integrations specified in this SOW and necessary for functionality between the Sensus RNI, SmartWorks, NovusCenter, and enQuesta are communicating properly. Santa Ana shall support the SIT performed by the vendors to the extent necessary.
- D. Aqua Metric will provide training to Santa Ana on RNI operation, SMA module, SmartPoint programming and installation.

## **9. Beta POC Phase**

### **9.1. Setup Facilities**

- A. Santa Ana will provide a secure gated location with adequate space to accommodate daily operations and product storage through the duration of the project. Santa Ana agrees to provide Aqua-Metric and Subcontractor personnel with access codes or security cards necessary to gain access to the location during normal operating hours. At minimum, the location shall be capable of accommodating the following:
  - i. Up to five (5) each 8 ft. x 40 ft. mobile storage units
  - ii. Up to three (3) 3-yard recycling containers for packing materials (not scrap/meter disposal)
  - iii. Up to two (2) 3-yard waste containers
  - iv. One (1) forklift
  - v. Access area for product delivery and waste/recycling pickup vehicles
  - vi. Adequate parking spaces for Project personnel during normal operating hours and field technicians for loading and unloading of materials.
- B. Aqua-Metric will furnish and maintain mobile storage units, waste and recycling containers, and any specialty equipment identified above throughout the duration of the project. Aqua-Metric shall maintain and practice good housekeeping at all City provided location(s) at all times.
- C. Aqua-Metric assumes Santa Ana will provide containers for meter/scrap meter collection.

### **9.2. Product Acquisition**

- A. Aqua-Metric will coordinate with Santa Ana to determine meter types and sizes which will be deployed during the Beta POC Phase.

- B. Aqua-Metric will procure all product(s) needed during the Beta POC Phase. Aqua-Metric assumes all product(s) needed during the Beta POC Phase will be delivered and stored within Aqua-Metric provided mobile storage containers which shall reside at Santa Ana provided Corporation Yard. Santa Ana shall grant access to Aqua-Metric or Concord's authorized personnel as necessary during normal business hours to carry out daily operations during the deployment of meters and SmartPoints.

#### 9.3. Deploy Beta POC Phase Water Meters and SmartPoints

- A. Aqua-Metric will conduct the Beta POC Phase kickoff meeting with Concord's key personnel. During this meeting, Aqua-Metric shall review project expectations, planned routes, schedules, and training plans.
- B. Aqua-Metric will coordinate postcard mailings to all residents who will be affected by the meter exchange during the Beta POC Phase four (4) weeks prior to commencing meter exchanges.
- C. Aqua-Metric will coordinate Concord's delivery of door hangers to all residents who will be affected by the meter exchange during the Beta POC Phase two (2) weeks prior to commencing meter exchanges.
- D. Once applicable notifications have been distributed, Aqua-Metric will permit Concord to proceed with meter exchange services.

#### 9.4. System Acceptance Testing ("SAT")

- A. Santa Ana will review and approve SAT acceptance criteria. Aqua-Metric and City will coordinate and resolve any issues identified during SAT.
- B. Santa Ana shall perform SAT to verify all integrations between the RNI, SmartWorks, and enQuesta have been satisfactorily completed to support "go-live" and full deployment; including functional testing of on demand reads, events and alarms, metering reading, and billing end-to-end.
- C. Santa Ana shall complete all testing within thirty (30) days of commencing SAT and provide written completion notice of the SAT to Aqua-Metric upon successful completion.

#### 9.5. Production Go-Live

- A. Aqua-Metric will work with Santa Ana to determine the Production Go-Live date and timeline. Once proper validation and testing has been performed on the network and software as described above, go-live will commence and Aqua-Metric shall work with Santa Ana to conclude the network deployment. Aqua-Metric and Santa Ana will coordinate to facilitate and complete all go-live activities. Upon completion of all go-live activities, Santa Ana shall provide written acceptance of the network deployment.

#### 9.6. Training

- A. Aqua-Metric will train Santa Ana's key personnel on use and troubleshooting of the AMI System and field assets (meters and radios). Aqua-Metric will provide Santa Ana with relevant network, software, and product documentation in a digital format.
- B. Aqua-Metric will coordinate with Harris to provide Santa Ana with SmartWorks training.

### 10. Full Deployment Phase

#### 10.1. Project Management (Ongoing)



- A. Aqua-Metric's Project Manager will coordinate and conduct progress meetings with Santa Ana to review project progression and help identify any potential issues during the Full Deployment Phase.
    - v. Aqua-Metric will provide a remote technical resource to routinely monitor the network performance and system integrations through the Full Deployment Phase.
    - vi. Aqua-Metric will coordinate resolution of issues with SmartWorks through Harris.
    - vii. Aqua-Metric will coordinate issues between the AMI system or SmartWorks and enQuesta with Santa Ana. If an issue arises in which resolution is needed from S&S, Santa Ana shall coordinate with S&S to facilitate a resolution. Aqua-Metric will support Santa Ana's and S&S's efforts as necessary to resolve any issues.
    - viii. Aqua-Metric will coordinate with Concord to resolve any field issues that arise during the Full Deployment Phase.
  - B. Aqua-Metric will coordinate with product supplier(s) to ensure all materials supplied are onsite and available prior to commencing meter exchange services. Aqua-Metric's Project Manager will work with Concord and Aqua-Metric's back office personnel to ensure inventory level meets anticipated daily production rates.
- 10.2. Deploy Full Deployment Phase Water Meters and SmartPoints
- A. Aqua-Metric will coordinate postcard mailings to all residents who will be affected by the meter exchange during the Full Deployment Phase four (4) weeks prior to commencing meter exchanges.
  - B. Aqua-Metric will coordinate Concord's delivery of door hangers to all residents who will be affected by the meter exchange during the Full Deployment Phase two (2) weeks prior to commencing meter exchanges.
  - C. Once applicable notifications have been distributed, Aqua-Metric will permit Concord to proceed with meter exchange services.

## **11. Project Close-Out**

- 11.1. Aqua-Metric and Santa Ana will draft all punch-list items to complete prior to Project Close-Out.
- A. Aqua-Metric will coordinate with Aqua-Metric's technical resources and/or Sensus to address and resolve any action items related to network Basestations and RNI.
  - B. Aqua-Metric will coordinate with Harris to ensure any action items related to SmartWorks have been addressed and closed.
  - C. Aqua-Metric will assist Santa Ana in developing a list of action items for S&S as it relates to the AMI System. Santa Ana shall be responsible for communicating any punch-list with S&S and coordinating with Aqua-Metric to ensure all items are resolved.
  - D. Aqua-Metric will review workorders captured within NovusCenter and develop a list of clean-up items to Concord. In addition, Santa Ana shall notify Aqua-Metric of any field related concerns to address with Concord. Aqua-Metric will provide Concord with a list of action items to complete or clean-up prior to demobilization of field crews or equipment.
- 11.2. Demobilization

- A. Aqua-Metric will demobilize field storage units, waste and recycling units, and heavy equipment from Santa Ana's Corporation Yard.
  - B. Aqua-Metric will return any City provided facilities, equipment, keys or keycards to appropriate personnel.
  - C. Aqua-Metric will transfer any overstock inventory owned by City back to Santa Ana.
- 11.3. Project Acceptance Documentation
- A. Aqua-Metric will provide a final project reconciliation and provide a final invoice for any outstanding items, including any additions or deductions made by authorized Change Order.
  - B. Aqua-Metric will furnish a Project Acceptance Sign-Off outlining all deliverables which have been furnished and fulfilled under this Agreement.
- 11.4. Transfer Responsibilities
- A. Upon execution of the Project Acceptance Sign-Off:
    - ix. Aqua-Metric will transfer support and troubleshooting relating to the Sensus FlexNet AMI Network, RNI, and field assets (meters and SmartPoints) to Aqua-Metric's technical resources as part of Aqua-Metric's on-going Annual Support.
    - x. If applicable, Aqua-Metric will coordinate any field installation warranty concerns with Concord for a period of thirty (30) days from the date of installation.

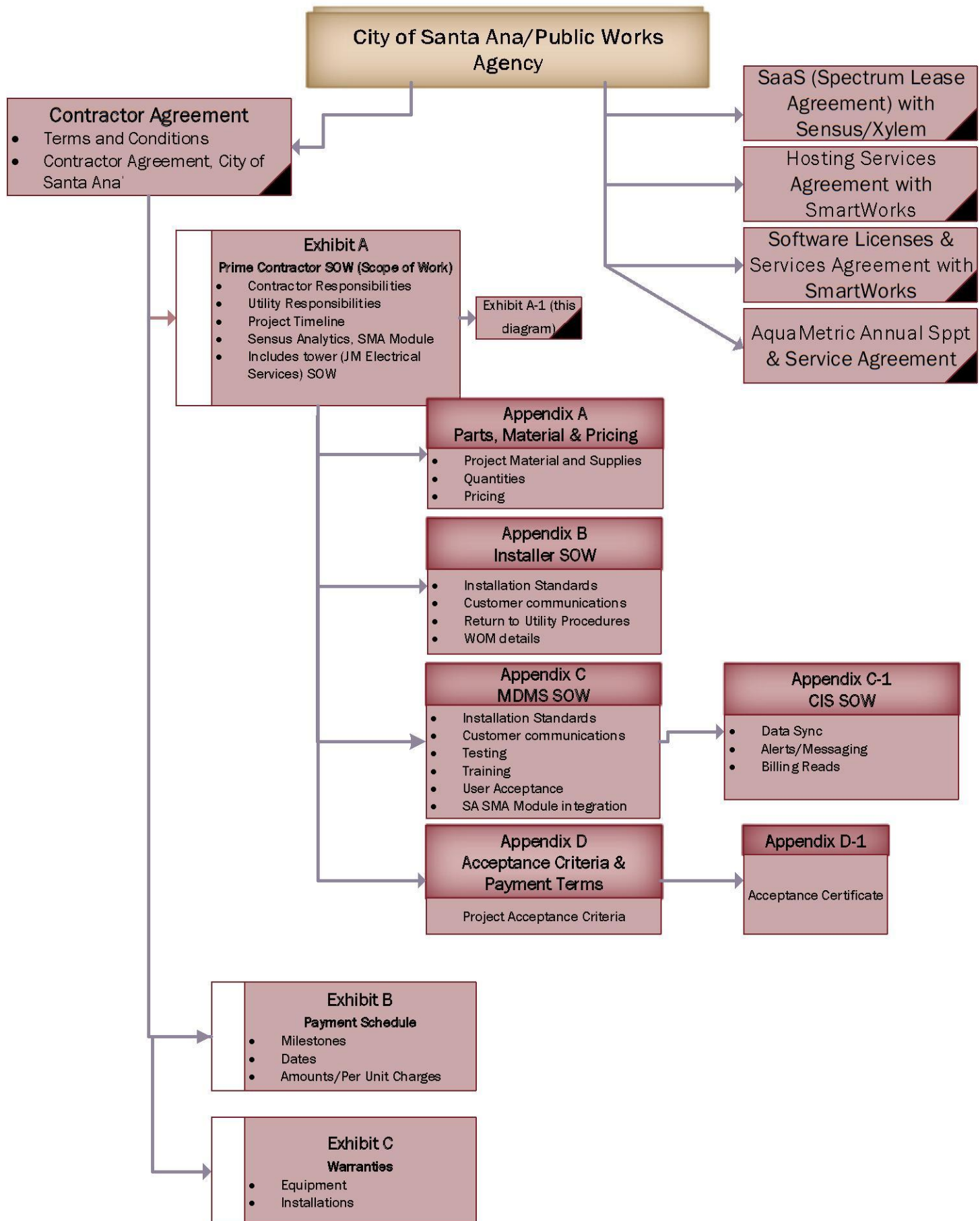
## **12. Assumptions and Clarifications**

- 12.1. Santa Ana will contract directly with Harris for SmartWorks licensing, hosting and annual support agreements.
- 12.2. Santa Ana will contract directly with S&S for enQuesta licensing, hosting and annual support agreements.
- 12.3. Unless expressly specified herein, no deliverables herein shall be assumed or interpreted as "all inclusive". Additional parts, materials, services or labor not expressly defined within the Agreement and subsequent exhibits and appendices will be quoted at current market values or cost plus fifteen percent (15%) including applicable taxes and made effective upon duly authorized Change Order.
- 12.4. This Scope of Work is limited to the planned Sensus FlexNet infrastructure proposed as of the date of execution of this Agreement. The planned number of Basestations has been identified herein as well as in the Sensus propagation analysis. Aqua-Metric will not be responsible for any expansion of service area, or additional infrastructure requirements to cover areas or additional modules (including but not limited to electric meters, gas meters, lighting modules, etc.) beyond the initial water service territory evaluated in the propagation analysis. Any request for additional modules, further system enhancements, integrations or ongoing management/maintenance of the system, will be priced accordingly at current market values at the time of request.
- 12.5. Aqua-Metric will be responsible to provide coverage in accordance with the Network Performance Warranty provided in Exhibit C – Warranties. Aqua-Metric will be responsible to provide additional Basestation(s) or other necessary infrastructure to achieve the coverage detailed within the propagation study.



- 12.6. Aqua-Metric has included costs for integrating Sensus FlexNet and NovusCenter with Santa Ana's enQuesta CIS; however, S&S may impose separate fees for extract and meter swap integration with Sensus FlexNet and/or NovusCenter. Aqua-Metric is unable to ascertain additional fees as they are facilitated independently between S&S and Santa Ana. We assume S&S will impose one-time integration charges to Santa Ana; although occasionally the required services may increase Santa Ana's annual fees. Santa Ana will be responsible for any additional cost(s) or increased fee(s) imposed by S&S directly.

# Santa Ana AMI Contract, SOW and Other Agreement Layout/Format (Exhibit A-1)





## **APPENDIX A**

### **Parts, Materials & Pricing**

Aqua-Metric Sales Company

October 7, 2020

4050 Flat Rock Drive | Riverside, CA 92505

Phone: (951) 637-1400 | Facsimile: (951) 637-1500

Customer: City of Santa Ana, CA

Attention: Rudy Rosas

Address: 215 South Center Street, Santa Ana, CA 92703

Phone: (714) 647-3320

Email: rrosas@santa-ana.org

Item	Description	Quantity	Unit Price	Line Total
1	M400 Basestation	4	\$16,387.50	\$65,550.00
2	M400 Basestation Installation at the East Station Tank	1	\$54,239.41	\$54,239.41
3	M400 Basestation Installation at the West Station Tank	1	\$61,694.12	\$61,694.12
4	M400 Basestation Installation South Station Tank	1	\$59,766.17	\$59,766.17
5	M400 Basestation Installation at City Hall	1	\$7,000.00	\$7,000.00
6	Communication Backhaul	4	\$1,092.50	\$4,370.00
7	Juniper Archer3 Hand Held	7	\$4,774.17	\$33,419.19
8	Juniper Archer3 Single Ethernet Dock	7	\$1,024.78	\$7,173.46
9	CommandLink Bluetooth Device	7	\$582.90	\$4,080.30
10	AMR Package: VGB with Laptop	1	\$19,954.03	\$19,954.03
11	AMR Package: AutoVu Software	1	\$4,173.08	\$4,173.08
12	AMR Package: Mapping Software	1	\$4,173.14	\$4,173.14
13	AMR Package: AutoRead Software	1	\$6,243.57	\$6,243.57
14	RNI SaaS Setup	1	\$24,205.00	\$24,205.00
15	RNI Core Education, Performed by Aqua-Metric	1	\$2,500.00	\$2,500.00
16	CMEP Integration for Third-Party GIS	1	\$2,500.00	\$2,500.00
17	CMEP Integration for Third-Party EnQuesta Customer Portal Integration (AMI)	1	\$2,500.00	\$2,500.00
18	Harris SmartWorks Software Setup and Professional Services (Travel & Expense Billed Separately)	1	\$277,000.00	\$277,000.00
19	Systems and Software Inc. enQuesta AMI Integration (Travel & Expense Billed Separately)	1	\$243,150.00	\$243,150.00
20	Systems and Software Inc. enQuesta NovusCenter Integration	1	\$35,294.12	\$35,294.12
21	Annual: Systems and Software Inc. enQuesta NovusCenter Integration Maintenance	4	\$7,058.82	\$28,235.28
22	Aqua-Metric Professional Services	1	\$75,725.00	\$75,725.00
23	Professional Services Travel and Expense Budget	1	\$50,000.00	\$50,000.00
24	Sensus RNI to Harris MeterSense MDM Integration	1	\$56,250.00	\$56,250.00
25	Sensus Solution Design Workshop	1	\$13,000.00	\$13,000.00
26	CIS/Billing (enQuesta) to Sensus RNI MultiSpeak (for meter lifecycle) Setup, Integration and Testing	1	\$9,375.00	\$9,375.00
27	Sensus Analytics Service Management Application (SMA) & Pressure Profile Application (PPA) Setup & Integration	1	\$20,625.00	\$20,625.00
28	Annual: Hosted RNI Software-as-a-Service, Water Only	1	\$36,829.65	\$36,829.65
29	Annual: Aqua-Metric Support	1	\$10,000.00	\$10,000.00
30	Annual: Basestation Extended Warranty	4	\$1,609.38	\$6,437.52
31	Annual: CMEP Fee for Third-Party GIS	1	\$500.00	\$500.00
32	Annual: CMEP Fee for Third-Party EnQuesta Customer Portal	1	\$500.00	\$500.00
33	Annual: Sensus Analytics Service Management Application & Sensus Pressure Profile Application	1	\$21,250.00	\$21,250.00
34	3/4" SL (7.5" LL)ally Remote Disconnect Meter	36,404	\$322.29	\$11,732,645.16
35	1" iPERL Meter	4,573	\$155.19	\$709,683.87
36	1 1/2" OMNI R2	83	\$353.46	\$29,337.18
37	2" OMNI R2	1,747	\$417.72	\$729,756.84
38	3" OMNI C2	325	\$1,406.11	\$456,985.75
39	4" OMNI C2	152	\$2,364.95	\$359,472.40
40	6" OMNI C2	44	\$4,083.38	\$179,668.72
41	8" OMNI C2	1	\$6,596.13	\$6,596.13
42	520M Single Port SmartPoint	43,329	\$81.33	\$3,523,947.57
43	520M Dual Port SmartPoint	6	\$115.46	\$692.76
44	510M Single Port SmartPoint	24	\$145.48	\$3,491.52
45	Concord Mobilization	1	\$18,000.00	\$18,000.00
46	Installation Project Supervision, Price per Month	40	\$10,000.00	\$400,000.00
47	Call Center Services, Price per Month	40	\$2,000.00	\$80,000.00
48	NovusCenter WOMS Setup	1	\$7,500.00	\$7,500.00
49	Post-Installation Door Hangers, Pricing for 43,329 Units	1	\$10,414.13	\$10,414.13
50	Pre-Installation Door Hanger Distribution, price per service	43,329	\$5.76	\$249,575.04
51	Pre-Installation Postcards, Pricing for 43,329 Units with First Class Mail	1	\$45,916.82	\$45,916.82
52	Storage and Equipment Housing: Pickup and Delivery of(5) PODs	1	\$2,090.97	\$2,090.97
53	Storage and Equipment Housing: Monthly Rental Fee for (5) PODs, Beta through Full Deployment Phase	31	\$1,053.49	\$32,658.19
54	Storage and Equipment Housing: Monthly Rental Fee for (1) PODs, Project Close-Out Phase	4	\$210.70	\$842.80
55	Storage and Equipment Housing: Monthly Rental Fee for (3) 3-Yard Recycling Containers with 2x Weekly Pickup	34	\$1,308.75	\$44,497.50
56	Storage and Equipment Housing: Monthly Rental Fee for (1) 3-Yard Trash Container with 1x Weekly Pickup	34	\$148.22	\$5,039.48
57	Heavy Equipment: Forklift Rental for Full Deployment Phase (26 Months)	1	\$34,086.00	\$34,086.00
58	Heavy Equipment: Pallet Jack	1	\$546.25	\$546.25
59	5/8" Water Meter Installation with Endpoint Installation	31,006	\$68.79	\$2,132,902.74
60	3/4" Water Meter Installation with Endpoint Installation	5,398	\$70.52	\$380,666.96
61	1" Water Meter Installation with Endpoint Installation	4,573	\$68.79	\$314,576.67
62	1 1/2" Water Meter Installation with Endpoint Installation	83	\$286.78	\$23,802.74
63	2" Water Meter Installation with Endpoint Installation	1,747	\$286.78	\$501,004.66
64	3" Water Meter Installation with Endpoint Installation	325	\$1,036.21	\$336,768.25
65	4" Water Meter Installation with Endpoint Installation	152	\$1,518.97	\$230,883.44
66	6" Water Meter Installation with Endpoint Installation	44	\$3,794.83	\$166,972.52
67	8" Water Meter Installation with Endpoint Installation	1	\$4,427.01	\$4,427.01



AquaMetric Sales Company  
4050 Flat Rock Drive | Riverside, CA 92505  
Phone: (951) 637-1400 | Facsimile: (951) 637-1500

October 7, 2020

Customer: City of Santa Ana, CA  
Attention: Rudy Rosas  
Address: 215 South Center Street, Santa Ana, CA 92703  
Phone: (714) 647-3320  
Email: rrosas@santa-ana.org

Item	Description	Quantity	Unit Price	Line Total
68	Adder: Sub-Foot GPS Coordinates	43,329	\$5.17	\$224,010.93
69	Trimble TDC 600	10	\$1,633.29	\$16,332.90
70	CommandLink	10	\$582.50	\$5,825.00
71	Trimble R2 Single Receiver (Sub-Foot Configuration)	10	\$8,787.04	\$87,870.40
72	Mapping Continental FieldPoint RTX Software (Price Per Unit/Year)	10	\$1,606.62	\$16,066.20
73	Trimble Utility /TerraFlex Setup	1	\$3,500.00	\$3,500.00
74	Installation Handheld Data Plan (Monthly)	34	\$1,000.00	\$34,000.00
75	Adder: Meter Box Cleaning by Hand (Qty. Estimated)	44,329	\$9.14	\$405,167.06
76	Lid Replacement (Labor): 11 x 18	42,304	\$5.69	\$240,709.76
77	Lid Replacement (Labor): 24 x 30/36	3,064	\$13.74	\$42,099.36
78	Meter Box Lid: DFW486-C (5/8", 3/4", 1")	38,402	\$40.35	\$1,549,520.70
79	Meter Box Lid: DFW13	500	\$19.94	\$9,970.00
80	Meter Box Lid: DFW1812SA	150	\$37.76	\$5,664.00
81	Meter Box Lid: DFW36-C	6,573	\$35.42	\$232,815.66
82	Meter Box Lid: DFW1640-C	3,700	\$85.66	\$316,942.00
83	Angle Stop / Curb Stop Replacement (Easy Replacements Only, Labor Only/Parts Invoiced at Cost Plus 15%)	6,425	\$110.92	\$712,661.00
84	Angle Stop / Curb Stop RTU Survey Fee	2,140	\$20.00	\$42,800.00
85	Ford GT114 3/4" x 1/8" Rubber Meter Gasket	80,089	\$0.36	\$28,832.04
86	Ford GT120 1/8" x 1" Rubber Meter Gasket	10,061	\$0.37	\$3,722.57
87	Ford A34-NL 3/4-1" Adapter (Set of two)	5,398	\$22.81	\$123,128.38
88	1 1/2" x 1/8" Drop In Flange Gasket	183	\$0.57	\$104.31
89	2" x 1/8" Drop In Flange Gasket	3,843	\$0.64	\$2,459.52
90	3" x 1/8" Drop In Flange Gasket	715	\$1.04	\$743.60
91	4" x 1/8" Full Face Flange Gasket	334	\$2.01	\$671.34
92	6" x 1/8" Full Face Flange Gasket	97	\$2.49	\$241.53
93	8" x 1/8" Full Face Flange Gasket	2	\$3.62	\$7.24
94	5/8-11 2 1/2" Stainless Hex Cap Screws (1 1/2" and 2" Meters)	8,050	\$1.08	\$8,694.00
95	5/8-11 Hex Stainless Fin Nuts (1 1/2" and 2" Meters)	8,050	\$0.34	\$2,737.00
96	5/8" Flat Washers (1 1/2" and 2" Meters)	8,050	\$0.17	\$1,368.50
97	5/8-11 2 1/2" Stainless Steel Hex Cap Screws (3" - 4" Meters)	5,535	\$1.08	\$5,977.80
98	5/8-11 Hex Stainless Steel Fin Nuts (3" - 4" Meters)	5,535	\$0.39	\$2,158.65
99	5/8" Flat Washers (3" - 4" Meters)	5,535	\$0.23	\$1,273.05
100	3/4"-10 2 1/2" Stainless Steel Hex Cap Screws (6"-8" Meters)	800	\$1.61	\$1,288.00
101	3/4"-10 Hex Stainless Steel Fin Nuts (6"-8" Meters)	800	\$0.52	\$416.00
102	3/4" Flat Washers (6"-8" Meters)	800	\$0.36	\$288.00
103	Contingency Fund	1	\$1,500,000.00	\$1,500,000.00
104	Insurance Coverage (Additional Endorsements)	1	\$50,000.00	\$50,000.00

All pricing subject to the terms and conditions with this Consultant/Contractor Agreement, including all Exhibits and Appendices attached thereto.

Sales taxes have been included on all taxable line items. Sales taxes have been approximated and will vary depending on California State sales tax fluctuations.

Project Subtotal \$27,935,097.10

Sales Tax \$1,748,132.51

Project Total \$29,683,229.61

**AMI interface to enQuesta Detail Pricing**

<b>AMI integration with enQuesta Detail Pricing</b>		
<b>Description</b>	<b>Price</b>	<b>Stage</b>
enQuesta to MDMS Multispeak API License Readings	\$25,000	
enQuesta to MDMS Multispeak API License Remote Disconnects	\$25,000	
Meter Exchange Vendor Work order Create complete Program	\$10,000	
<b>Subtotal License</b>	<b>\$60,000</b>	
<b>Project Management</b>	\$37,800	2
<b>Analysis &amp; Data Mapping</b>		
Professional Services	\$18,900	1&2
Development Services	\$900	1&2
Meter exchange Vendor	\$4,500	2
<b>enQuesta Configuration &amp; Business Testing &amp; Connectivity with vendors</b>		
Professional Services	\$36,900	1&2
Development Services	\$12,150	1&2
Meter exchange Vendor	\$4,500	2
<b>Development</b>		
Change current HH download	\$1,800	2
enQuesta to MeterSense Oracle Views	\$10,800	2
Meter Exchange Vendor	\$4,500	2
Sensus Analytics Provisioning file	\$3,600	1
<b>Integration testing &amp; Training</b>		
Professional Services Internal testing	\$24,750	1&2
Professional Services remote Training & Simulation testing	\$4,500	1&2
Meter Exchange Vendor	\$900	2
<b>Go-Live &amp; remote support</b>		
Professional Services	\$10,125	1&2
Development Services	\$5,625	1&2
Meter Exchange Vendor	\$900	2
<b>Sub Total Services</b>	<b>\$183,150</b>	
<b>Total Budget Price</b>	<b>\$243,150</b>	



## **APPENDIX B**

### **Installer SOW (ISOW)**

#### **1. Scope of Work Overview**

This Appendix B describes the installation work that Aqua-Metric will perform for the City of Santa Ana. Aqua-Metric intends to use their subcontractor, Concord, to perform these services. All references to Concord in Appendix B are for reference and does not waive the responsibilities of Aqua-Metric to perform the work or services described in this ISOW. This ISOW shall be used to reach a satisfactory level of mutual agreement between Aqua-Metric, Santa Ana, and Concord Utility Services (“Concord”) with respect to the objectives and requirements of the Project.

The parties acknowledge and agree the ISOW may adjust as necessary without formal Change Order to accommodate changes in the project which do not impact the overall Project cost or timeline. Any significant change(s) to the ISOW that would otherwise cause a change in the Project cost or timeline shall be executed upon written change order, duly signed by an authorized representative of Santa Ana and Aqua-Metric.

#### **2. Meter Services Phase Preparation**

##### **2.1. Meter Services Planning and Discovery**

- A. Aqua-Metric will conduct a meeting with Concord prior to commencing the meter exchange services. The agenda will cover various topics regarding the project, including but not limited to:
  - i. Review ISOW, procedures, expectations, and key deliverables.
  - ii. Review any modifications or changes in the project scope.
  - iii. Define hours of operation, holiday schedule and black-out dates.
  - iv. Identify route order in relation to meter reading schedule.
  - v. Prepare Meter Services Project Schedule identifying daily, weekly, and monthly production rates.
  - vi. Review staffing expectations and requirements for all phases of the project.
  - vii. Review daily operations, product warehousing, waste disposal procedures.
  - viii. Schedule dates for training.

##### **2.2. Staffing Qualifications and Onboarding Requirements**

- A. Concord will be required to perform a criminal background check and drug testing for all personnel prior to employment. Concord shall keep and maintain all records for each employee and make available to Aqua-Metric, within the limitations of federal and state laws, upon request.
- B. Concord’s personnel shall report to work fit for duty and free of any adverse effects of illegal drugs or alcohol. Whenever employees are working, operating any company vehicle, present on company or City premises or are conducting company-related work offsite, they are strictly prohibited from using, consuming, being under the influence, possessing, buying, selling, manufacturing or dispensing illegal drugs or alcohol.

C. New Hire Onboarding

- i. Upon hire, all Concord staff shall be adequately trained in safety awareness and procedures, proper personal protection equipment (“PPE”), public interaction and communications, all aspects of proper meter exchange procedures, field equipment and software operation, and troubleshooting.
- ii. Concord shall assign a Field Supervisor or an Experienced Technician to shadow new-hires for a minimum of one (1) week. During this time, Concord’s supervisor shall provide field training and monitor all work performed by the employee.

D. Probationary Period

- i. Concluding the New Hire Onboarding, the employee will advance into a Probationary Period for a minimum of two (2) weeks. During this time, the Field Supervisor or Experienced Technician shall perform quality assurance site visits for ten (10) percent of all meter exchanges performed by employees during the Probationary Period.
- ii. Concord’s employee will be considered to have completed the Probationary Period if no Quality Assurance issues during the two-week period have been identified.

E. General Technician

- i. Upon successful completion of the New Hire Onboarding and Probationary Period, an installer will be considered General Technician. Concord shall perform Quality Assurance site visits for a minimum of five (5) percent of meter exchanges performed by General Technician employees.
- ii. Employees with three (3) or more Quality Assurance Issues within a sixty (60) day period will be placed in a Probationary Period.

F. Senior Technician

- i. Senior Technicians will have at least six months of experience in water meter exchange projects.
- ii. Senior Technicians may be used to train new employees and conduct routine tailgate safety review meetings.

G. Project Supervisor

- i. Concord shall designate an on-site Project Supervisor to serve as the direct point of contact for Aqua-Metric.
- ii. At minimum, Concord’s Project Supervisor shall:
  - a) Manage and maintain all deliverables of this ISOW.
  - b) Monitor project progress and execution.
  - c) Coordinate all work and communications with Aqua-Metric.
  - d) Maintain field technician workforce and provide ongoing training.
  - e) Supervise technicians and monitor quality of service, productivity, and professionalism.
  - f) Monitor and provide routine reports on project progress, installation timeline and schedules.



- g) Manage and maintain rate of production.
- h) Manage and maintain an accurate accounting of all Project products and materials.
- i) Monitor quality of Work and services performed by installation technicians.
- j) Educate Concord's personnel on installation procedures, safety procedures, equipment and software.
- k) Manage and maintain inventory with focus on security, availability and organization.
- l) Coordinate with Aqua-Metric to replenish product and materials needed to facilitate the services.
- m) Coordinate resolution regarding field issues or concerns with Aqua-Metric.
- n) Provide 24-hour on-call service to respond to emergency problems.
- o) Assess, resolve and report all field issues promptly.
- p) Conduct weekly call with Aqua-Metric to ensure project is executed smoothly.
- q) Generate routine reports of meter installations by route and region.

#### H. Back Office Personnel

- i. Concord shall designate personnel to:
  - a) Audit the quality of data captured from work orders on a weekly basis and deliver reports to the Project Supervisor.
  - b) Manage monthly payment applications.
  - c) Maintain all employment records for all field personnel; including but not limited to criminal background checks, safety records, work-related accidents and injuries. Incident reports shall be provided to Aqua-Metric upon request.

#### I. Uniforms

- i. All Subcontractors personnel working on the Project shall be clearly identifiable as an authorized employee conducting business on behalf of Aqua-Metric and Santa Ana.
  - a) T-Shirts – Field personnel will be required to wear a bright yellow or orange t-shirt with the company logo on the front left breast.
  - b) Identification Badge – Each technician will be required to carry a company issued identification badge on their person. The badge shall display the text “Authorized Water Utility Contractor” printed, technician name, a photo of the technician’s face, and the technician’s employee number.
  - c) Safety Vest – When working in high traffic areas, field personnel will be required to wear traffic rated safety vests to help increase visibility.
  - d) Vehicles – All vehicles shall have a magnetic sign attached to both front driver and passenger doors identifying the vehicle as authorized personnel. The magnet shall be no less than 24-inches wide and 12-inches tall with the company logo clearly identifiable and the text “Authorized Water Utility Contractor” affixed below the logo; or vehicles shall be corporate branded with fixed logos and company name of “Concord Utility Services”.

- J. Aqua-Metric may, in its sole judgement and discretion, require Concord to remove an employee from the Project who is in direct violation or continued violation of any requirements herein.

### 2.3. Training

- A. Concord will perform the services herein this ISOW within the applicable local, state, and federal standards and code compliance. Aqua-Metric will provide Concord's supervisors with training on installation, use, and troubleshooting of the meters, radios, activation devices, and software needed to perform the services. Concord's supervisors will be responsible for ensuring Concord's field technicians are adequately trained throughout the course of the project.

### 2.4. City Corporate Yard, Equipment and Material Handling and Storage

- A. Santa Ana will provide a secure location with adequate space to accommodate daily operations and product storage through the duration of the project. Concord's personnel will be granted access to the location during normal operating hours.
- B. Aqua-Metric will furnish mobile storage units, waste and recycling containers, a forklift and pallet truck through the duration of the project.
- C. Concord will be responsible for securing and maintaining product and materials stored onsite. All new product and materials shall be stored and organized within the locking storage units. Concord's Project Supervisor will be provided with the key(s) needed to gain access to the storage units and shall restrict access to all unauthorized personnel when Concord's Project Supervisor is not onsite.
- D. Concord will restrict forklift operators to only personnel who are qualified to operate a forklift. All forklift operators shall carry a copy of their forklift certification and adhere to OSHA and CalOSHA safe use guidelines while operating the forklift.
- E. Concord shall maintain and practice good housekeeping at all times. All waste will be disposed of accordingly in waste and recycling receptacles.
- F. Concord's personnel shall park in designated locations only and not impede the flow of other traffic.

### 2.5. Inventory Management

- A. Concord will track product and materials in NovusCenter through the duration of the Project. Concord's technicians will check out inventory daily and return all retired product to Santa Ana.
- B. Concord will coordinate with Aqua-Metric to ensure adequate product or materials are onsite and available to perform the services throughout the Project. Concord's Project Supervisor will work directly with Aqua-Metric to ensure inventory levels meet anticipated daily production rates.
- C. Concord will assume ownership and complete liability of all products and materials in its possession upon delivery until such product or material has been successfully installed or returned to the storage container.
- D. Concord shall return any unused products or materials upon project completion or termination of the Subcontractor Agreement.



## 2.6. Route Management

- A. Aqua-Metric will coordinate with City to partition the service area into routes. Concord's technicians will advance through each route until a majority of service locations have been completed. Aqua-Metric's goal is to complete as much of the active route prior to advancing to the next. Specific timing goals for route completion will be proposed by Aqua-Metric after thorough review of routes for approval by City. An active route will be considered substantially complete when ninety percent (90%) of meters have been installed and verified as communicating to FlexNet network infrastructure or Returned to Utility (RTU). Subsequent routes shall be available for meter exchange services prior to route acceptance of the active route.

## 2.7. Consumer Outreach

- A. Aqua-Metric will provide Concord with an adequate supply of "post-installation" door hangers. Door hangers shall be stored in the mobile storage units and used as needed to fulfill the requirements of this section.
- B. Concord shall furnish door hangers to be used for pre-installation distribution. Concord will distribute one pre-installation door hanger at each service address within the upcoming route no less than two-weeks in advance of commencing work in the route. Concord shall submit within its weekly invoice to Aqua-Metric the total number of preinstallation door hangers distributed for the previous month.
- C. Concord will leave one post-installation door hanger at each service address detailing information for the successful meter exchange or instructions to contact Santa Ana.

# 3. Meter Exchange Phase

## 3.1. Mobilize Field Technicians

- A. Aqua-Metric will conduct a kick-off meeting two-weeks in advance of commencing meter exchange services. During this meeting, all field technicians will receive a project orientation to train and outline:
  - i. Project expectations, responsibilities, and workflow;
  - ii. Standard installation procedures and any special requirements for the project;
  - iii. Courteous and respectful end customer interactions; and
  - iv. Safety guidelines to practice and follow during the meter exchange phase.
- B. Concord's technicians shall be uniformed with appropriate personal protective equipment (PPE), a company branded t-shirt, photo identification badges, and vehicle magnets.

## 3.2. Standard Water Meter Exchange Procedure

- A. Concord's Project Supervisor will create and assign daily work orders for each service address within NovusCenter.
- B. Concord's Project Supervisor will assign inventoried materials to field technicians needed to perform daily changeouts.
- C. Upon arrival at the service address, Concord will park curbside and place traffic rated safety cones to the front and rear corners of vehicle.

- D. Concord shall verify the correct location by validating address and meter number in NovusCenter.
- E. Concord shall inspect the meter to verify the replacement is possible. When applicable, Concord shall flag exception accounts which are inaccessible or incapable of completing the services herein as Return to Utility (“RTU”) for the reasons defined in Section 3.3 hereunder.
- F. Concord will attempt to notify occupant of a brief water outage. If occupant does not respond, verify there is no active consumption through the meter. If the meter displays evidence of active consumption, Concord’s technician shall return at a later time to avoid service disruption to the customer. If no occupants appear to be onsite, concord’s technician shall proceed with the installation service.
- G. Concord shall hand clean dirt or debris from meter boxes as needed to facilitate meter replacement.
- H. Concord will inspect the state of the angle stop or curb stop.
  - i. Note state of curb stop on the work order. If the angle stop/curb stop is in the closed position, a zip tie will be fastened around the top of the angle stop/curb stop as a reminder for Concord not to restore water service when completed with the installation.
  - ii. If the angle stop/curb stop can be actuated, Concord shall proceed with the meter replacement.
  - iii. If the angle stop/curb stop cannot be actuated, Concord will immediately assess whether the stop can be easily replaced.
    - a) If the stop can be easily replaced, Concord will exchange the angle stop/curb stop as appropriate and proceed to replacing the meter.
      - Angle Stop / Curb Stop pricing excludes excess excavation, crimping, freezing, replacing stop on galvanized pipe, or additional coordination and scheduling with other parties.
    - b) Santa Ana will provide a supply of angle stops/curb stops for Concord to use for replacement. Concord will maintain inventory counts within NovusCenter and notify Aqua-Metric when inventory needs to be replenished. If Santa Ana is unable to provide an adequate supply of angle stops and curb stops, or if the supply-on-hand has been depleted before Santa Ana has replenished, Concord may procure the necessary hardware and invoice at cost plus fifteen percent (15%).
    - c) If the stop cannot be easily replaced (embedded in roots, concrete, etc. or needs further coordination with Santa Ana to carry out the replacement), Concord shall document the meter pit’s condition, including images, within NovusCenter and the work order will be flagged RTU. Concord will be reimbursed for collecting the survey data at the Survey Fee rate defined within Exhibit A hereto.
  - iv. Capture a photo of the curb stop before and after completing the work within NovusCenter when applicable.
- I. Concord will open external hose bib, if available at the front of the dwelling and in working order, and shut-off water source. Concord shall not be responsible for inoperable, damaged, or faulty hose bibs.



- J. Concord will disconnect and remove old water meter from service.
- K. Concord will restore water service and flush the water line through an external hose bib, hose bib, if available at the front of the dwelling and in working order.
- L. Install and Activate FlexNet SmartPoint
  - i. Concord will replace all meter box lids appropriately with one of the following approved lids:
  - ii. Concord will affix FlexNet SmartPoint transmitter securely to pre-drilled meter box lid.
  - iii. Concord will connect meter to FlexNet SmartPoint utilizing the touch coupled connector from the meter.
  - iv. Concord will activate the FlexNet SmartPoint and confirm communications have been established.
    - a) Capture GPS coordinates within sub-foot accuracy.
    - b) Confirm communication between the SmartPoint and the water meter.
    - c) Confirm communications between the SmartPoint and FlexNet infrastructure.
    - d) Record any communication issues within the work order.
- M. Concord will document data in NovusCenter
  - i. Record old meter and/or radio transmitter data.
  - ii. Capture images of worksite prior to commencing installation services.
  - iii. Barcode scan new meter and/or radio transmitter.
  - iv. Capture images of:
    - a) Installation site pre- and post-installation.
    - b) Curb stop (pre- and post-installation)
    - c) Older meter serial number and final reading.
    - d) New installed meter.
    - e) SmartPoint activation screen.
    - f) Relative meter location in relation to dwelling.
  - v. Capture screen confirmation of radio communications from the activation screen.
  - vi. Document any comments isolated to installation services with images; including, but not limited to recommended services, special project notes, unstable conditions, etc.
- N. Concord will replace meter lid and remove any debris and/or retired meter from jobsite.
- O. All water meters removed from service will be returned to Santa Ana Corporation Yard for scrap disposal.

### 3.3. Return to Utility (“RTU”)

- A. In the event an account is flagged as Return to Utility (“RTU”), Concord will transfer all responsibility to Santa Ana and be relieved of any responsibility of returning to the account

in effort to complete a meter exchange. Acceptable reasons to flag any account as RTU may include but are not limited to:

- i. Service accounts with a curb/angle stop which cannot be actuated or easily replaced.
- ii. Service accounts with a visible service line leak.
- iii. Service accounts that cannot be located or have been found to substantially deviate from the expected meter type or size and require additional assistance from City personnel.
- iv. Service accounts that substantially deviate from the approved ISOW
- v. Service accounts where the water meter is obstructed by vehicles, permanent or large structures, landscaping, or excessive tree/plant roots inside meter box.
- vi. Service accounts where the Concord reasonably believes potential damage may occur to customer's property.
- vii. Service accounts which require alterations or restorations to concrete, asphalt or landscaping.

#### 3.4. Non-Standard (Incidental) Meter Services

- A. Non-Standard Meter Services may be required to facilitate a successful meter exchange. Non-Standard Services are defined as any service(s) in excess to those expressly stated within the Standard Water Meter Exchange. Concord shall notify Aqua-Metric prior to performing any Non-Standard Meter Services. Unless expressly stated in Exhibit A – Contract Pricing, no unauthorized work shall be performed by Concord unless such work has been approved in advance written Change Order.

### 4. Quality Assurance and Quality Control

#### 4.1. Field Quality Assurance

- A. Concord's Project Supervisor will perform weekly quality assurance evaluations on a portion of completed work orders. Service addresses will be selected at random and reviewed for proper installation and data collection. Concord's Project Supervisor will evaluate:
  - i. Job Site Cleanliness
  - ii. Meter Installed Correctly
  - iii. Work Order Accuracy
  - iv. Digital Photos are uploaded and match work order data
    - a) In/Out Meter Read
    - b) Meter Identification Number
    - c) Radio Identification Number
- B. Concord's Project Supervisor will coordinate with Aqua-Metric's technical staff to identify service locations not communicating with network infrastructure. In the event an installed product is suspect for non-communication, Concord will make one on-site attempt to interrogate the product at no expense to Aqua-Metric within the Meter Services Warranty period.



- i. The service site work order will be reopened and assigned to a field technician to troubleshoot the concern. If the malfunction is a direct result of Concord error or negligence, Concord will install a replacement at no charge.
  - ii. If it is determined that non-communication is due to a product defect or failure, Concord shall invoice for site visit at the cited hourly rate.
- C. Meter/Radio to Network Communication Errors
  - i. In the event an installed meter or radio is suspect for non-communications, Concord shall make one attempt to interrogate the product at no expense if within the Meter Services Warranty period outlined. Concord shall be responsible to reasonably correct communication errors resulting from Concord's faulty workmanship or negligence and within the warranty period.
  - iii. If it is determined that non-communication is due to a product defect or failure, Concord shall invoice for site visit at the cited hourly rate.
- D. Data Quality
- E. Concord will review new meter and radio number information for accuracy prior to transmission of the meter swap file.
- F. Aqua-Metric's Project Supervisor will review a portion of all work orders captured within NovusCenter to confirm proper data collection and integrity while tracking and recording any anomalies.
- G. If Aqua-Metric's Project Supervisor identifies discrepancies or issues with the data captured by a specific technician, Concord's Project Supervisor will be notified to review one hundred percent (100%) of all data captured by Concord's technician over one week and determine whether additional investigation is necessary. Concord's Project Supervisor will reopen any work orders as necessary and reassign to Concord's technician for review and/or data correction.

## **5. Reports**

- 5.1. Aqua-Metric's Project Supervisor will work with Concord to generate and maintain the following report(s):
  - A. Swap File Report – Information for billing system updates.
  - B. Installation Report – Total quantities of installed product for the previous week and a total of installs to date.
  - C. Return to Utility ("RTU") Report – All accounts that have been Returned to Utility (RTU). The report will identify the affected accounts and the reasons for the RTUs.
  - D. Quality Assurance Report – Contains the results of evaluations performed on ten percent (10%) of the completed installations.
  - E. Incident Report – Document any reported issues involving Concord personnel, installation issues, customer complaints, accidents and/or damages as they are identified.

## **6. Substantial Completion**

- 6.1. Service sites shall be deemed complete once three readings have been received into the RNI over a four- day window.

- 6.2. An active route will be considered substantially complete when ninety percent (90%) of meters within the route have been exchanged or Returned to Utility (RTU). Subsequent routes shall be available for meter exchange services prior to route acceptance of the active route.
- 6.3. In a phased deployment, the Phase shall be considered Substantially Complete when Concord has successfully exchanged or Returned to Utility (RTU) a minimum of ninety percent (90%) of the meter quantity allocated for the respective phase.
- 6.4. In a full deployment, the Meter Services will be considered Substantially Complete when Concord has successfully exchanged or Returned to Utility (RTU) a minimum of ninety percent (90%) of the meter quantity allocated for the entire Project.

## **7. Project Close-Out**

- 7.1. Route Acceptance
  - A. Aqua-Metric will verify all meters assigned to Concord for exchange have either been successfully installed or flagged as RTU.
  - B. Aqua-Metric and Santa Ana will review and sign off on completion of the route.
  - C. Coordinate with Aqua-Metric's technical team to generate an electronic report demonstrating all service accounts are in compliance with the provisions of Section 6.1.
  - D. Aqua-Metric verifies all routes have been accepted and signed off by Santa Ana.
- 7.2. Demobilization
  - A. Clean up and return any facilities provided by Aqua-Metric or Santa Ana.
  - B. Return any Aqua-Metric or City provided equipment to appropriate personnel.
  - C. Transfer overstock or planned inventory back to Aqua-Metric.
- 7.3. Meter Services Project Acceptance
  - A. Aqua-Metric and Concord will validate and execute Meter Services Project Acceptance documentation.
    - i. Final report of completed service accounts
    - ii. Final report of RTU service accounts
    - iii. Final Route Acceptance Sign-Off

## **8. Meter Services Assumptions and Clarifications**

- 8.1. All meters will be exchanged contiguously and sequentially through cycles and routes during normal business hours of Monday – Friday, 7:00 AM to 4:00 PM.
- 8.2. No additional Direct Job Costs (city licenses, permits, etc.) are included and will be invoiced as necessary and on occurrence at cost plus fifteen percent (15%).
- 8.3. Demobilization/Remobilization/Stand Down Contingency: The project Mobilization/Demobilization is assumed for a single-phase move on and move off for installation/deployment. If demobilization and remobilization occur during the project due to reasons beyond Concord's control, excluding any State or Federal Government mandated suspensions, additional contingency fees will be assessed.



- A. Demobilization/Remobilization Fees: Concord will invoice for cost plus fifteen percent (15%) to move in and out of market (i.e. travel fees, cancellation fees, vehicle transportation fees.)
  - B. Stand Down Time: If Concord's technicians are unable to work during delays or suspensions cause by Santa Ana and Concord's resources remain deployed, Concord will invoice at \$95.00 per hour, per technician for time Concord is stood down.
- 8.4. Standard Meter Exchange includes only those items expressly detailed in this ISOW herein. Standard Water Meter Exchange Services will be provided based upon information provided by Santa Ana regarding meter type, size, and accessibility. Concord assumes all metering data as it pertains to characteristics (size, model, etc.) or any special requirements will be accurately provided in advance of the meter installation services. Aqua-Metric does not warrant data will be free of duplicates, anomalies, stale data, decommissioned meters, closed accounts, inaccurate data, etc.
  - 8.5. All meters will be assumed to be located in a conspicuous and easily accessible locations. All hard to find meters will have location descriptions and/or assistance from Santa Ana as necessary to locate.
  - 8.6. Traffic Control cost(s) (including but not limited to planning, engineering, permitting, implementation, labor, Traffic Control device setup and removal, etc.) will be invoiced as necessary and on occurrence at cost plus fifteen percent (15%).
  - 8.7. Concord shall not be responsible to remove, repair, or replace any paving or other hard/solid surfaces (concrete, asphalt, pavers, etc.) unless repair or replacement is necessary to correct damages caused by Concord's poor workmanship or negligence.

## **APPENDIX C**

### **MDMS SOW**

This Appendix C and C-1 (collectively “Appendix C”) describes the integration work that Aqua-Metric will perform for the City of Santa Ana. Aqua-Metric intends to use their subcontractor, Harris or its subcontractor Systems & Software, Inc. (“S&S”), to perform these services. All references to Harris or S&S in Appendix C are for reference and does not waive the responsibilities of Aqua-Metric to perform the work or services described in this Appendix C. This Appendix C shall be used to reach a satisfactory level of mutual agreement between Aqua-Metric, Santa Ana, Harris, and S&S with respect to the objectives and requirements of the Project.

The parties acknowledge and agree the Appendix C may adjust as necessary without formal Change Order to accommodate changes in the project which do not impact the overall Project cost or timeline. Any significant change(s) to the Appendix C that would otherwise cause a change in the Project cost or timeline shall be executed upon written change order, duly signed by an authorized representative of Santa Ana and Aqua-Metric.





# Statement of Work

*for*  
*SmartWorks Compass*

*Presented to*  
*Aqua Metric Sales Co*  
*For the*  
*Santa Ana Municipal Utility Services Project*



August 24, 2020  
Version: 0.1





## Revision Control

**Document Title:** Santa Ana Municipal Utility Services – SmartWorks Statement of Work

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## 1. Introduction

This Statement of Work (SOW) defines the work to be performed by the SmartWorks division of N. Harris Computer Corporation (herein referred to as “SmartWorks”) for Santa Ana Municipal Utility Services, (herein referred to as “Customer” or “”). This SOW includes a high-level timeline and other Terms and Conditions specific to the services requested by Customer.

This document serves as the complete understanding, between Customer and SmartWorks, as to what the current Statement of Work entails. This document will be used as a reference by SmartWorks for the configuration and implementation of **SmartWorks Compass** (herein referred to as the “SmartWorks Software”). This document will also be used by Customer to determine if the SmartWorks Software provides the functionality requested and agreed to, per this document. If there are any issues during the project lifecycle, this document will be used to determine if the issue is a configuration/development issue or if the issue was not included as part of the current Statement of Work.

Changes to this document shall be made through a Change Management Process as described Section 4.3.

The implementation project will accomplish the following high-level objectives:

- 1) Install, configure and implement the SmartWorks Software as defined in Section 2.
- 2) The **SmartWorks Compass** solution will be installed at the **SmartWorks Hosting Facility**.
- 3) Initiate within SmartWorks Software the collection and management of
  - a) register data from residential and C&I meters
  - b) interval and register data from AMI Meters.
- 4) Integrate with AMI Vendor AMI, S&S enQuesta CIS and ESRI GIS to import meter usage, events, alerts and location data and to provide the necessary meter, event, and billing data as required.
- 5) Deliver system training designed to develop competency with the use and configuration of the SmartWorks Software.
- 6) Provide support during User Acceptance Testing.

### 1.1. Glossary of Terms

Acceptance Testing Period	A defined period of time to perform User Acceptance Testing on the Solution including testing in a live pre-production environment.
Actual Solution Acceptance Date	Date that written acceptance by Customer is received by SmartWorks that Solution substantially meets the Functional and Integration Requirements Document, and substantially satisfies the testing criteria set forth in the Solution Acceptance Criteria.

Billing Determinant	<p>The measure of consumption used to calculate a customer's bill. A billing determinant is either;</p> <ul style="list-style-type: none"> <li>• A register read; or</li> <li>• A value calculated by the MDM for billing purposes based on interval and/or register read data. If rates are blocked, seasonally differentiated, time-differentiated, or separated by demand and energy measures, then the billing determinants are organized in the same fashion.</li> </ul>
Change Management Process	The process outlined in section 4.3 of the SOW, which SmartWorks will follow for any proposed changes to the SOW.
Deliverable	An item created during the project that requires formal review and approval by Customer.
Deliverable Acceptance Criteria	Criterion by which Customer determines that the Deliverable provided by Consultant is in accordance with this Statement of Work.
Deliverable Acceptance Criteria Document	A central listing of all Deliverables and Work Products developed by and maintained throughout the project.
Detailed Project Plan	A baseline plan created by SmartWorks in collaboration with Customer during the Initiation and Build phase of the project. The plan establishes the implementation timeline (including certain milestones) for the project.
Expected Solution Acceptance Date	The date, identified in the Detailed Project Plan, by which the Parties expect Solution Acceptance to be achieved.
Functional Testing	Test the core Solution components (configuration, interfaces, reports, and modifications) against agreed upon requirements.
Go-Live Plan Document	A Deliverable identifying and describing the activities to be performed during the Deployment phase of the project.
Integration Testing	Test the end-to-end process based on business processes and scenarios against the agreed upon integration requirements.
Interval Read Data	<p>A meter read showing the consumption over a defined period of time, demand, or interval, normally 60 minutes, 30 minutes, 15 minutes or 5 minutes.</p> <p>Typical units of measure include Gallons/cubic foot or cubic meter for water meters.</p>
Meter Channel	<p>Unique stream of meter read data, with corresponding UOM (Unit of Measure), provided by meters and stored under a unique Channel ID within SmartWorks Compass.</p> <p>Each channel can consist of consumption data (referred to as consumption channel) or a demand data (referred to as demand channel).</p>

Post Implementation Grace Period	Calendar days after acceptance Date for each phase in which SmartWorks Software is operating as Customer's primary operating system with respect to functionality contained herein.
Register Read Data	<p>A value provided by the meter that is shown on the meter's faceplate, and hence can be validated by the customer by visual inspection of the meter. This can include:</p> <ul style="list-style-type: none"> <li>• Cumulative Consumption Register Read – total measured consumption since the meter was manufactured or refurbished (Typical units of measure include Gallons/ cubic foot or cubic meter for water meters.)</li> <li>• Time of Use Consumption Register (total consumption during a specific time of use window)</li> </ul>
Solution	The set of related software programs and services contained within in this Statement of Work.
Solution Acceptance	Customer determination by written acknowledgement that the Solution provided by Consultant performs in accordance with the Functional and Technical Requirements developed for this Statement of Work and any applicable Documentation.
Third-Party Vendor	Any vendor or organization that is not part of SmartWorks or Customer
Unit Testing	Test individual Solution components to validate that each component meet the specifications set forth during the project.
User Acceptance Testing	Validate that Solution behaves per agreed upon requirements as defined in the Functional and Integration Requirements Document based on the test cases and selected scenarios.
Work Product	An item created during the engagement that is reviewed by the customer but does not require formal approval by the customer

## 1.2. Roles and Responsibilities

The activities to be carried out are detailed in each section of this SOW. The table below defines the associated roles and responsibilities at a high level. Changes to team personnel will be carefully evaluated by both parties, in the context of the project, and will be provided to Customer for consideration in advance of any changes. References to the corresponding sections of the SOW are included when a more detailed description is required.

Responsibility	Role
Establish Detailed Project Plan	Project Managers (SmartWorks/Customer)
Ensure resources are available to carry out tasks defined in section 5.6 Customer Resource Involvement	Project Manager (Customer)



Responsibility	Role
Engage in tasks defined in section 5.6 Customer Resource Involvement	Project Core Team (Customer)
Ensure resources are available to perform work as defined in SOW	Project Manager (SmartWorks)
Ensure assistance and cooperation by Third-Party Vendors (including AMI and GIS)	Project Manager (Customer)
Participate in weekly project calls	Entire Project Team (SmartWorks/Customer)
Configure Virtual Private Network (VPN) to enable customer access to the <b>SmartWorks Hosting Facility</b> (applications on the <b>SmartWorks Hosting Facility</b> may not be exposed on the internet). <b>Note:</b> This will be required for the corporate location as well as for the remote call center (distinct network).	IT (Customer)
Perform initial install in <b>SmartWorks Hosting Facility</b>	Infrastructure specialist (SmartWorks)
Install Software Modules as per section 2 SmartWorks Compass Implementation Scope	Consultants (SmartWorks)
Provide deliverables as defined in section 2.5 Project Deliverables and Work Products	Consultants (SmartWorks)
Provide AMI infrastructure and meter data	Metering (Customer via AMI vendor)
Provide input data for integration points as defined in section 3 Software Integrations	Project Team (Customer)
Install and configure integration points as defined in section 3 Software Integrations	Consultants (SmartWorks)
Perform functional and integration testing	Consultants (SmartWorks)
Perform User Acceptance Testing	Project Team (Customer)
Provide support during User Acceptance Testing	Consultants (SmartWorks)
Perform admin configuration updates once training has been delivered and User Acceptance Testing is completed. <b>Note:</b> Guidance will be provided by SmartWorks until the project is deemed completed.	Project Team (Customer)

### 1.3. Related Documents

Related documents to the SOW are:

- 1) SmartWorks Software License and Services Agreement
- 2) SmartWorks Hosting Services Agreement

## 2. SmartWorks Compass Implementation Scope

The scope of this Statement of Work is to implement the SmartWorks Software Solution for the Customer and to train the key people on the operation of the SmartWorks Software. The Customer will procure and install their respective advanced meters and supporting network infrastructure.

SmartWorks will deploy two (2) instances of the SmartWorks Software at the SmartWorks Hosting Facility in the United States: (1) Test instance and (1) Production instance.

Note that the intent of a test environment is to test new or existing functionality with a minimal set of data representative of the meter population prior to a production update.

The use of the test instance as a copy of production with a full set of data and corresponding full dataset processing is not supported. Server specifications and associated hosting costs, if applicable, included in our proposal are based on these assumptions. Changes to the environments may be brought into scope using the Change Management process described in section 4.3.

### 2.1. Storage

The SmartWorks Software is capable of importing, processing and storing thirty-six (36) months of data for the meters reflected in the table below. An archive and purge process will be used for data older than thirty-six (36) months. Archived data will be recoverable for a period of five (5) years.

To restore a location's data, users have the ability to enter the Location Number or meter ID. Once the restore execution is complete, all data for the selected meter ID, or for all meters associated with the selected location, will now be available in the system again, and can be viewed in graphs, tables, or other reports. This data will remain in the system indefinitely and will be excluded from further data purge processes. Users also have the ability to configure a "Data Purge Exclusion Meter List".

Changes to storage and data processing requirements including storage duration, meter counts, configuration of intervals length or number of channels impact the storage requirements submitted with our proposal. These may be brought into scope using the Change Management process described in section 4.3.

A set of test meters in the production environment will be defined by the Customer as being eligible for testing functionality.

### 2.2. Meter Configuration

The SmartWorks Software is capable of importing, processing and storing meter usage data based on the interval length and channels submitted with our proposal and defined below. Changes to meter counts, configuration of intervals or number of channels may be brought into scope using the Change Management process described in section 4.3.

Service	Number of Meters	Interval Length	Number of Channels	Ally Pressure/Temp Intervals
Water Residential	40,050	60 min.	1	60 min.
Water C&I	4,450	60 min.	1	60 min.

## 2.3. SmartWorks Compass Modules

The following SmartWorks Compass Software modules will be installed and configured as part of the scope of this engagement:

- **SmartWorks Compass**, including the following modules:
  - **MeterSense MDMS**
  - **KPI Dashboard**
  - **Leak Detection and Notification**

This section includes a description of each module as well as their corresponding Pre-requisites and Assumptions.

### 2.3.1. MeterSense MDM

SmartWorks will install and configure **MeterSense MDM** module.

Module Functionality includes:

- Support meter deployment
- Reports to help ensure that meters are provisioned correctly and communicating in the field
- Monitor AMI Performance
- Report on number of reads delivered compared to AMI Service Level Agreement
- Enable Meter-to-Cash
- Validation of reads, billing determinants and customer service support
- Alert via Meter Events
- Store and report on Tamperers, Leaks, error and other meter flags

#### 2.3.1.1. Pre-Requisites & Assumptions

- Meter reads are imported from the AMI as defined in section 3.1 **Error! Reference source not found.** AMI Head End Systems.
- Meter events are imported from the AMI as defined in section 3.1 AMI Head End System.
- Meters installation/removal are synchronized with the system of record as defined in sections 3.2.1 CIS Synchronization Integration.
- After installation of **MeterSense MDM** by SmartWorks, meter reads validation routines (VEE – Validate, edit, estimate) as defined in SmartWorks User-Guide VEE will be available for configuration.



- Data will be presented in the **MeterSense MDM** reports based on the modules identified in this Statement of Work and the availability of the data described in section 3 Software Integrations.

### 2.3.2. KPI Dashboard

SmartWorks will install and configure the **KPI Dashboard** module. The KPI Dashboard enables the user to configure one or more dashboards to display information on Key Performance Indicators (KPIs). A KPI is a metric that is represented by One dimensional or Two Dimensional components.

For each KPI, a panel of information is available. This includes:

- Value of the KPI displayed as a numeric value, speedometer graphic or thermometer graphic.
- If a drilldown link was defined when the KPI was registered, clicking anywhere on the value will launch a window with the drilldown page.
- Color coded value (red/yellow/green), depending on settings.
- Max/min statistics and trend area.
- Secondary KPI value, where configured. If the secondary KPI value has been defined with a drilldown link, clicking on the value will launch a window with the drilldown page.

Information on a KPI can be shared via email on a scheduled basis or threshold-driven exception basis.

A set of standard KPIs are made available with the application. These are arranged into a set of standard dashboards. It may be that not all dashboards or KPIs are applicable to a utility depending on available information, modules deployed, and integrations performed. Users may configure their own dashboards from the available KPIs.

#### 2.3.2.1. Pre-Requisites & Assumptions

- Deployment of the Compass Framework, if not already in place.
- Population of any data required for calculation of KPIs included in the Software Integration defined in section 3.

### 2.3.3. Leak Detection and Notification

SmartWorks Compass provides an analytical software solution that identifies leaks both from meter notifications and using intelligent data analysis. A prioritized list of customers to be contacted is then produced, filtered for false positives and duplicates, and refined on an ongoing basis to eliminate wasted effort.

#### Functionality Delivered:

- Import Leak Events from AMI meters.
- Monitor for Continuous Consumption, with parameters configurable by group.
- Generate Leak Notifications using either or both approaches above.
- Provide notification summary reports to utility personnel
- Customer notification: Create Leak Detection Work Order in CIS
  - For each account identified in existing Compass report, query CIS to determine if a corresponding Work order already exists for the Work order type provided by Customer.

- If the expected Work order does not already exist, create a new Work order in CIS.
- Registered Report: Leak Notifications generated over a selected period of time (default to last 7 days)
- Leak Detection KPI Dashboard displaying the following KPIs:
  - Leaks Detected: Number of locations with a suspected leak.
  - Average Leak Time: Average time of leak, based on Continuous Consumption statistics.
  - Average Leak Volume: Average leak volume, takes the average of each interval that reported a Continuous Consumption failure.
  - Leak Events Yesterday: Total Volume of all leak events over the past 24 hours.
  - Total Leak Volume: Total Volume of all reported Continuous Consumption failures over the previous 6 months' time span.
  - Average Leak Volume: Average leak volume of all reported Continuous Consumption Failures over the previous 6 months.

### **Implementation**

- Consultant will implement and configure the above functionality.
- Consultant will train customer on module functionality and uses.
- Consultant will support customer testing.

#### **2.3.3.1. Pre-Requisites & Assumptions**

- Deployment of the Compass Framework by SmartWorks, if not already in place.
- Utilization of Leak Notifications from meters requires meter-generated leak notifications to be delivered to the SmartWorks Compass Framework via standard Advanced Metering Infrastructure integration methods.
- Utilization of usage data analysis for leak notification requires hourly (or finer) interval usage data to be delivered to the SmartWorks Compass Framework via standard Advanced Metering Infrastructure integration methods.
- Customer communication for notification will be managed by the CIS, based on the Work Order created
- Customer must provide the Work Order type to be used for Leak Detections
- Map views require latitude/longitude information for each meter to be available via synchronization with the system of record.

## **2.4. Reporting**

All standard reports available within the SmartWorks Software will be made available for all licensed modules.

No custom reports or custom KPIs have been identified for delivery. However, if during the project, Customer identifies a requirement for a custom report, the services can be brought into scope using the Change Management process described in section 4.3.

## 2.5. Project Deliverables and Work Products

The following deliverables, milestones and work products are included in this project. **Deliverables** are items created during the project that may require formal review and approval by the customer. **Work products** are items created during the project that are reviewed by the customer but do not require formal approval by the customer.

### 2.5.1. Deliverables

The following list identifies the key deliverables associated with this project:

- Functional and Integration Requirements Document
- SmartWorks Software installation
- SmartWorks Software configuration
- SmartWorks Software integration as defined in section 3
- SmartWorks Software End-User Training

### 2.5.2. Work Products

The following list identifies the key work product documentation associated with this project:

- Project Schedule
- Acceptance Criteria Document
- Test Case Scenario Checklist
- Testing Plan
- Training Plan
- Training Material
- SmartWorks Software User Guides
- Go-Live Approach Document

## 2.6. SmartWorks Compass Training and Discovery Sessions

To enable users to effectively use the software both during acceptance testing and in a production capacity, SmartWorks will provide end-user training as part of this project. Onsite and remote training sessions will be provided the Customer as outlined in the table below.

Activity	Location	Phase	Length
Kick Off Meeting	Onsite*	Alpha	1 day
SmartWorks Compass Overview Session	Remote	Alpha	0.5 day
Discovery Session	Onsite*	Beta	3 days
Functional and Process Training	Onsite*	Beta	3 days



Advanced Process Automation Module Training	Onsite*	Beta	2 days
UAT Acceptance Testing Support	Remote	Beta	10 days

**Note:** Onsite sessions will take place when safe and appropriate. The onsite sessions can be replaced with remote online sessions upon agreement between SmartWorks and Customer.

#### 2.6.1. Kick Off Meeting

The purpose of this onsite meeting is to introduce project team members and review the project at a high level. Topics include scheduling, methodology, milestones, communication plan, and short-term focus. Preliminary requirements for each integration are also reviewed.

Additional topics can also include a demo of the SmartWorks Software, as well as a review of infrastructure components, including the Solution Architecture Diagram.

#### 2.6.2. Compass Overview Session

The Overview Training is held with the core user group when initial configuration is complete. This session occurs during the Analysis phase and is held remotely.

The overview training session provides users an overview of current system functionality. Upon conclusion of this session, users are able to dive into the **SmartWorks Compass** platform and understand existing configuration.

#### 2.6.3. Discovery Session

The purpose of the Discovery Session is to demonstrate existing functionality and elicit feedback for updates to functionality. Emphasis is placed on understanding existing customer business process and the impact to the process due to **SmartWorks Compass** is documented in the Functional requirement documents.

#### 2.6.4. Functional and Process Training

During the Functional and Process Training, up to 10 users will be provided training on the SmartWorks Software. In any training class exceeding ten (10) people, Santa Ana may be assessed an additional charge for additional Harris instructors. Harris will provide online reference documentation for Santa Ana's sole internal use. System Navigation will be reviewed as well as the main business functions of the solution. Following the Functional Training, the Business processes and use cases applicable to Customer will be reviewed.

Topics typically covered in this training include:

- SmartWorks Software Overview
- Data Setup
- Meter Reads & Validating, Estimating, Editing – VEE
- Billing & Customer Service Functions

- Using Maps and Reports
- Advanced Reporting
- System Administration
- Sessions specific to each **SmartWorks Compass** module defined in section 2.3
- Process Automation Overview

#### 2.6.5. Advanced Process Automation Rules Training

The Advanced Process Automation Rules Training course is a two-day technical course on rules development designed to enable participants to become competent at developing rules for **SmartWorks Compass** modules.

The topics include:

1. Overview of Rules Engine as a tool, Lifecycle of a Rule, Rule Components
2. **SmartWorks Compass** Data Schema/Data Flow/ Rules Performance Management
  - a. Applications of Rules
  - b. AMI System Performance
  - c. Responding to VEE exceptions
  - d. Meter Events and Alarms
3. Data Analysis
4. Data Safety Practices

The course will be delivered following rules design themes so that participants understand the construction of rules and can apply those design themes to any functional application and will include hands on exercises and an exam.

The Advanced Process Automation Module Rules Training course will be delivered to up to 3 participants. The intent is to train individuals within an organization to create a “rules engine technician”, who can take business requirements from business lines develop a rule that meets the business needs. Customer should only need 1 to 3 technicians.

Competency with SQL and a basic understanding of databases are pre-requisites for participants in the Advanced Process Automation Module Rules Training course.

Customer should also have several “rules champions”, who represent a business unit. The rules champions will be trained on the capabilities of the Rules Engine during the Functional and Process training course. These business unit rules ‘champions’ would be responsible for finding ways to improve their business and then passing the requirements to the rules engine technician (i.e. the 1 or 2 people trained by this course). The technician creates the rule. The champion tests and signs off on the rule.

### 3. Software Integrations

During software integration:

- Customer will act as or provide an integration coordinator who will be responsible for overseeing integration communications for this project.

The integration coordinator role consists in securing, as required and in a timely fashion, the assistance and cooperation of third-party vendors. A change order may be required if a third-party vendor is unavailable or non-cooperative and causes an impact to the project schedule or effort.

- SmartWorks will provide advice and recommendations regarding its experience and leading practice.

SmartWorks will make a reasonable attempt to provide sufficient lead time when making requests for assistance from third-party vendors. When deemed appropriate by Customer, SmartWorks will also work directly with third-party vendors if direct communication will result in efficient execution of the project.

Any version changes to integrating systems that occur during the project will be reviewed by SmartWorks and may require a change order if integration updates or re-testing activities are required.

The following Integrations are included in the project scope for the project:

#### 3.1. AMI Head End System, Sensus RNI Version 4.7

SmartWorks Software will integrate with the AMI Head End System to:

- **Meter reads:** Import the current day's readings as well as older reads that were previously missed. Interval and register read data will be received from AMI Head End system.
- **Meter events:** Import meter event data from AMI Head End. Examples include alerts such as tamper, leak, etc. Specific alarms will be defined between AMI and Customer.
- **Remote action:** Where the functionality is supported by the meters or compatible others, SmartWorks Software will integrate with the AMI Head End to perform On Demand reads and Remote Connects & Disconnects.

Integration	Initiator	Type(s)	Protocol	Frequency
<b>Meter Reads</b>	AMI	CMEP Read File	sFTP	1-3 times/day
<b>Meter Events</b>	AMI	CMEP Event File	sFTP	1-3 times/day
<b>Meter Events</b>	AMI	Real Time events (to be defined)	MultiSpeak® methods	Real Time



Integration	Initiator	Type(s)	Protocol	Frequency
Remote Actions	AMI	OnDemand read	MultiSpeak® methods	Real Time
Remote Actions	AMI	RemoteConnectDisconnect	MultiSpeak® methods	Real Time
Meter Data	AMI	Ally Pressure & Temperature	SFTP	1-3 times/day

If flat files are used for providing meter data, the files are expected to be delivered by 5:00am (local time) or an agreed upon time suitable to Consultant and Customer in order for the SmartWorks Software to perform the VEE process. The AMI Head End may deliver files at multiple times during the day in order to collect the maximum amount of meter data.

It is assumed that the applicable AMI Head End version will be installed on the Customer system in time for Consultant to perform its development and testing activities.

### 3.2. Customer Information System (CIS), S&S enQuesta v6

In collaboration with Customer or Customer's agent(s), Consultant will provide the following integrations with Customer's CIS. The integrations will require ongoing support from the CIS vendor through the SmartWorks integration project.

#### Summary of integrations

Integration	Initiator	Type	Protocol	Frequency
DataSync	CIS	Creates DB views		
DataSync	MDM	Queries DB views	ODBC	1-3 times/day
Billing	CIS	Billing Request	MultiSpeak® 4.1	TBD during discovery
Billing	MDM	Billing Response	MultiSpeak® 4.1	TBD during discovery
Remote Action	CIS	OnDemand read request	MultiSpeak® 4.1	Real Time
Remote Action	MDM	OnDemand read response	MultiSpeak® 4.1	Real Time
Remote Action	CIS	Remote shut off request (remote disconnect)	MultiSpeak® 4.1	Real Time
Remote Action	MDM	Remote shut off response (remote disconnect)	MultiSpeak® 4.1	Real Time
Remote Action	CIS	Remote connect request	MultiSpeak® 4.1	Real Time
Remote Action	MDM	Remote connect response	MultiSpeak® 4.1	Real Time
Work Order	MDM	3 rules to be defined	MultiSpeak® 4.1	TBD during discovery

#### 3.2.1. CIS Synchronization Integration

Import of customer and meter data into the SmartWorks Software for validation of AMI data. A daily full periodic synchronization activity will occur.

The minimum information to be provided from the CIS will include the following:

	SmartWorks Compass
<b>METERS:</b> List of meters with identifiers, meter types, etc.	X
<b>METER COORDINATES:</b> Meter latitude and longitude information	X
<b>LOCATION:</b> List of location(account) numbers, service addresses	X
<b>METER LOCATION:</b> A date-driven cross reference between meter and location number (i.e. when a meter is installed and removed from a location)	X
<b>METER CONNECTION STATUS:</b> State of the meter (ON/OFF)	X
<b>METER ALIAS:</b> Descriptive information related to the meter, combining meter/location attributes	X
<b>BILLING SCHEDULE:</b> Cycle/Route schedule indicating billing period and reading period	X

\*It is expected that when a radio is installed or removed from a meter, a cross reference between meter ID and associated radio ID will be maintained in the CIS and provided during DataSync.

This integration will be established using a database view that will be created by the CIS based on customer input and queried by SmartWorks Software. Depending on Customer requirements, the synchronization will occur between 1 to 3 times per day and will be scheduled to occur after the Customer database has been updated.

**Note:** It is therefore assumed that a direct integration will be made between the AMI head end system and the CIS for the purpose of meter provisioning. It is expected that Customer and AMI provider will work collaboratively to develop this integration.

### 3.2.2. Billing Interface (MultiSpeak®)

Customer will initially bill using register reads, not time-based determinants for most meters.

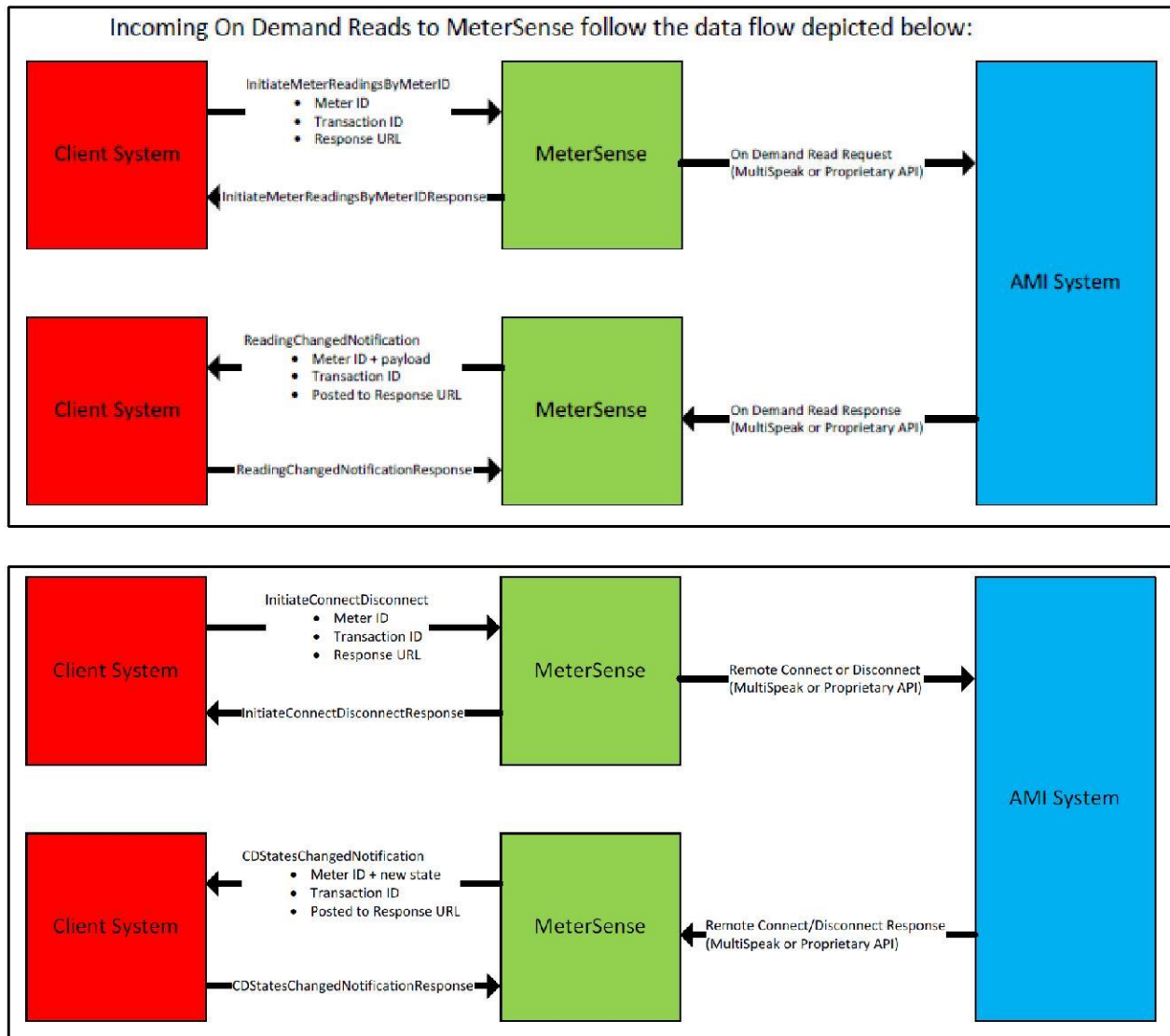
S&S enQuesta and SmartWorks Software will use a MultiSpeak® web service (synchronous SOAP call) call to request and receive the latest available read. S&S enQuesta v.6.0 will apply the correct rate to each register.

It is assumed that all reads required for the purpose of billing will be provided by the AMI system. Should **SmartWorks Compass** be required to perform calculation (e.g. Power Factor, Peak Demand, TOU, Net Billing), the services can be brought into scope using the Change Management process described in section 4.3.

### 3.2.3. Remote Meter Action Initiation from CIS

Provide the ability for a user to use the CIS to initiate a remote meter action (On Demand read, Remote Connect/Disconnect)

MultiSpeak® methods will be used to accomplish this integration. The SmartWorks Software will act as the server end of MultiSpeak® an asynchronous command for a remote meter action from the CIS. The SmartWorks Software will broker the transaction by integrating with the AMI head end system.



#### 3.2.4. Work Order Creation from MDM

The SmartWorks Software will have a MultiSpeak® interface with the CIS that allows the Process Automation rules to create, modify, and close work orders.

As part of the scope of this integration, SmartWorks will deliver up to three (3) business rules that will each enable the automation of one (1) Work order type and one (1) resulting action.

- For each account identified in existing Compass report, query CIS to determine if a corresponding Work order already exists for the Work order type provided by Customer.
- If the expected Work order does not already exist, create a new Work order in enQuesta CIS.



### 3.2.5. Customer Portal

The Harris Software will integrate with S&S to provide hourly interval read data to for the purpose of displaying interval reads to CSRs and to the Customer's portal. This integration will be done using supported MS4.1 MultiSpeak Method.

## 3.3. Geographic Information System (GIS) Integration - ESRI

### 3.3.1. Base Map

The SmartWorks Software will be configured so that meter data will be overlaid on top of one or more ESRI "Base Maps" via URL live link. With this capability, the Customer will be able to view meter data together with their other data layers within SmartWorks Software.

Customer will create URL and provide a custom base map to SmartWorks for configuration of **MeterSense**. This scope of integration assumes Customer is hosting ESRI on a web server and can provide a URL.

## 3.4. The Weather Network

The SmartWorks Software will integrate weather data services with daily feed of observed weather data received from the Weather Network weather station determined to be closest to Customer's location.

The following weather data, if provided by the weather station, will be imported into SmartWorks Software:

- Temperature (Hourly)
- Humidity (Hourly)
- Wind Speed (Hourly)
- Wind Direction (Hourly)
- Weather Conditions (Hourly)
- Precipitation (Daily)

This data is automatically downloaded from SmartWorks' data provider for a weather station or stations in the Customer's service area and is automatically inserted into the SmartWorks Software database.

## 4. Project Management Approach

### 4.1. Communication/Status and Relationship Management Approach

Communication Management is the cornerstone of any project and a well-structured Communication Plan is a must from the beginning. Regular and ongoing communications include those opportunities to communicate with project team members, sponsors, steering committee members, and other key stakeholders on a regular basis. These types of communication include regular status reports, scheduled project team meetings, monthly updates with the steering committee or with executive project sponsors on a project.

During the Project Kick Off Meeting, a Communication Plan will be presented and reviewed with Customer staff based on the following Communication Strategy:

#### Goals of Communication Strategy

- Keep people informed on project status
- Focus on communication to effectively prepare Customer for their software rollout
- Focus on communication to build support for project
- Monitor effectiveness of communication

#### Guiding Principles

- Clear messages using simple language
- Openness, honesty, credibility, and trust in all communications
- Two-way communication, with feedback valued and asked for
- Project Team and Management ownership of the communication program
- Ongoing commitment to the communications process

#### Effective Communication Guidelines

- There are multiple audiences for project communications
- Communication needs to be:
  - Tailored to specific groups
  - Regular and informative
  - Real-time and relevant
- Communication content needs to be of interest to the target audience

Following is the proposed communication plan for the project:

What	Who / Target	Purpose	When / Frequency	Type/Method(s)
Project Kick Off	All stakeholders	Communicate plans and stakeholder roles/responsibilities.	At or near Project Start Date	Remote Meeting
Status Reports	All stakeholders and Project Office	Update stakeholders on progress of the project.	Weekly	Distribute electronically using agreed Status Report template
Team Meetings	Entire Project Team	To review detailed plans (tasks, assignments, and action items) and risks.	Weekly	Meeting Review Project Plan, Status Reports, and Risk Log

What	Who / Target	Purpose	When / Frequency	Type/Method(s)
Project Management Status Meetings	Sponsor(s) and Project Manager (SmartWorks, Customer, AMI Vendor, CIS Vendor)	Update Sponsor(s) on status and discuss critical issues. Seek approval for changes to Project Plan.	Weekly	Meeting
Executive Sponsor Meetings	Executive Sponsor(s) and Project Manager(s)	Update Sponsor(s) on status and discuss critical issues. Seek approval for changes to Project Plan.	Monthly	Meeting

## 4.2. Work Management Approach

Work will be managed through the use of the Project Schedule. The SmartWorks Project Manager will have the responsibility to create and maintain the Project Schedule for the modules and integrations listed in this Statement of Work. It is expected that Customer Project Manager will work in conjunction with the SmartWorks Project Manager to ensure that key Customer activities that impact the project are also contained in the Project Plan.

During and after the User Acceptance Testing in the Testing phase, the SmartWorks TeamSupport solution will be used to track project issues such as bugs or other lower level action items. The Entire Project Team (SmartWorks / Customer) will have access to TeamSupport.

## 4.3. Change Management Approach

This document serves as the complete understanding, between Customer and SmartWorks, as to what the current Statement of Work entails. Customer and/or SmartWorks may propose changes to the scope of work defined in this document ("Change"). The Change Order Form (Appendix A) must be used for all Change Requests. SmartWorks shall have no obligation to commence work in connection with any change until the fee and schedule impact of the change is agreed upon in a written Change Order Form signed by the designated representatives from both Parties.

Upon a request for a change, SmartWorks shall submit the standard Change Order Form describing the change, including the impact on the schedule, budget, scope and expenses. The Change Management Process that will be employed is defined below:

- Identify and document proposed change
- Assess impact of proposed change
- Estimate required effort / cost of proposed change
- Submit Change Order for Approval / Disapproval
- Communicate Change Order Decision
- If Change Order is Approved:
  - Assign responsibility
  - SmartWorks to update Project Plan as needed
  - If there are project delays due to Change Request, SmartWorks may create subsequent Change Requests to address those delays
  - Monitor and report progress



Within fifteen (15) consecutive business days of receipt of the Change Order Form, Customer shall either:

- Accept the proposed change by signing the Change Order Form, or
- Reject the proposed change and inform SmartWorks Project Manager via email.

If SmartWorks is advised not to perform the change, or in the absence of Customer acceptance or rejection within fifteen (15) days, then SmartWorks:

- Will not perform the proposed change and will proceed only with the original services
- May create a new Change Request to accommodate the expenses incurred during the discussion of the proposed change. This may happen only in cases where:
  - Customer takes longer than fifteen (15) days to reach the decision, or does not reach a decision, and
  - Overall project timeline, budget or scope are affected.

#### 4.4. Risk Management Approach

Risk Management planning is an important part of project management and a core component of the SmartWorks Project Implementation Methodology. Risk Management planning is about defining the process of how to engage and oversee risk management activities for a project. Having a viable plan on how to manage risk allows one to mitigate risk versus attempting to decide in the midst how to handle a risk. The earlier Risk Management planning is engaged within the project increases the probability of success of risk mitigation activities. Risk Management planning will be initiated at the start of the project by having the initial discussion with Customer prior to, or during the Project Kick Off Meeting.

Risks can be raised by any project stakeholder, including Entire Project Team members, Customer, third-party integrators, or vendors during the project.

Risks will be entered on the Risk Log and categorized by type and priority. The SmartWorks Project Manager will investigate the risk and, if necessary, will update the Risk Log with background information to place the risk in perspective.

At a minimum, the following information will be captured and tracked for all risks:

- RISK ID – each risk should have a unique ID
- TITLE – short description of the risk (usually a few words or a sentence, helpful when reporting risks)
- DESCRIPTION – complete description of the risk, the more details the better
- IMPACT – impact to the project and/or business in terms of money, time, and/or quality
- PROBABILITY – indicate the probability of the risk
- SEVERITY – risk severity (typically values could be “critical”, “high”, “medium”, “low”)
- TYPE – type of risk (e.g. technical, process, organizational, etc.)
- RISK MITIGATION PLAN – detailed description of actions (including dates and owners) required mitigating the risk

- STATUS – current status of the risk (typical values are “open” or “closed”)

The following Risk Matrix will be used to establish the severity of risk:

PROBABILITY	High (3)	3	6	9
	Medium (2)	2	4	6
	Low (1)	1	2	3
		Low (1)	Medium (2)	High (3)
		IMPACT		

Throughout the duration of the project, as risks are identified they will be added to the Risk Log and will be reviewed at weekly Status Meetings with the team to determine the possibility of occurrence and the best plan for mitigation.

If identified risk(s) and/or mitigation strategies are deemed to have an effect on project timeline, budget, or scope, a Change Request may be created, as per section 4.3, to address those concerns.

Based on SmartWorks’ experience, the following have been identified as dependencies that could have negative effect on project timeline, cost and/or scope and could become potential risks:

- VPN ports not opened for SmartWorks personnel and for communication between integration points
- AMI not ready on time, or not sending the data
- Data source not ready for DataSync
- Resources not available to provide required information

Early engagement and commitments on timelines by all parties can significantly reduce risks linked to the above dependencies.

#### 4.5. Acceptance Management Approach

In collaboration with Customer, SmartWorks will develop and maintain a central listing of all Deliverables and Work Products to be completed throughout the project **“Deliverable Acceptance Criteria Document”**. The Deliverable Acceptance Criteria Document will also set forth the acceptance criteria for each deliverable (**“Deliverable Acceptance Criteria”**).

A baseline version of the Deliverable Acceptance Criteria document will be created through a combined effort between SmartWorks and Customer during the Initiation and Build phase. The Deliverable Acceptance Criteria Document will be reviewed with Customer regularly and updated to record the approval of the Deliverables as they are accepted. The approvals of the Deliverables in the Acceptance Criteria document will constitute final system acceptance.

A core component of the Deliverable Acceptance Criteria Document will be the execution of the test plan and test cases. The Testing Plan, also created in the Initiation and Build phase, and the Test Case Scenarios,



created during the Initiation and Build phase, are customized specific to the implementation for Customer. The Test Plan and Test Case Scenarios are used for testing and will be provided to Customer for their own review and testing of the system. SmartWorks Implementation Team and Customer staff will work as a team to ensure that exhaustive testing is carried out. During the Testing phase, when the system testing is being executed, the Project Team will be meeting to review the testing status and ensure that scheduled testing is being carried out.

Once system testing has been completed, and Customer staff has been trained on the system, Customer staff will have the necessary tools to review the system for acceptance. Customer will have access to its own instance of the SmartWorks Software, loaded with their data, to train and test on. SmartWorks Consultants assigned to Customer will provide training of the system to the staff, along with training documents, consisting of User Guides and PowerPoint. Training will be conducted onsite and using WebEx sessions, phone calls and documentation when needed.



## 5. Delivery Approach

### 5.1. Implementation Approach – Phases, Deliverables, Key Milestones

Successful implementation is based on SmartWorks' understanding of Customer requirements and experience gained through the implementations of SmartWorks Software at various Customers across North America. 's project will leverage SmartWorks' Implementation Methodology which has been honed and perfected over the company's long history to successfully guide project implementation from Initiation to Deployment.

### 5.2. Implementation Methodology

The SmartWorks Methodology is based on the following guiding principles:

- *Promote and foster customer ownership of solution;*
- *Establish and maintain consistent and regular touchpoints with Customer;*
- *Ensure that project performance is visible, measurable, tracked and risks identified and mitigated – No Surprises!; and*
- *Seek to minimize customer cost and time while still achieving project objectives.*

The Implementation Methodology consists of two main areas: **Project Management** and **SmartWorks Software Implementation Management** where each has associated (where applicable):

- Processes / Checklists / Matrices that define how to operate;
- Deliverables that are formal outputs that require Customer sign-off;
- Work Products that are outputs produced as part of the work required to achieve the desired project goals; and
- Tools / Assets that are leveraged to produce defined outputs.

The **Project Management** area defines how projects are managed. It includes:

- **Communication/Status Management** aimed at establishing internal and external communications as well as monitoring and communicating project status and effort spent;
- **Relationship Management** aimed at measuring the pulse of Customers and partners;
- **Work Management** aimed at capturing and monitoring effort, cost and work to be performed;
- **Change Management** aimed at defining and controlling project scope;
- **Risk Management** aimed at planning, mitigating, tracking and monitoring risks;
- **Acceptance Management** aimed at ensuring that expected deliverables are delivered and accepted; and
- **Financial/Contract Management** aimed at monitoring project financial health.

The **Implementation Management** area defines the Implementation Phases and associated Work Products and Deliverables that are part of this project. The Implementation Phases are defined in the following table:

Implementation Phases	Objectives	Key Work Products and Activities	Deliverables
<b>Phase I (Alpha)</b> <b>Initiation and Build</b> <i>Key Milestones</i> <ul style="list-style-type: none"> <li>Kick Off Meeting Held</li> <li>Project Plan Reviewed/Updated</li> </ul>	<ul style="list-style-type: none"> <li>To Kick Off project and establish successful working relationship</li> <li>To obtain detailed agreement on Project Plan</li> <li>To install and perform base configuration work</li> </ul>	<ul style="list-style-type: none"> <li>Kick Off Meeting</li> <li>Implementation Questionnaire</li> <li>Acceptance Criteria Document</li> <li>Initial Configuration complete</li> <li>Physical Architecture Recommendation</li> </ul>	<ul style="list-style-type: none"> <li>SmartWorks Software installation</li> <li>Software Overview Training Session</li> </ul>
<b>Phase II (Beta)</b> <b>Analysis</b> <i>Key Milestones</i> <ul style="list-style-type: none"> <li>Integration Documents signed</li> <li>Functional and Integration Requirement Document signed</li> </ul>	<ul style="list-style-type: none"> <li>To demonstrate base configuration functionality</li> <li>Conduct Discovery Sessions</li> <li>To obtain an agreement on what is remaining to be delivered</li> </ul>	<ul style="list-style-type: none"> <li>Discovery Session(s) Summary</li> </ul>	<ul style="list-style-type: none"> <li>Functional and Integration Requirements Document</li> </ul>
<b>Phase III (Beta)</b> <b>Development</b> <i>Key Milestones</i> <ul style="list-style-type: none"> <li>Solution Feature / Code / Configuration Complete</li> </ul>	<ul style="list-style-type: none"> <li>To configure according to requirements and build the Solution components</li> <li>To write associated test cases that Customer would execute for acceptance of the Solution</li> </ul>	<ul style="list-style-type: none"> <li>Test Scenarios / Cases</li> <li>User Acceptance Test Scripts</li> <li>Base Solution Installed and Configured</li> </ul>	<ul style="list-style-type: none"> <li>SmartWorks Software configuration</li> <li>SmartWorks Software integration</li> </ul>
<b>Phase IV (Beta)</b> <b>Testing</b> <i>Key Milestones</i> <ul style="list-style-type: none"> <li>User Acceptance Testing Complete</li> </ul>	<ul style="list-style-type: none"> <li>To move the Solution to a known state of quality and ready for deployment</li> <li>To train customer on their Solution</li> </ul>	<ul style="list-style-type: none"> <li>Functional Testing Results</li> <li>Integration Testing Results</li> <li>User Acceptance Test (UAT) Results</li> <li>Accepted Solution per UAT</li> </ul>	<ul style="list-style-type: none"> <li>Functional and Process Training</li> <li>User Acceptance Testing Support</li> <li>Go-Live Plan Document</li> </ul>
<b>Phase V (Beta)</b> <b>Deployment</b> <i>Key Milestones</i> <ul style="list-style-type: none"> <li>Solution Live</li> </ul>	<ul style="list-style-type: none"> <li>To move the Solution into a production environment state and transition support to the operations team</li> </ul>	<ul style="list-style-type: none"> <li>Solution Live</li> </ul>	<ul style="list-style-type: none"> <li>Installation Acceptance</li> </ul>

To minimize project costs, the majority of project work will be performed at one of the SmartWorks' locations except for key project activities such as Discovery Sessions where face-to-face is deemed more effective for a successful project. Throughout the project, SmartWorks' Project Team will be engaged with Customer using WebEx sessions to review configuration work and provide remote support.

### 5.3. Implementation Timeline

The estimated duration to implement the SmartWorks Software within scope is approximately 6 months.

The actual duration and scheduling of project activities will be evaluated during the Initiation and Build phase and a detailed baseline Project Plan will be jointly created at that time.

A baseline plan will be delivered within fourteen (14) calendar days of the project Kick Off Meeting allowing Customer an opportunity to review the Project Plan over the next ten (10) business days. If Customer does not agree to the proposed Project Plan, Customer and SmartWorks will work collaboratively to develop a mutually agreeable plan within a reasonable timeline.

The Project Plan will include a project completion date (the date where project is completed based on the criteria in section 5.7 Project Completion Criteria). The Project Plan will be reviewed periodically during the project and may be revised. Changes to the project completion date may require a Change Order if it is mutually determined that the delay in completion is the fault of the Customer or Customer's third-party vendors.

### 5.4. Validation/Testing Approach

Systems Testing is an activity that is addressed through all Phases of the SmartWorks Software Implementation Methodology but is the focus of the Testing Phase.

To ensure that a quality Solution is delivered to Customer, the Testing Phase focuses on validating that the configured and developed Customer Solution performs per agreed upon requirements for each module. This includes three (3) main testing activities:

- **Functional Testing** to test the core Solution components (Configuration, Interfaces, Reports, and Modifications) against agreed upon requirements as defined in the Functional and Integration Requirements Document based on the test cases and scenarios developed during the Development phase.
- **Integration Testing** to test the end-to-end process based on business processes and scenarios developed during the Development phase.
- **User Acceptance Testing** to provide Customer the opportunity to validate that Solution behaves per agreed upon requirements as defined in the Functional and Integration Requirements Document based on the test cases and selected scenarios collaboratively developed with Customer during the Development phase. User Acceptance Testing sign-off per agreed upon criteria is necessary to move to Deployment phase.

The progress for performing the three (3) testing activities will be logged into TeamSupport. At a minimum, the TeamSupport will include the following information:

- The test name
- The objective for performing the test
- A Description of the steps required to perform the test **"Test Script"**
- The expected result that will demonstrate the test is successful **"Test Acceptance Criteria"**



- The actual result observed after performing the test “**Test Result**”

Prior to commencing Functional Testing and Integration Testing activities, the Test Scripts and Test Acceptance Criteria will be documented in TeamSupport by SmartWorks using Test Scripts that have been defined by SmartWorks.

While performing testing activities, the tester will update the TeamSupport with the Test Result and will make a determination as to whether the result meets the Test Acceptance Criteria.

Functional Testing and Integration Testing will be performed by SmartWorks. User Acceptance Testing will be performed by Customer with support from SmartWorks.

#### 5.4.1. User Acceptance Testing Procedure

Once Functional Testing and Integration Testing have been completed, and Customer staff has received Functional Process Training, Customer staff will have the necessary tools to perform User Acceptance Testing.

Prior to commencing User Acceptance Testing activity, the Test Scripts and Test Acceptance Criteria will be documented in TeamSupport by SmartWorks collaboratively with Customer.

Customer will have its own instance of The SmartWorks Software, loaded with its data, to train and test on. The Application SmartWorks assigned to Customer will provide the documents and training of the system to the staff. Training will be conducted onsite and using WebEx sessions, phone calls and documentation as needed.

Customer will have a defined period of time to perform User Acceptance Testing on the Solution (including testing in a live production environment) (the “**Acceptance Testing Period**”). The length of the Acceptance Testing Period will be defined in the Detailed Project Plan. This User Acceptance Testing Period will begin upon formal written notification from SmartWorks to Customer that the SmartWorks Software has been configured and is ready for testing. During such Acceptance Testing Period, both Parties shall work diligently and dedicate the appropriate resources to conclude the evaluation in a timely and efficient fashion.

If the Solution substantially meets the Functional and Integration Requirements Document, and substantially satisfies the testing criteria set forth in TeamSupport (together the “**Solution Acceptance Criteria**”), Customer will provide SmartWorks with written acceptance notice thereof, and the date of such notice to be the “**Actual Solution Acceptance Date**”.

In the event Customer determines that the results of a test do not meet the Solution Acceptance Criteria, following the initial User Acceptance Testing cycle, Customer will provide SmartWorks with written notice thereof, specifying in reasonable detail how the Solution failed to meet the Solution Acceptance Criteria. If Customer delivers to SmartWorks such notice of retesting, SmartWorks shall make all necessary corrections, repairs, fixes, modifications, or additions to or replacements of all or any part of the rejected SmartWorks Software as well as integrations for which SmartWorks is responsible so that it conforms to and performs in accordance with the Solution Acceptance Criteria. SmartWorks will have a defined period

of time **“Correction Period”** to correct any deficiency, after which the User Acceptance Testing will be resumed. The Correction Period will be defined in the Detailed Project Plan.

Should the Customer require additional testing outside of SmartWorks’ standard testing routines, such as for Disaster Recovery, these can be brought into scope via Change Order.

In the event retesting is required by Customer, the User Acceptance Testing process will then be repeated.

Customer shall not unreasonably reject or fail to accept the Solution based on any Severity 3 issues, as defined in the table below.

Severity Level	Description
<b>1</b>	<ul style="list-style-type: none"> <li>• <i>System Down (Software Application, Hardware, Operating System, Database)</i></li> <li>• <i>Program errors where there is no reasonable alternative available to Customer to continue its business, operations or services utilizing Software</i></li> <li>• <i>Incorrect calculation errors impacting 10% of records</i></li> <li>• <i>Error messages preventing data integration and update</i></li> <li>• <i>Performance issues of severe nature impacting critical processes</i></li> <li>• <i>Security Issues</i></li> </ul>
<b>2</b>	<ul style="list-style-type: none"> <li>• <i>Program errors where there is a reasonable alternative available to Customer to continue its business, operations or services utilizing the Software</i></li> <li>• <i>Calculation errors impacting less than one-third of records</i></li> <li>• <i>Reports calculation issues</i></li> <li>• <i>Performance issues not impacting critical processes</i></li> <li>• <i>Usability issues</i></li> <li>• <i>Workstation connectivity issues (Workstation specific)</i></li> </ul>
<b>3</b>	<ul style="list-style-type: none"> <li>• <i>Training questions, how to, or implementing new processes</i></li> <li>• <i>Aesthetic issues</i></li> <li>• <i>Issues where there is a reasonable alternative available to Customer to continue its business, operations or services utilizing the Software for a large majority of the cases</i></li> <li>• <i>Recommendations for enhancements or system changes</i></li> <li>• <i>Questions on documentation</i></li> </ul>

During the Acceptance Testing Period, Customer may in collaboration with SmartWorks, acting reasonably, extend the Acceptance Testing Period, the Correction Period, and the Expected Solution Acceptance Date (such that the extended Acceptance Testing Period shall expire on the revised Expected



Solution Acceptance Date). During the Acceptance Testing Period, Customer should provide written notification to SmartWorks of any deficiency of a test result. Any issues identified after the end of the Testing Period will be address by SmartWorks according to the Support and Maintenance agreement.



## 5.5. Software Progression and Configuration Management

During the course of the project, updates are performed as described in the table below.

Phase(s)	Environment	Updates	Details
Initiation and Build Analysis Development	Pre-production	Configuration	Performed on an ongoing basis by SmartWorks Implementation Team. No Customer approval required.
		Software updates	Performed on an ongoing basis by SmartWorks Implementation Team. No Customer approval required.
		Software upgrades	<b><i>Not performed without prior agreement between SmartWorks and Customer.</i></b>
Testing	Pre-production	Configuration	Performed to address issues raised as a result of UAT.
		Software updates	Performed to address issues raised as a result of UAT. Release notes will be available upon request.
		Software upgrades	Not performed.
Deployment	Pre-production	Configuration	Performed for items related to Go-Live deployment activities.
		Software updates	Not performed, unless issues found during Go-Live deployment activities. <b><i>Requires agreement between SmartWorks and Customer.</i></b>
		Software upgrades	Not performed.
Deployment	Test*	Configuration	Can be performed by Customer to test additional configurations for Post Go-Live.
		Software updates	Not performed, unless exception scenario is encountered. <b><i>Requires agreement between SmartWorks and Customer.</i></b>
		Software upgrades	Not performed.
Post Go-Live	Pre-production & Test	Configuration	See Software License Agreement
		Software updates	See Software License Agreement
		Software upgrades	See Software License Agreement

\*Once the Test instance is setup during the Deployment phase, the migration of items (configuration, updates or upgrades) from Test to Production will be evaluated for each scenario and a plan will be agreed upon between Customer and SmartWorks.

## 5.6. Customer Resource Involvement

SmartWorks strongly believes that a successful implementation project requires that both Customer and SmartWorks resources work openly and collaboratively towards a common objective. As such, Customer's involvement will be required through all phases of the implementation project. SmartWorks also believes that the involvement of key Customer resources will help with the organizational change management activities that are essential to obtain acceptance of the new solution.

The factors that will determine the size of Customer's team includes the following:

- The level and expertise of each of the Customer Project Core Team members;
- The ability of Customer Project Manager to make decisions regarding the project;
- Whether current job responsibilities will interfere with Core Team responsibilities;
- The amount of business reengineering that Customer determines is necessary; and
- The number of personnel that Customer will use to run their Solution, which in turn affects the amount of training needed.

Based on SmartWorks' experience with other clients, the following list outlines the anticipated involvement of Customer throughout the implementation project, by phase.

### Phase I: Initiation and Build

1. Work with the SmartWorks to develop the Project Schedule.
2. Identify users of the Solution.
3. Complete the Implementation Questionnaire provided by SmartWorks. This questionnaire provides SmartWorks with the technical and environmental details required to configure the SmartWorks Software.
4. Ensure that any third-parties required for the success of this project such as the AMI vendors have been informed and that they are ready to participate and contribute on an as-required basis.
5. Install VPN connection(s).
6. Assist with ensuring that SmartWorks Software is accessible from within Customer environment.

### Phase II: Analysis

1. Ensure the staff members that have been identified to participate in Discovery Session(s) are available on dates agreed to and scheduled.

### Phase III: Development

1. Provide and ensure all required technical staff are available on dates agreed to and scheduled.
2. Create User Acceptance Testing Plan, including Test scenarios.

#### **Phase IV: Testing**

1. Determine the appropriate staff to be trained.
2. Ensure the staff members that have been identified to participate in the training sessions are available on dates agreed to and scheduled.
3. Assist with Functional / Integrated Testing.
4. Conduct User Acceptance Testing.
5. Log issues in the SmartWorks TeamSupport system (a web-based issue tracking system). The issues logged in TeamSupport will be addressed by SmartWorks Consultants per triage and priority.
6. Assist SmartWorks in developing a Go-Live Plan Document.

#### **Phase V: Deployment**

1. Assist in activities as defined within the Go-Live Plan Document.

### **5.7. Project Completion Criteria**

The Implementation Project is deemed complete once the following criteria have been met:

- An agreed upon sample of AMI meters representing different meter types and location classes have been installed and tested during User Acceptance Testing, within the project timeline indicated in section 5.3.
- Solution Acceptance has been given by Customer.
- SmartWorks Software Functionality within scope of this SOW has been deployed for a minimum of thirty (30) calendar days “Post Implementation Grace Period”.
- Severity Level 1 issues identified during the Post Implementation Grace Period have been addressed. The Severity Matrix Table presented in section 5.4.1, defines the Severity Level 1 issues.

Customer will be transitioned to support upon completion of the project. Severity Level 2 and 3 issues logged in TeamSupport within the first three (3) weeks of the Post Implementation Grace Period will be reviewed by the Implementation Team prior to the transition to support and if possible, will be addressed prior to the end of the Grace Period. After the transition to support all outstanding Severity Level 2 and 3 issues will be addressed following the Master Support and Maintenance Agreement.



### 5.7.1. Completion Criteria Summary

Milestone	Phase	Deliverable/ Completion Criteria	Assumptions/Dependencies
Contract execution	Alpha		<ul style="list-style-type: none"> <li>Agreements signed by all parties</li> </ul>
Software installation	Alpha	<ul style="list-style-type: none"> <li>Pre-production system provisioned</li> </ul>	<ul style="list-style-type: none"> <li>Introduction call between SmartWorks and Customer Project Managers held prior to installation</li> </ul>
Kick off Session held	Alpha	<ul style="list-style-type: none"> <li>Team Introduction</li> <li>Confirm project planning and review of Statement of Work</li> <li>Initial review of Data Mapping requirements and implementation Questionnaire</li> </ul>	<ul style="list-style-type: none"> <li>Data Mapping requirements and implementation Questionnaire have been presented but will be updated throughout the project</li> </ul>
Initial DataSync and AMI integration completed	Alpha	<ul style="list-style-type: none"> <li>Initial Data Mapping requirements completed</li> <li>Initial Implementation Questionnaire completed</li> <li>DataSync completed for Alpha meters</li> <li>AMI data populated in MDM for Alpha meters</li> <li>Compass Overview training session has been delivered</li> </ul>	<ul style="list-style-type: none"> <li>Customer provided timely input for the documentation presented during Kick Off</li> <li>Acceptance only includes pre-defined Alpha meters</li> <li>3<sup>rd</sup> parties provided requested data as per agreed upon schedule</li> </ul>
Delivery of requirements document	Beta	<ul style="list-style-type: none"> <li>Discovery Sessions have been held (as outlined in Section 2.6)</li> <li>Initial requirements documents have been delivered to Customer for review</li> </ul>	<ul style="list-style-type: none"> <li>Acceptance linked to initial delivery of documents</li> </ul>
Completion of integrations	Beta	<ul style="list-style-type: none"> <li>Integration as defined in section 3 of the SOW have been delivered</li> </ul>	<ul style="list-style-type: none"> <li>Final requirements documents have been approved</li> <li>Work Order integration has been fully defined by Customer within 1 month of Discovery session</li> </ul>
Completion of Training	Beta	<ul style="list-style-type: none"> <li>Software modules as defined in section 2.3 available</li> <li>Training as defined in section 2.6 has been delivered</li> </ul>	

Milestone	Phase	Deliverable/ Completion Criteria	Assumptions/Dependencies
Completion of UAT	Beta	<ul style="list-style-type: none"> <li>• Test results documented by Customer</li> <li>• Severity level 1 tickets have been addressed</li> </ul>	<ul style="list-style-type: none"> <li>• Test scripts have been defined</li> <li>• Customer resources are available to perform testing within 10 business days</li> <li>• Tickets logged after completion of UAT will not delay acceptance</li> </ul>
Transition to Support	Beta	<ul style="list-style-type: none"> <li>• Transition to Support meeting has been held</li> </ul>	

## 6. Assumptions

The Services, fees and delivery schedule for this project are based upon the following assumptions:

1. **This SOW defines the scope of work for SmartWorks and does not include any work or expenses required from other vendors including GIS, AMI, CIS, etc.**
2. This project currently has, and will continue to have, the support of senior Customer management and will be assigned sufficient priority with respect to other projects to ensure its success.
3. Customer will assign a Project Manager to act as an internal resource and guide throughout this project.
4. Customer will secure the appropriate staff in a timely fashion in order to discuss or review the various materials produced when required, provided SmartWorks gives reasonable notice of such request.
5. SmartWorks will provide a written agenda and notice of any prerequisites to prior to any onsite or remote sessions.
6. SmartWorks will provide adequate resources to support the efforts to complete the project as schedules and within the constraints of the project budget.
7. SmartWorks will provide the resumes for resources assigned to the project upon 's request.
8. Customer agrees to facilitate any required logistics between additional vendors, Customer resources and SmartWorks for the fulfillment of this SOW.
9. Customer will secure, as required and in a timely fashion, the assistance and cooperation of third-party vendors (e.g. AMI, OMS) to ensure a successful implementation. A Change Order may be created if the third-party vendor is unavailable or non-cooperative and as such results in an impact to the schedule or effort.
10. Third-Party vendor solutions are able to provide data required by the SmartWorks Software as well as accept information provided by the SmartWorks Software.
11. All third-party software and hardware products are assumed to perform correctly in Customer environment, in accordance with the appropriate third-party vendor's specifications.
12. All documentation provided by Customer shall be up-to-date and accurate or if that is not the case, advise SmartWorks as such.
13. All network components supplied by Customer are working properly and are free of defects and will meet minimum industry standards provided during the project.
14. To minimize project costs, the majority of project work will be performed at one of the SmartWorks' locations except for project activities where onsite is deemed more effective.
15. Customer will provide the appropriate monitored remote access to its network, facilities, and systems as may be required to perform activities from one of SmartWorks' locations. SmartWorks shall abide by all rules and directions of Customer when accessing Customer's network, facilities or systems. A Change Order may be created if appropriate remote access to its network is not available, resulting in project delays.
16. Any items not explicitly identified within this document are considered out of scope. Any changes to those responsibilities and/or deliverables will be considered a change in scope for the project. Any





proposed change to the project scope must be put into written format and be submitted to SmartWorks during this project for review and consideration.

## 7. Document Acceptance and Sign-off

Accepted on this day by:

**Aqua Metric Sales Co**

**N.Harris Computer Corporation (Harris Utilities,  
SmartWorks)**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

## APPENDIX A – Change Order Template

### Harris Utilities SmartWorks Change Order

This document defines the work to be performed by the Harris Utilities, SmartWorks division of N. Harris Computer Corporation (herein referred to as “SmartWorks”) for Santa Ana Municipal Utility Services (herein referred to as “Customer”), upon authorization to proceed from Customer.

**Date:** <Date>

**Change Order #:** <xx>

**Customer:** <Customer>

**Customer Contact:** <Name of Requester/Technical Contact>

**Description of Change:** <Title of Change Order>

### Related Documents

1. This Change Order is subject to the terms and conditions of the Software License Agreement, Support and Maintenance Agreement, Software Implementation Services Agreement and Hosting Services Agreement between Santa Ana Municipal Utility Services and N. Harris Computer Corp. signed <date signed>
2. This Change Order describes a change from the scope or schedule defined in<Statement of Work (SOW) details>
3. (other related documents such as Technical Specification Documents)

### Scope of Change

<Describe changes to be made>

### Assumptions and Constraints

1. <List any applicable assumptions/constraints>

### Schedule Impact

<Identify schedule impact, if any>



## Change Order Effort

Description	Estimated Effort (Hours)
Work Description 1	0
Work Description 2	0
<b>Project Total</b>	0

## Change Order Fees

### **Support and Maintenance**

Monthly Support & Maintenance fees may be adjusted based on the increased functionality or complexity resulting from this scope of work.

### **Taxes**

Fees exclude any applicable taxes.

### **Validity**

The price estimate is valid for a period of thirty (30) days from the quote submission. Customer may request this date to be extended.

### **Scope Changes**

If there are material changes to the scope or SmartWorks' understanding of the scope, the price estimate is subject to change.

- The discounted hourly rate for Change Orders during the scope of the implementation project, until the go-live milestone is achieved, will be USD \$230.00
- The Support & Maintenance fees may be adjusted accordingly as well.

It is expected that once the deliverables included in the Statement of Work have been delivered and the project is closed, all future services (including but not limited to training, customization, consulting) will be delivered using SmartWorks Standard hourly rate applicable at the time of the request for services.

## Change Order Payment Schedule

Customer will be invoiced based on the following payment fees and schedule. All prices are in USD.

Description	Payment	
(Milestone A TBD)	X%	\$0.00
(Milestone B TBD)	X%	\$0.00
<b>Total</b>	<b>100%</b>	<b>\$0.00</b>
Additional Annual Support & Maintenance fees		\$0.00
Notes: <ul style="list-style-type: none"> <li>• This fee is intended to cover support and maintenance activities anticipated for new functionality provided in this quote.</li> <li>• The fee will be applied upon installation in test environment (or production if a test environment is not available).</li> <li>• The first-year fee will be pro-rated to align with Customer's existing maintenance payment schedule.</li> </ul> Annual fees are subject to change as defined in the Support and Maintenance Agreement.		

Invoices are payable on a net 30-day basis.

## Change Order Acceptance and Sign-off

A signature below will serve as authorization to proceed with the work defined in this document.

Please sign and return this document to [Project Manager]:

- Fax: 613-482-4874
- Email: [projectmanager]@harriscomputer.com

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### ☐ Approval to Proceed

Please provide both an authorized signature for sign-off on this Change Order, and a technical contact where we should be directing Technical Issues.

---

Print Name (Authorized signature)	Signature	Date
-----------------------------------	-----------	------

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Name (Technical Contact)	e-mail	Phone Number
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---

### N. Harris Computer Corporation

SmartWorks manager authorized to sign this Change Order

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Print Name (Authorized signature)	Signature	Date
-----------------------------------	-----------	------

If you have any questions or need further information, please feel free to contact the Project Manager noted above.





Systems & Software, Inc.

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## **Santa Ana Municipal Utility Services**

### **Advance Metering Infrastructure Interface to enQuesta Statement of Work**

**Document Version 1.4**

**9/13/2020**

**Confidential Material Enclosed** - This document includes information that Systems & Software, Inc (S&S) considers to be confidential, trade secrets, and proprietary information. Unless as required by law, it shall not be disclosed outside the City of Santa Ana, for purposes of this provision, except to include any consultants assisting in the evaluation of proposals.

## Revision History

Date	Version	Description	Author
08/20/2020	1.0	Initial Draft	Michael Lamontagne
08/21/2020	1.1	Small edit	Michael Lamontagne
08/24/2020	1.2	Small edit	Michael Lamontagne
8/25/2020	1.3	Edited 5.5.1 and added 5.5.2	Michael Lamontagne
9/13/2020	1.4	Added provisions from Ryan Carnathan	Michael Lamontagne

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## 1. EXECUTIVE SUMMARY

Santa Ana Municipal Utility Services (The City) will be engaging in a Advancement Meter Infrastructure (AMI) project with the AMI front end solution utilizing the product from Sensus and the Meter Data Management System (MDMS) utilizing MeterSense from Smartworks. The City has also contracted with Concord for mass meter replacement and Utiliworks for overall Project Management.

The City is currently engaged in a contract with Systems and Software to upgrade their CIS platform to enQuesta Version 6. This project is planned to be completed by end of March 2021 + a 30 days post Go-Live for contract acceptance. It is the objective of this statement of work to work through proper tasks that will be required as part of the Upgrade to enQuesta version 6 to allow the Utility to deploy AMI smart meters once the upgraded CIS system is Live to execute a proof of concept. These tasks will be outlined in this statement of work and referred to as AMI Stage 1. This first stage as part of the upgrade will dealt with platform configuration for AMI meter register and Radio inventory. Work orders to exchange existing meters with new AMI meters to establish and complete a proof of concept for The City. This includes the delivery of the standard AMI Data base View package which allows the MDMS to be synced with the CIS system. Once the discovery session for the MDMS is complete additional fields may be added or removed to the View package and will happened in AMI Stage 2. It is S&S' recommendation to also institute the CIS' functionality for Auto Void reconnect in AMI stage 1 as part of the upgrade. These services will be outlined in this SOW.

Ami Stage 2 will be integration between all parties and the deployment of real time web services to achieve interval data display, on demand reads, workorder creation from MDMS as defined in the

Smartworks statement of work and real time Remote Connect and Disconnect based on meter capability.

#### AMI Overview

All Water meters containing a radio transmitter (MXU), will provide interval data back to the MDMS system. The CIS system will contain the meter, register and radio identifications and will keep the MDMS synced of new meter installations and removals through provisioning. The CIS system through real-time web services will be able to display interval data, capture an on demand read or request for Mass readings for Billing and indicated Cycle(s). These real-time services will also include functionality manually or through nightly processes in job scheduler to complete workorders that have AMI meters reducing the number of physical truck rolls. Web Service methods will also send AMI metered disconnect (Trickle) or reconnect (full Flow) work orders. Integration to the CIS credit and collections process will be configured to create mass turn off workorders for nonpayment and will divert AMI meters to be executed through the AMI front end through the MDMS interface and auto void reconnect to re-establish service when a payment is made real-time or based on the Utility's business rules of only effecting water service during business hours. The credit and collections will divert the Non AMI meters to be worked through the mobile work order system enQuesta Link. The customer portal Capricorn when and if deployed will request from the CIS system the same services to access the interval data from the MDMS system to display to the Utility customers who have an AMI meter installed on their account and have interval data to review.

This SOW and Pricing contains the integration and business process required for both AMI Stage 1 and AMI Stage 2 for this project. The project pricing will include project management for AMI stage 2 (The City is currently contracted for project management through the CIS upgrade / AMI Stage 1),



data integration mapping, design and analysis and implementation of services where defined, enQuesta product configuration and adjustment to current business process as required for the deployment of AMI, Integration and Business Process Testing, User acceptance assistance, training of the City's Core Team, and deployment of functionality to proper environments as needed to achieve deliverables and a seamless Go-Live for AMI stage 1 with the CIS Go-Live and AMI Stage 2 Go Live anticipated to be 120 days post CIS Upgrade Go-Live

## **2. NEW TERMINOLOGY**

**AMI** – Advanced Metering Infrastructure includes devices and systems that measure, collect and analyze usage, and communicate with metering devices. The AMI system includes a TUNet ( Tantalus Utility Network) interface where data is validated and passed through to other connected systems. The AMI system allows for two way communications with metering endpoints.

**MDMS** – Meter Data Management System is a term used to refer to a metering data storage and analytic system primarily used to store History of Interval data from the AMI head end system, which collects usage and metering data from meter endpoints; the MDMS also includes the account number and communication devices identification hardware.

**Provisioning** - Provisioning is the process by which enQuesta notifies MDMS and Front ends AMI system of impending changes or discrepancies in metering data so as to maintain synchrony and prevent MDMS from initiating unintended actions. For example, a Meter Exchange work order initiated in enQuesta provisions MDMS to prevent MDMS from “overreacting” to the signal interruption that will occur



during the service action.

### **3. PROJECT OBJECTIVES**

#### ***3.1. AMI Integration***

- 3.1.1. To accurately achieve full system integration of the AMI system outlined above, the City is requiring that the full suite of integration points to enQuesta CIS billing system be established and deployed. This solution will provide real time functionality to utilize and present interval meter data for the deployed smart meters utilizing enQuesta and their customers using the Capricorn Portal. Integration between the MDMS and the CIS system is required to obtain this interval data for acquire readings for utility billing automatically from the MDMS and to complete work orders using readings from the MDMS one by one or in mass through the work order control sheet template in enQuesta, and provide customers with usage information.
- 3.1.2. The areas of integration are defined as Basic Provisioning and real time Multi-Speak methods between the MDMS and CIS. Through this process, the City will be able to:
- 3.1.2.1. Execute On Demand Reading from newly installed smart meters.
  - 3.1.2.2. Request and display Interval data to service representatives and customers.
  - 3.1.2.3. Perform cycle reading request from the MDMS to be billed.
  - 3.1.2.4. Provide functionality to close service orders for Move out Move in scenarios where

only a reading is required to complete. Resulting in no field visit required.

3.1.2.5. Allow the MDMS the ability to generate a work order in the CIS for 3 defined actions. These actions will be determined at the MDMS discovery session with The City and the associated process in the CIS will be established. Additional actions will require a change order. An example of actions could be the MDMS identifies unauthorized tampering or outage . The MDMS will generate a work order type in the CIS to be executed.

3.1.2.6. The MultiSpeak® version will be 4.1 for this integration.

3.1.2.7. CIS to MDMS Oracle views provisioning (AMI Stage 1).All other MultiSpeak integrations between MDMS and CIS will be part of AMI Stage 2.

3.1.2.8. Automated meter exchanges to be completed in CIS by integrating with an external vendor Work Order Management System in AMI Stage 2.

## **3.2. Testing/Training**

### **3.2.1. Testing**

3.2.1.1. Test Plans and test cases are the responsibility of the Customer PM. S&S will provide sample test cases and recommended plans based on new functional AMI process, but the Customer PM ultimately understands the Customer business processes. The AMI Stage 1 testing will align itself with the testing objectives of the Upgrade

project plan and will adhere to that contract for Go-Live readiness.

- 3.2.1.2. The AMI stage 2 testing will occur post Upgrade Go-Live until AMI Stage 2 is deployed to production. At this time Final test acceptance will occur the day before Go-Live. After S&S brings up the enQuesta system and completes initial smoke testing, the Customer will be responsible for final testing before providing the final approval to launch.
- 3.2.1.3. Defect Tracking and Incidents can be categorized into bugs, enhancements, training items, configuration issues, conversion issues, and limitations (out of scope). Each type has its own specific workflow and business rules. This will allow Incidents to be documented and traced back to the test case and underlying functional requirement allowing for easy reporting on the “in-process” quality of enQuesta during each testing phase
- 3.2.1.4. A Project Close document will be created jointly by S&S and The City that will detail the issues that need to be resolved for Project closure. This document, also referred to as a Punch List, will contain the agreed upon priority 0 and 1 defects that need to be resolved before a) go-live and b) project close (end of post go-live). Remaining in scope deliverables that need to be implemented or issues that need to be resolved will also be added to this document.
- 3.2.1.5. Issues and defects reported after go-live will be addressed and resolved according to their priority under maintenance and support guidelines and cannot be added to the Project Close document.



### 3.2.2. Training

3.2.2.1. S&S is responsible for providing the Core Team training to all participants identified as the Core Team of the AMI project. The purpose of enQuesta Core Team Training is to train the core project team on the new AMI features, functionality and any changes that will occur to their existing business processes as of result of this AMI solution deployment. The Core Team will be comprised of subject matter experts who manage the major functions of enQuesta, such as Billing, Credit & Collections, Security & Administration, Metering, and Customer Service. Core Team training does not include introductory or basic training to users unfamiliar with the processes of enQuesta.

3.2.2.2. The City is responsible for providing end user training to all participants the City deems required to be trained for AMI functionality. This training should be completed prior to Go-Live.

### **3.3. Go-Live**

3.3.1.1. Once the system is accepted through completion of the onsite system acceptance testing, S&S and the City will Go-Live.

### **3.4. Post Go-Live Support**

3.4.1.1. The purpose of this activity is for S&S to assist the Client in the identification and resolution of all functional and technical issues, concerns, and errors, jointly referred to as “issues” or “defects”, related to the operations of the Solution.

- 3.4.1.2. S&S shall provide 30 days of AMI post-implementation remote support.. Issues will be reported through the current issue reporting process protocol currently in place between The City and S&S.
- 3.4.1.3. During this period, S&S will provide a weekly assessment report that indicates issues including, open/closed defects, open issues, training issues, and remaining/open risks as they pertain to the AMI implementation.
- 3.4.1.4. Issues will be reported by The City using the current support process in place establishing Tickets in the system and will be coded as AMI Issues so the implementation team can resolve during the post go Live support period.
- 3.4.1.5. Complete Project closure and acceptance results in transition to standard support will be when all Showstopper and High Issues are resolved. Please refer to the 2020 Systems & Software Support Guidelines which defines issue levels.

### ***3.5. Project Management***

- 3.5.1. Project Management under the AMI Stage 1 will fall under the enQuesta Upgrade Project Manager.
- 3.5.1.1. The S&S PM will create and update a project schedule on a monthly basis and submit it to the Customer PM(s) for review and approval. Regular Project Team meetings will be held weekly via conference call.

3.5.1.2. The S&S PM is responsible for ensuring the day-to-day activities for S&S are being carried out in a manner consistent with defined project objectives, industry standards and contractual obligations.

3.5.1.3. The Customer PM's are responsible for ensuring the Utility's day-to-day activities are being carried out in a manner consistent with defined project objectives, industry standards and contractual obligations.

### 3.5.2. Time Management

3.5.2.1. Time Management is the process of estimating, scheduling and tracking project activities. The overall project schedule will be managed by the S&S Project Manager to ensure that the project is delivered in a timely manner. All the critical path items will be managed closely by the S&S PM and Customer PMs in their respective areas of responsibility.

### 3.5.3. Resource Management

3.5.3.1. Resource Management is the responsibility of both the S&S PM and the Customer PM's. Each PM is responsible for the oversight and management of the project team members from their respective organizations which may include employees, contracted consultants and vendors.



- 3.5.3.2. The S&S PM will manage S&S resources including all of its subcontractors; the Customer PM's will manage Customer resources, independent contractor for Q&A, and third party vendors.
- 3.5.3.3. At no time shall S&S become involved with the oversight or scheduling of Customer resources or the Customer's third party vendors.
- 3.5.3.4. It is the responsibility of each PM to ensure proper resources are available as scheduled in the project plan. This includes, but is not limited to, attendance in training sessions, team meetings, and conference calls, as well as participation in analysis, testing, and all other project activities.
- 3.5.3.5. Changes to the project timeline or the project plan that are due solely to the Customer and/or the Customer's third party vendors may result in a change of scope and be subject to Change Control Plan procedures.
- 3.5.3.6. Changes to the project timeline or the project schedule that are due solely to S&S and/or the S&S subcontractors may result in a change of scope and be subject to Change Control Plan procedures.
- 3.5.3.7. S&S' project management is fixed for this project at 42 hours per month for a total of 6 months. If additional time is required the change order process will be executed to

extend. Project Management is required through the completion of the Systems and Software's Scope of work.

#### 3.5.4. Change Control Management

3.5.4.1. Change Management is the process whereby out of scope requests or requirements are documented, analyzed, assessed for impact on the project and submitted for approval on mutually agreed upon Change Management Control.

3.5.4.2. The Customer Project Managers will initiate an S&S Change Request Form (see Attachment B – Change request Form) which commences the Change Management process. The initial Change Request will be delivered to the S&S PM for consideration of the following: any possible resolution plans, resource requirements, impact to schedule, proposed timeline, and cost.

3.5.4.3. For all approved changes, the S&S PM will update the project schedule with the additional scope of work including project tasks, durations, and assigned resources. These tasks will then be managed as part of the overall project.

3.5.4.4. S&S may suggest that some Change Requests be managed outside the scope of the original implementation. This project decision will require the mutual agreement of the parties.

3.5.4.5. For those Change Requests that have financial ramifications, Payment Milestones will be reviewed and suggested modifications proposed by the S&S PM. Such proposed Payment Milestone changes shall be subject to the approval of the Customer.

## **4. ASSUMPTIONS**

### ***4.1. AMI Stage 1***

- 4.1.1. The AMI project team will use the Train environment for the upgrade for establishment and testing of AMI Stage 1 tasks.
- 4.1.2. The City will store in enQuesta inventory for Meter, Register and Radio and will work with S&S on configuration of data elements and File uploads from Meter vendor.
- 4.1.3. 3 Work orders will be established to install exchange and remove AMI devices.
- 4.1.4. New Smart Meter installation will be performed by the City no third party mass meter installation contractor will be used. New CIS work orders will be used to accomplish this in enQuesta V6
- 4.1.5. S&S standard Oracle View package will be used for provisioning between the MDMS and the CIS.
- 4.1.6. The AMI meters installed will be required to be manually read for Billing until AMI Stage 2 is deployed.



- 4.1.7. Non AMI meters will be read for Billing using current method.
- 4.1.8. CIS Auto-Void reconnect functionality will be established during this stage.
- 4.1.9. Remote Disconnect / Reconnect of out of scope for this phase. Analysis between vendors and business requirements document should be established and agreed upon before integration begins.

## **4.2. AMI Stage 2**

- 4.2.1. The AMI project Team will turn on the AMI control code and activate the webservice methods in the enQuesta train environment once the 30 days post go-live of the enQuesta V6 upgrade. Providing ample time for the Upgrade team and AMI Stage 1 to be supported post go-live.
- 4.2.2. The MultiSpeak® Web services will be used to achieve real time integration version will be 4.1 for this integration.
- 4.2.3. The current meter reading solution will be modified to not include AMI meters.
- 4.2.4. Meter Reading will continue to be used for non AMI meters and readings will be posted into the CIS month file as currently performed. The monthly billing read for Non AMI meters will not be stored in the MDMS system.
- 4.2.5. Remote disconnect/reconnects on demand reads is to be implemented during this Stage. If changes are required/ desired the change control process will be utilized to track

this.

- 4.2.6. Vendor Meter installation/ retrofit process established and performed. See section 8.2.
- 4.2.7. Service Orders (design, build, test, deploy) The 3 actions from the MDMS solution will be aligned with the work order(s) defined in the MDMS SOW.
- 4.2.8. Billing request and response files between MDMS and enQuesta (build, test, deploy).

## **5. ENQUESTA CIS BUSINESS REQUIREMENTS**

### ***5.1. Auto-Void Reconnect***

- 5.1.1. Analysis of current credit and collections business process and discussion with The City to determine business requirements to turn on functionality in AMI stage 1. This functionality auto voids an existing Turnoff workorder for non-payment if payment is received prior to the enQuesta Link status of being completed. If completed the action can be to create a Turn on work order as payment was received. This functionality can work as part of AMI Stage 1 and will continue with AMI Stage 2 including sending the Auto void before processed by the front end AMI solution or establishing a reconnect and automatically sent to the front end AMI to be processed if the meter is coded as an AMI meter with a Type = remote disconnect.

5.1.2. New Balance breakdown code established for Auto void

**Balance Breakdown Maintenance**

Application: 3 WATER  
Breakdown Code: 71

Breakdown Code Description: AUTO VOID MISC CHG

Penalty	N - No	Disconnect	Y - Yes
Discount	N - No	Loan	N - No
Prior to Bill	N - No	Auto Void Misc Chg	Y - Yes
Other 4	N - No	Tax Use	
Non Age			

Use Alternate AR Code: 0

5.1.3. Initial setup of Payment shut off Void/Turn On criteria established

**Payment Shut-Off Void / Turn-On Criteria**

Application: 3 - WATER (WA)  
Property Class: Select Property Class  
Tax District: Select Tax District  
Exclusion Code: 70 - AUTO-VOID  
Notify Cashier/Teller: 4 - Notify if voiding or creating

**Payment Function Uses**

- ☒ Counter
- ☒ Back Office
- ☒ ACH
- ☒ Batch Payment
- ☒ Real-Time Payment

**Work Order Scheduling**

- ☒ Skip Holidays
- ☐ Skip Tuesday
- ☒ Skip Saturday
- ☐ Skip Wednesday
- ☒ Skip Sunday
- ☐ Skip Thursday
- ☐ Skip Monday
- ☒ Skip Friday

**Active Account Shut-Off Non-Payment**

Status Code	Type of Notice	Number of Days Shut-off Limit	Include Misc chg fees in Threshold?	Meter Status	Type of Work Order to
<input checked="" type="checkbox"/> 1 - SHUT OFF NON PAYMENT	70 - AUTO-VOID	200	W - Work Order	Ignore Meter Status	025 Turn-on Non-P
<input checked="" type="checkbox"/> 1 - SHUT OFF NON PAYMENT	70 - AUTO-VOID	200	W - Work Order	Ignore Meter Status	022 TURN ON (NO C
<input checked="" type="checkbox"/> 1 - SHUT OFF NON PAYMENT	70 - AUTO-VOID	200	W - Work Order	Ignore Meter Status	020 TURN-ON NON-P

**Open / Complete Work Order**

Shut-Off Work Order Origin	Type of Notice	Action Code
Work Order Entry	70 - AUTO-VOID	3 - Emily Test
Collections Run Sheet	70 - AUTO-VOID	3 - Emily Test
Broken Promise to Pay	70 - AUTO-VOID	3 - Emily Test



#### 5.1.4. Initial setup of Payment Shutoff Void / Turn On action

Payment Shut-Off Void / Turn-On Action

Application: 5 - WATER [WA]  
 Action: Empty Test

Open / Complete Work Order

Work Order Status	Type Of Work Order Found	Interim Status	Number of Days Shut-off Limit	Include Miscellaneous Fees in Threshold?	Void or Create	Type of Work Order
1 - COMPLETE	51A - TURN-OFF NON-PAYM	Select Work Order Status	60	Y - Work Order	C - Create	525 TURN-ON
1 - COMPLETE	51B - TURN-OFF NON-PAYM	Select Work Order Status	60	Y - Work Order	C - Create	520 TURN-ON
1 - COMPLETE	51C - TURN-OFF NON-PAYM	Select Work Order Status	60	Y - Work Order	C - Create	522 TURN-ON
0 - OPEN	51B - TURN-OFF NON-PAYM	Select Work Order Status	60	Y - Work Order	B - Both	5900 Auto Void
1 - COMPLETE	51E - AutoVoid Shut - com	Select Work Order Status	600	Y - Work Order	C - Create	500 TURN-ON

## 5.2. Synchronization / Provisioning

5.2.1. The CIS system will need to provide data to the MDMS to ensure synchronization of

Account Number, Meter Number, Billing Cycle, locations, billing schedules, connection status', etc etc.

5.2.2. The full periodic synchronization know as provisioning will be done from CIS using

database views. This will allow the MDMS to avoid issues that can arise when changes are put into the CIS systems. (i.e., The CIS does not need to track changes).

5.2.3. The front end AMI system will also need to be provisioned from the CIS system. A

program will be established and will be capable of running on demand or part of job

scheduling. This file format will be .CSV. The follow is a list of data elements required from

Sensus analytics/SMA module data requirements. A business requirements document will be

generated to be signed off establishing the data mapping and functionality of the program.

- FlexNet ID
- Meter Manufacture (Sensus)
- Meter ID
- Device Status (Active, Inactive, On, Off)
- Address
- Account ID
- Account Status (Active, A, On, Inactive, I, Off)
- Account Service Type (Residential, Commercial, etc.)
- Billing Cycle
- Route ID
- Service Size (0.625, 0.75, 1, 1.5, 2, 3, 4, 6, 8, 10, 12)
- Name

The Utility will be required to establish the SFTP of the file generated from the CIS to the location of where the front end AMI software can access the data.

### ***5.3. Smart Meter provisioning***

- 5.3.1. New smart Meters being brought into enQuesta Inventory will be required to contain the AMI flag on the Meter Inventory record within enQuesta. This AMIFlag is required to be set to a Y and the AMI type field identified as 0= Manual Meter which refers to non AMI smart meter and is the default meaning someone physically required to turn off or on the meter onsite. 1 = AMI Manual which means the meter is a smart AMI meter and can obtaining interval data but does not have remote connect or disconnect capability from the front end AMI solution. 2 AMI RDM Remote Disconnect Meter which means the service can be shut off or reduced remotely by front end AMI solution. The field is also required to be set. The

image below presents these 2 fields. The codes for configuration may change based on implementation setup. The importance is to identify a manual shut off meter verses a remote disconnect capable smart meter.

Device Maintenance

DEVICES REGISTERS

Application: 3 - WATER  
Device Code: 0  
Device #: 03847843

Active Code: 0 ACTIVE  
Purchase Order #:   
Purchase Date: 1/27/1994  
Purchase Cost: .00  
Install Date: 12/28/2014  
Install Cost: .00  
Returned Date:   
Work Order Number: 0  
Work Order Year: 0  
Set Date: 12/28/2014  
Meter Date: 000000000000  
Battery Date:   
Battery Time: 000000000000  
Shaft Reduction:   
Number Cams:   
Maintenance Date:   
Usable/Unusable: 0 - Usable  
Ownership Flag:   
Bidirectional:   
AMI Flag: Y - AMI Meter  
AMI Type: 1 AMI MANUAL  
AMI Kind: 0000  
N/A:   
Notes:

Config: 304 - GAL 1 REGISTER ADD TOGETHER Registers: 1  
Bill Config: 304 - GAL 1 REGISTER ADD TOGETHER Registers: 1

Customer Number: 020-1954.300  
Customer Name: JAMES PRICE  
Prem Address 1: 14795 TOLL RD  
Prem Address 2:   
Prem Address 3:   
City: RENO  
Comments:   
Tax: 99  
Warranty Date:   
Warranty Type: 0  
Mike 1  
IP Address:   
Modem Phone:   
IIM ID:   
Password:   
Name:   
Worker #:   
Issued Date:   
Truck #:   
Operator #:   
Installed: 12/08/2014  
Month in Service: 68

Last Updated: 1/09/01/09/2020 00:00:00

METER TEST SUBMIT CANCEL

5.3.2. The current Hand Held process is modified to exclude AMI meters in the download where reads are provided from the MDM. This will get implemented in AMI Stage 2.

## 5.4. Billing Requests

5.4.1. The MDMS and enQuesta will implement the MultiSpeak®



**GetReadingsByMeterID** method for billing integration.

5.4.2. The list of meter IDs and start date parameters will be derived from list of billed cycles. The billing closure time will be selected by CSR before making request. Below are assumptions on return readings:

- The method will return the most recent register read for each meter for the billing cycle
- (could be a couple days old or it could be 10 days old)
- Missing reading will not be returned (vs. old reading or an error)
- Would be up to enQuesta to decide how to handle the reading
- Part of the response is the date/time, and the value – it will be up the utility to configure kick-out (to decide on-demand reading, estimate read or send someone else in the field)
- EnQuesta distinguishes AMI read meters from non AMI meters

5.4.3. enQuesta will create a request pool to handle concurrent requests for each meter in billed cycle. The pool size will be defined in configuration for optimal performance. Once the pool completes all the requests it will create the “formatted block” message for further processing in enQuesta (existing process).

5.4.4. Billing Request will be updated with current status and metrics when it’s completed.

## ***5.5. Interval Data in enQuesta and Web Connect***

- 5.5.1. Interval reading data will be presented to the CSR in the Inquiry Portal on the Usage Tab. A new inquiry configuration will be established to be associated through enQuesta operator security to the View.
- 5.5.2. The customers end users can be presented interval data, if desired by the utility, through Capricorn's AMI Web Portal module. .
- 5.5.3. enQuesta will initiate the MultiSpeak®® method labeled **GetReadingsByMeterIDAndFieldNameIntervalData** method to get Interval Data, the interval data will be in 60 minutes interval.
- 5.5.4. S&S will aggregate the Interval Data on the enQuesta side for following intervals for display in the enQuesta Billing portal:
- Hourly – 1 hour
  - Daily – 24 hours
  - Monthly – 1 month
- 5.5.5. If meter is configured for 1 hour interval and requested interval is 15 minutes exception will be thrown by enQuesta API.
- 5.5.6. An enhancement will be created to WebConnect to integrate through Single Sign On with the SmartWorks Connect per the scope below.

- A new button will be added to the account summary screen on a customer's WebConnect account bringing them to SmartWorks Connect portal.
- Only accounts with AMI meter types will see this option
- This will be Single Sign on, when the customer log into WebConnect, they will not be required to log in again to access SmartWorks Connect.
- A new window will be opened when the user clicks on this new option.

5.5.7. See Appendix A for sample SOAP Messages for enQuesta Interval Data requests.

## **5.6. On Demand Reading Request**

5.6.1. enQuesta to perform on-demand read through MDMS MultiSpeak® method

**InitiateMeterReadingsByMeterID** supplying a transaction ID and a response URL.

MDMS will then attempt to perform an on demand read to that meter, using whatever protocol is configured for that action. This may be another MultiSpeak® request, but may also be a proprietary API call depending on the AMI system the meter belongs to. Once MDMS has received the readings from the AMI system, it will make a **ReadingChangedNotification** call back to the response URL supplied in the initial request, and quoting the supplied transaction ID. In the event of a timeout or other failure of the on-demand reading, MDMS will respond with a MultiSpeak® error message. enQuesta will make this process pseudo synchronous so the client processes stay the same. enQuesta will have configuration to define how the reading will be acquired, by default it will use above method but in case if there are communication problem with meter two other options will be available: Using **GetLatestReadingByMeterID** method which asks for the most recent



reading from MDMS database for a single meter. The response contains the timestamp, channel ID, value, and unit of measure of the latest register reading in the database. One reading for each channel is supplied in the response. Both methods, when enQuesta will first try to get the readings using **InitiateMeterReadingsByMeterID** method and if it's failed/timeout will try to get it using **GetLatestReadingByMeterID** method.. Below is a screen print of the Usage screen on main inquiry which displays the ondemand read date and time stamp.

5.6.2. SOAP Messages to be established in technical integration document..

## **5.7. Service Order Integration**

5.7.1. Service Order integration includes the following functionality:

**Query** Service Orders. Use Case: determine if a tamper alarm was caused by field work. Following MultiSpeak® CB Server methods for this functionality will be implemented by S&S:

- GetServiceOrdersByStatus
- GetServiceOrderByServiceOrderID
- GetServiceOrdersByServiceLocation

• **Create** Service Orders. Use Case: create an investigate meter service order after receiving a tamper alarm and determining it was not caused by planned field work. Following MultiSpeak® CB and NOT

(Notification) Server methods for this functionality will be implemented by S&S:

- ServiceOrderOpenedNotification - NOT
- GetNextNumber – CB. Will be used to keep track of created Service Orders. This will be called before ServiceOrderOpenedNotification in order to obtain service order number.

- **Update** Service Orders. Use case: Auto close of Move Out service order with a meter read.

Following MultiSpeak® NOT Server method for this functionality will be implemented by S&S:

- ServiceOrderChangedNotification

- **Complete** Service Orders. Use Case: Move Out, rules engine would have a list of move out's for the day.

Following MultiSpeak® NOT Server method for this functionality will be implemented by S&S:

- ServiceOrderClosedNotification

All above MultiSpeak® methods will be implemented in enQuesta and are one-way synchronous methods where MDMS is a client and enQuesta is a server.

**5.7.2.** EnQuesta has a field order flag to distinguish work orders that require field visit from those that can be completed with an AMI meter read. Following AMI kick off meeting, Systems and Software and City will meet to review the work orders that can be completed using the AMI system. Through this scope, S&S will change the work order flag of the existing work order types. An example of a work order could be: **Move In Work Orders**

**5.7.3.** Systems and Software and City will meet regarding Non-automated Work Order Creation and review those in MDMS's Task listing and decide which ones require

integration in enQuesta. The work order Types will be created as necessary.

5.7.4. SOAP Messages to be included in technical document.



## **6. REMOTE DISCONNECT FUNCTIONALITY**

### **6.1. AMI remote connect/disconnect**

- 6.1.1. When an AMI meter is configured for remote connect/disconnect, the enQuesta work order will not need to be sent to the field to be worked.
- 6.1.2. When remote disconnects are created in batch, enQuesta will need to stagger the disconnect messages to the MDMS so all disconnects do not happen at the exact same time. The time is associated on the work order and a work order Que is established to allow a user to review the list of open orders by Time to be sent to the MDMS shut off work orders.
- 6.1.3. The Auto Void reconnect parameters are adjusted to work with remote reconnect meters. So if a payment is made and the work order time is not elapse it will be voided if processed a turn on work order will be established and sent to the MDMS with a time to be worked automatically.
- 6.1.4. Scenarios where a Move out /Move in are close enough that no disconnect or reconnect to the property is requested or required the enQuesta work order will follow the work order control sheet template for completion as explained in section 5.6.2 for work orders to get completed using a reading from the MDM.

## **7. OUTSTANDING ISSUES/QUESTIONS**

### **7.1.**

## **8. BUSINESS PROCESS AND REQUIREMENTS FOR METER EXCHANGES**

### **8.1. Work Orders Internal**

- 8.1.1. Analysis of the current meter exchange work orders will take place and new meter installs, removal , and exchanges will be configured as needed and tested for this project. Other internal work orders will be establish as needed for the City to maintain the new AMI account integrity.

### **8.2. Work Orders External Vendor**

- 8.2.1. A program will be developed to produce a file from enQuesta to provide the necessary data required for a third party meter installation company to perform the required exchanges & retrofits designated by the City. This file will be a .CSV format and the data elements to be determined during discovery with the selected Vendor at that time. The data elements must exist in enQuesta. If Outside data is required to be included in this interface a change order will be established.

8.2.2. During discovery The City will need to provide the logic required for the selection of appropriate accounts to be exchanged by a 3<sup>rd</sup> party vendor.

8.2.3. The Vendor will require periodic file updates because CIS data changes and they will require updated data. This program will have the ability to run from Job scheduler or manually run as needed. The frequency is usually Monthly or on demand when the vendor wants updated data.

8.2.4. A program will be created within enQuesta that will need to be run in order to create the work orders from the file placed in the appropriate enQuesta directory.

8.2.5. The file definition below contains the data for the creation and completion of the work order required by enQuesta. The format is required in .csv no header record from chosen VENDOR. The following Table is the file layout required back from VENDOR for upload.

Field name	Data type	field length
Work Order Type Number	N	4
Customer Account number	N	12
existing Meter ID	AN	12
HH Comment 1	AN	23
HH Comment 2	AN	23
Read Instruction code line 1	AN	23
Read Instruction code line 2	AN	23
Location Code	AN	23
Location description 1	AN	20
GIS Coordinate 1	AN	20
GIS Coordinate 2	AN	20
Existing Remote device ID	AN	12



Removal Reading Date seq 1	N	8
Removal Reading seq 1	N	9
Removal Reading Date seq 2	N	8
Removal Reading seq 2	N	9
Removal Reading Date seq 3	N	8
Removal Reading seq 3	N	9
New meter number	AN	12
New Other device Type 1 ( always a X=Register)seq 1	N	2
New other device type 1 (register)seq 1 device ID	AN	12
New Other device Type 1 ( always a X=Register)seq 2	N	2
New other device type1 (register)seq 2 device ID	AN	12
New Other device Type 1 ( always a X=Register)seq 3	N	2
New other device type 1 (register)seq3 device ID	AN	12
New Other device Type 2 ( always a X=Radio)seq 1	N	2
New other device type 2 (radio)seq 1 device ID	AN	12
New Other device Type2 ( always a X=Radio)seq 2	N	2
New other device type 2 (radio)seq 2 device ID	AN	12
New Other device Type 2 ( always a X=Radio)seq 3	N	2
New other device type 2 (radio)seq3 device ID	AN	12
Starting reading date seq 1	N	8
Starting reading seq 1	N	9
Starting reading date seq 2	N	8
Starting reading seq 2	N	9
Starting reading date seq 3	N	8
Starting reading seq 3	N	9
Resolution Code	N	4
Diary Note		
Multiplier	N	4

8.2.6. This program will create and complete work orders on accounts and also produce a report of the work orders created to be viewed at time of execution

through Preview Icon or will also reside on the enQuesta report resource directory.

- 8.2.7. This program will allow the end user to pop up and select the appropriate .csv file to be uploaded.
- 8.2.8. The file can be transferred using the file upload program in enQuesta V6
- 8.2.9. **Return to Utility** If the Vendor can't perform the work at a premise the file back to the CIS system will contain a work order Type for an RTU (Return to Utility). The work order will only be created not completed in enQuesta . A Work order Que will be created so a resource can review the open RTU work orders and determine what needs to occur next in The City's determined business process to repair the service or the customer is sent a letter to repair the service on their side, etc... The completion of the work order means the Utility accepts taking back the account.

## **9. METER AND OTHER DEVICE INVENTORY**

### ***9.1. Initial Setup***

- 9.1.1. Meters Registers and Radio devices, for the AMI Stage 1, will need to be established in enQuesta as inventoried items. The manufacturer of new meters and radio devices will also send the City the list of devices electronically. enQuesta is capable of loading meters and other devices into enQuesta using a file. The file format is typically an MS Excel format. For instance, column A will contain the device ID. Most customers edit the electronic file from the

manufacturer or copy the device ID and create a new file. The file is then saved to an enQuesta directory (to be determined). Next, utilizing the “Quick” functionality in enQuesta, the User selects the file and identifies a template which the device data can be recorded to in enQuesta. By uploading files to these templates, enQuesta records the device data to the enQuesta inventory. This is performed for meters and then for other devices such as radios.

9.1.2. The Radio and Register are considered “Other” devices in enQuesta. The device parameter initial setup will utilize Other Device Type codes XX = Register and XX = Radio as a description. These Codes will be determined during AMI stage 1 of the project. The City can choose to carry both or neither in inventory. This will be a decision during the project TBD. S&S recommends at least the Radio device to be carried in inventory. When installed at the customer premise through a work order the Other Device Type XX and Other Device ID inventory numbers are added.

9.1.3. The account will contain 1 CMTR record in enQuesta for each register reading required. The City will need to determine all attributes to be populated on the Register and Radio inventory record to establish the initial template for each.

9.1.4. The file the City should FTP to a location on the enQuesta server (TBD) will only consist of 1 column each containing the device number. Each device



Type Meter, Register, Radio is a separate file and the creation program you will select the template for the particular device being created.

- 9.1.5. The screen below will be used to upload Meters and Radio devices and Registers into inventory.

The screenshot shows a web browser window titled 'Device Quick Entry -- Webpage Dialog'. The main heading is 'Device Quick Entry'. Below the heading is a search bar and four buttons: 'Preview', 'Export', 'Submit', and 'Cancel'. The main form area is divided into sections. The first section has 'Application' set to '3 - WATER' and 'Create Devices, Other Devices, or Both?' set to 'D - Devices'. The second section is titled 'Enter Device To Use As Template' and contains several fields: 'Template Device Code', 'Template Device ID', 'Device Active Code', 'Template Other Device Code', 'Template Other Device ID', and 'Other Device Active Code'. Each of these fields has a search icon. Below these are two checkboxes: 'Create Device From File?' and 'Create Meter Test Records From File?'. At the bottom of the form is a dropdown menu set to 'N - No'.

## 10. DOCUMENT DELIVERABLES

- 10.1.1. Joint Smartworks MDMS provisioning document
- 10.1.2. S&S' current documentation on CIS and Billing functionality related to AMI non customer specific.
- 10.1.3. Mass meter exchange Vendor Mapping document of data down and

back.

10.1.4. Approval document executed by The City accepting go-Live AMI Stage

## **APPENDIX D**

### **Acceptance Criteria & Payment Terms**

The Acceptance Criteria and Payment Terms herein will be used by the City of Santa Ana (“Santa Ana”) and Aqua-Metric Sales Company (“Aqua-Metric”) as the parties progress through each Phase of the project.

#### **1. Project Phase Acceptance Criteria**

Santa Ana’s Advanced Metering Infrastructure and Metering Equipment, Installation Services and Meter Data Management System Project (the “Project”) will be composed into four phases that require acceptance for each, including Project Planning, Alpha Proof of Concept (“Alpha POC”), Beta Proof of Concept (“Beta POC”) and Full Deployment.

Successful completion of each phase will occur upon meeting the acceptance criteria herein and Santa Ana signature of system acceptance. Aqua-Metric will be authorized to proceed with each subsequent project phase upon Santa Ana signed acceptance of the previous phase or Santa Ana’s written authorization granting Aqua-Metric to proceed with any subsequent phase prior to acceptance of the previous phase. Exhibit D-1 Acceptance Certificate will be completed for each phase respectively.

##### **1.1. Project Initiation and Planning Phase**

###### **A. Description**

The Project Initiation and Planning phase shall be used to provide definition and discovery between Santa Ana and Aqua-Metric, including Sensus USA, Inc. (“Sensus”), N. Harris Computer Corporation (“Harris”), Concord Utility Services (“Concord”), Systems & Software Inc. (“S&S”), and all other applicable vendors identified and deemed necessary to perform the services where appropriate, through provision of initial discovery project planning activities.

###### **B. Acceptance Criteria**

- i. Aqua-Metric and Santa Ana have approved and executed the Master Project Agreement;
- ii. Aqua-Metric and Santa Ana have approved the various Scope of Works which make up the Project Execution Plan.
- iii. Aqua-Metric and Santa Ana have approved the integrated Project Schedule;
- iv. Santa Ana has issued the project purchase order(s) to Aqua-Metric for all products and services as defined in Appendix A – Parts, Material & Pricing.

##### **1.2. Alpha POC Phase**

###### **A. Description**

The Alpha POC includes the installation, setup, configuration and integration of all network collectors (“Basestations”), the Regional Network Interface (“RNI”), SmartWorks MDM (“MDM”) and enQuesta billing software (“CIS”). The intent of this phase will be to prove out basic network connectivity and system functionality by providing a meter read to the RNI software that will generate data to be used to verify meter read accuracy, simulate alerts, verify systems configuration and supply data for training Santa Ana personnel.



To accomplish these task, Aqua-Metric will install the Basestations at the sites identified in the Sensus propagation analysis. Aqua-Metric will provide any necessary site plans and install each Basestation in accordance with the site plan requirements. Santa Ana will designate any personnel necessary to oversee the installation of Basestations at each collector site.

Once the Basestations have been installed and integrated with the RNI and MDM, Aqua-Metric will contract and coordinate with Concord to deploy up to one hundred (100) water meters and SmartPoint radio transceivers (the “Test Meters”) at predetermined locations within Santa Ana’s service area. Aqua-Metric will assist Santa Ana through the execution of Alpha POC testing to confirm all configurations and integrations have been established accurately and update the meter and RNI configurations if necessary.

**B. Acceptance Criterion**

- i. Aqua-Metric and Santa Ana have prepared and approved Basestation Site Plans.
- ii. Aqua-Metric has installed all network Basestations in accordance with Santa Ana requirements and relevant site plans. Aqua-Metric has installed and configured communications backhaul devices at each site to establish a connection between each Basestation and the RNI.
- iii. Aqua-Metric and Sensus have configured the RNI to meet Santa Ana’s specifications.
- iv. Aqua-Metric has integrated NovusCenter Work Order Management Software (“WOMS”) with the CIS and configured for meter and SmartPoint installations. Santa Ana has access to the WOMS.
- v. Aqua-Metric and Santa Ana have established a Customer Communications Plan to notify Santa Ana customers of the ensuing meter exchange.
- vi. Aqua-Metric and Santa Ana have resolved any outstanding meter installation scope expectations, including Return to Utility (“RTU”) definitions and exceptions, to serve as guidelines throughout the Project.
- vii. Concord has successfully installed the additional Test Meters with accurate configurations and verified all Test Meters are transmitting data to the Basestation.
- viii. Aqua-Metric, Sensus, S&S and Harris have completed the Systems Integration Testing verifying successful integration between the RNI, MDM, WOMS, and CIS.
- ix. Aqua-Metric, Sensus, S&S and Harris have satisfied the deliverables as outlined in Exhibit A – Prime Contractor SOW.
- x. Santa Ana has executed the Acceptance Certificate or authorized Aqua-Metric to proceed into the Beta POC Phase.

**1.3. Beta POC Phase**

**A. Description**

The Beta POC Phase will include an increase deployment of up to one thousand (1,000) Test Meters to support Santa Ana System Acceptance Testing (“SAT”). Aqua-Metric will assist Santa Ana in determining exact quantities and meter sizes needed for SAT. The intent of this phase will be to ensure all network infrastructure and software are communicating

successfully and ready for Full Deployment. The MDM is expected to be capable of providing functional billing reads by the conclusion of the Beta POC Phase with integration with the CIS.

**B. Acceptance Criterion**

- i. Aqua-Metric has setup mobile storage units, waste, and recycling receptacles needed for Beta POC Phase Test Meters and Full Deployment Phase at the Santa Ana Corporate Yard.
- ii. Aqua-Metric and Santa Ana have established a meter deployment plan to serve as a general guideline for maintaining adequate product inventory and support installation production schedules.
- iii. Concord has successfully installed the additional Test Meters with accurate configurations and verified all Test Meters are transmitting data to the Basestation.
- iv. Santa Ana has initiated and executed the System Acceptance Plan for formal acceptance of network infrastructure, RNI, and MDM, including integrations, configurations and operability. Once the network infrastructure has been deployed and integrated with the RNI and MDM, Santa Ana shall perform, with Aqua-Metric's assistance, necessary systems testing to verify connectivity and confirm network configurations.
  - a. Santa Ana has verified the Test Meter reads are accurately transmitting to the RNI and displayed within the RNI appropriately with the desired resolution.
  - b. Santa Ana has verified all integrations to upstream or third-party systems, including implementation, testing and interfaces are operational.
  - c. Santa Ana has verified, within three days, one billing read from all Test Meters are populated in the RNI and MDM.
  - d. Santa Ana has verified all alerts/alarms are registering in the RNI.
  - e. Santa Ana has verified on-demand reading capabilities.
  - f. Santa Ana has verified remote disconnect capabilities through the MDM and Sensus Service Management Application (SMA).
  - g. Santa Ana has verified pressure and temperature sensing capabilities of Sensus Ally meters and the accurate transmittal of data to both the RNI and MDM as applicable.
- v. Aqua-Metric and Santa Ana have verified all network components and software in scope are ready for Go-Live and Santa Ana has provided a written acceptance of the network deployment.
- vi. Aqua-Metric, Sensus, Harris and S&S have provided training sessions to Santa Ana personnel and Santa Ana has received applicable operation, maintenance, and troubleshooting documentation ("User Manuals") as provided by Aqua-Metric, Sensus, Harris, S&S and any additional vendors when applicable, including:
  - a. Sensus Basestations and RNI
  - b. SmartWorks MDM

- c. Samples of all standard reports with narrative descriptions of all fields displayed within the report, input parameters and an explanation of how to execute each report.
- d. All error codes, messages, and their explanations displayed online and/or on reports with action(s) required or available options.
- e. Meter and SmartPoint technical specifications and installation guidelines.
- vii. Aqua-Metric, Sensus, and Harris have demonstrated the Beta POC deliverables have been successfully completed as outlined in Exhibit A – Prime Contractor SOW and any outstanding deliverables from Alpha POC Phase have been addressed or closed.
- viii. Santa Ana has executed the Acceptance Certificate or authorized Aqua-Metric to proceed into the Full Deployment Phase.

#### **1.4. Full Deployment Phase**

##### **A. Description**

The Full Deployment Phase will include the large-scale meters and SmartPoint deployment across the remaining customer accounts throughout Santa Ana's distribution service area, excluding any exceptions or RTU accounts. Upon completion of the Beta POC Phase and Santa Ana's notice to proceed, Aqua-Metric will coordinate with Concord to mobilize field technicians and prepare to ramp up production. Aqua-Metric will coordinate with material suppliers and Concord to ensure all materials identified in Appendix A – Parts, Material & Pricing or otherwise added by executed Change Order between Aqua-Metric and Santa Ana, are scheduled for shipment or onsite and available to promote and maintain installation production schedules. Once all applicable meters have been exchanged, Aqua-Metric will verify system performance and coverage guarantees.

##### **B. Acceptance Criterion**

- i. Concord has installed 100% of all applicable meters and SmartPoints, excluding any RTU or exception accounts.
- ii. Aqua-Metric and Santa Ana have verified all meters are transmitting to the RNI and reporting to the MDM and CIS.
- iii. Santa Ana has reviewed and accepted the materials and supplies as installed and acceptably tested and/or inspected.
- iv. Aqua-Metric and Santa Ana have verified the system performance and network coverage have met the expectations as defined in the Sensus propagation analysis.
- v. All Project Close-Out punch-list items have been addressed and/or closed.
- vi. Santa Ana has executed the Project Acceptance Sign-Off.

## **2. Acceptance and Payment Terms**

### **2.1. Materials and Supplies**

#### **A. Water Meters**



**i. Description**

Aqua-Metric will order water meters as identified in Appendix A. The quantities ordered will be commensurate with the quantities needed to meet installation schedule and water meter testing as outlined here.

Santa Ana may elect to test meters as they are delivered. When meters are delivered, Santa Ana will have up to one week to test meters in accordance with AWWA standards. If Santa Ana determines the meters are unacceptable, the meters will be rejected, and Santa Ana will not be subject to restocking fees. If Santa Ana does not test the meters within one week from the delivery date, the meters will be considered as tested acceptable.

**ii. Acceptance and Payment**

Meters that test acceptable will be eligible for payment to Aqua-Metric after submitted on the Acceptance Certificate in Appendix D-1.

**B. Materials and Supplies other than Water Meters**

**i. Description**

Aqua-Metric will order materials and supplies as identified in Appendix A. The quantities ordered will be commensurate with the quantities needed to meet installation schedule.

**ii. Acceptance and Payment**

Materials and supplies received and accounted for will be eligible for payment to Aqua-Metric after submitted on the Acceptance Certificate in Appendix D-1.

**2.2. Installation Services**

**A. Description**

Water meters, SmartPoints and related appurtenances will be installed in accordance with the requirements in Appendix B and tested as communicating with the RNI. Santa Ana will test meter communications with the RNI in a timely manner and report all non-communicating meters to Aqua-Metric for resolution.

**B. Acceptance and Payment**

After installation of water meters, SmartPoints and related appurtenances, Aqua-Metric will submit the installations for payment on the Acceptance Certificate in Appendix D-1. Santa Ana will pay for installation services after successfully verifying, within five (5) business days, the water meters, SmartPoints and related appurtenances are installed in accordance with Appendix B and that meter consumption is being received in the Sensus RNI.

**2.3. General**

- A. The services herein and hereto are non-inclusive of any permits or license fees. In the event additional direct costs arise, Aqua-Metric will invoice at cost plus fifteen percent (15%).
- B. Annual fees identified within Appendix A (items 27, 28, 29, 30, 31, and 32) – Parts, Material & Pricing will incur an automatic three percent (3%) escalation per annum for each antecedent year beginning year two.
- C. Return product or materials may be subject to a 25% restocking fee.
- D. Sales taxes have been included on all taxable line items. Sales taxes have been approximated and will vary depending on California State sales tax fluctuations.

- E. The following direct travel reimbursements will be subject to the limitations of Appendix A, Line 23 - Professional Services Travel and Expense Budget when applicable:
- i. Aqua-Metric's or Sensus' direct travel expenses including but not limited to hotel, airfare, car rentals, tolls, parking, mileage reimbursement based on the then current IRS recommended rate per mile, and airline and travel agent fees at cost plus ten percent (10%) administration fee.
  - ii. Any fees incurred by third-party vendors, suppliers, or subcontractors will be passed through to Santa Ana at cost plus ten percent (10%) administration fee.
    - a) Direct travel expenses including, but not limited to hotel, airfare, car rental, tolls, parking and airline and travel agent fees;
    - b) Travel time for each on-site resource which will be billed at 50% of the current standard rate/hour. Standard rate for 2020 is \$225.00/hour as a result the rate at which travel time will be billed in 2020 is \$112.50/hour.
    - c) Per diem rate of \$65.00 for weekdays and a \$110.00 for weekends and statutory holidays that includes all meal, food, and telecommunications expenses (no receipts will be provided);
    - d) A mileage charge based on the then current Internal Revenue Service recommended rate per mile;
    - e) A \$750 daily surcharge for any professional services provided on weekends or holidays.
    - f) All other reasonable expenses incurred in the performance of the services including courier services and documentation copying or production.
    - g) Project Management has been set at 42 hours per month/fixed price. Should additional time be required, time and materials charges will apply at current years hourly rate.
    - h) Additional services (including travel & expenses) required due to out-of-scope work will be quoted and billed on a time & materials basis at the rates defined herein.
    - i) Additional services outside the scope of this project will be billed monthly on a time & materials basis.
- F. Cancellation of any on-site professional service(s) by Santa Ana is allowed for any reason if done in writing no less than fourteen (14) days in advance of such professional service(s). Santa Ana will be billed for any non-recoverable direct costs that result from a cancellation by Santa Ana with fourteen (14) days or less of scheduled on-site professional service(s), provided such cancellations are not a direct result of Force Majeure events as defined in Section 18 of the Agreement. Additionally, Santa Ana hereby acknowledges that cancellation of on-site services means that such on-site professional services will be rescheduled as Aqua-Metric's then current schedule permits. Aqua-Metric will not be responsible for any delay in Santa Ana's project resulting from Santa Ana's cancellation of the professional service(s). If upon Aqua-Metric's arrival, Santa Ana is not adequately prepared or has not completed the assigned tasks, then Santa Ana will be billed 100% of the on-site fee and scheduled on-site professional service(s) may be cancelled by Aqua-Metric. If additional professional services are required because Santa Ana was not adequately

prepared, Aqua-Metric will provide a Change Order to Santa Ana for the additional professional services.

- G. No additional Direct Job Costs (city licenses, permits, etc.) are included and will be invoiced as necessary and on occurrence at cost plus fifteen percent (15%).
- H. Demobilization/Remobilization/Stand Down Contingency: The project Mobilization / Demobilization is assumed for a single-phase move on and move off for installation/deployment. If demobilization and remobilization occur during the project due to reasons beyond Aqua-Metric's control, excluding any State or Federal Government mandated suspensions, additional contingency fees will be assessed.
  - i. Demobilization/Remobilization Fees: Aqua-Metric will invoice for cost plus fifteen percent (15%) to move in and out of market (i.e. travel fees, cancellation fees, vehicle transportation fees.)
  - ii. Stand Down Time: If Aqua-Metric technicians are unable to work during delays or suspensions cause by the City and Concord's resources remain deployed, Aqua-Metric will invoice at \$95.00 per hour, per technician for time Aqua-Metric is stood down.
- I. Traffic Control cost(s) (including but not limited to planning, engineering, permitting, implementation, labor, Traffic Control device setup and removal, etc.) will be invoiced as necessary and on occurrence at cost plus fifteen percent (15%).
- J. Installation of all materials (meters, radios, or meter retrofits) will not be in confined spaces, vaults, or manholes. Aqua-Metric shall perform 3" through 8" meters in non-permit required confined spaces at no additional cost. Confined space permit required vaults shall require additional resources and equipment, and therefore will result in a cost plus 15%.



**APPENDIX D-1**  
Acceptance Certificates

Project Phase / Invoice Number / Other: \_\_\_\_\_

The City of Santa Ana ("Santa Ana"), under the Contractor Agreement (the "Agreement") with Aqua-Metric Sales Company ("Aqua-Metric") hereby certifies:

This Acceptance Certificate is a **Project Materials and Supplies / Materials and Supply Substitute / Alpha POC / Beta POC / Full Deployment / Supplemental Items** (Circle One) Acceptance Certificate.

1. The Project Materials and Supplies required for the aforementioned Project Phase / Invoice Number / or Other above, have been delivered to and received by Santa Ana.
2. Santa Ana has conducted such inspection and/or testing of the Project Materials and Supplies as it deems necessary and appropriate and hereby acknowledges that it accepts the Project Materials and Supplies for all purposes on the date indicated below. The project Materials and Supplies have been examined and/or tested and have been found in good operating order and condition and is in all respects satisfactory to the undersigned and complies with the terms of the Agreement; however, remain subject to the warranty periods as provided in Exhibit C – Warranties of the Agreement. The City of Santa Ana does not waive any other rights to which it would otherwise be entitled under the Agreement.
3. Based on the acceptance set forth in herein, Santa Ana agrees that the manufacturer's warranty period on all water equipment shall be deemed to have begun on the date of equipment shipment from the manufacturer and that the manufacturer's warranty period shall end in accordance to the referenced warranties in the Agreement, Exhibit C – Warranties.
4. Santa Ana has carefully examined all Work and/or Services performed by Aqua-Metric (including Sensus USA, Inc. ("Sensus"), N. Harris Computer Corporation ("Harris"), Concord Utility Services ("Concord"), Systems & Software Inc. ("S&S"), and all other applicable vendors identified and deemed necessary to perform the services where appropriate) and hereby finds such Work and/or Services to have been performed in a workmanlike manner and in accordance with all applicable specifications within the Agreement.
5. The following is a punch list of items which remain to be completed for **Alpha POC / Beta POC / Full Deployment** (Circle One) of the project:

Insert Punch List
-------------------

The City of Santa Ana hereby has agreed to and Accepted as of this \_day of \_\_\_\_\_, 20\_\_.

City of Santa Ana

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Printed or Typed)

\_\_\_\_\_  
Title

## **EXHIBIT B**

### **Payment Schedule**

The following Payment Schedule shall be used as general guidelines for billing milestones throughout the Project. Some quantities have been approximated for budget forecasting; however, Aqua-Metric Sales Company (“Aqua-Metric”) and the City of Santa Ana (“Santa Ana”) will coordinate and revise the Compensation Schedule from time to time when necessary as the Project progresses. Santa Ana will pay to Aqua-Metric for all deliverables identified within Appendix A – Parts, Material & Pricing, subject to any authorized and duly executed Change Order, in accordance with the Acceptance and Payment Terms defined within the Contractor Agreement (the “Agreement”) and Appendix D – Acceptance Criteria and Payment Terms hereto.



**AquaMetric Sales Company**  
4050 Flat Rock Drive | Riverside, CA 92505  
Phone: (951) 637-1400 | Facsimile: (951) 637-1500

Customer: City of Santa Ana, CA  
Attention: Rudy Ross  
Address: 215 South Center Street, Santa Ana, CA 92703  
Phone: (714) 647-3320  
Email: mossa@santa-ana.org

Item	Description	Milestone	Planned Quantity	Unit Price	Planned Total	Alpha POC Quantity	Alpha POC Subtotal	Beta POC Quantity	Beta POC Subtotal	FD Quantity	FDS Subtotal
<b>Materials &amp; Supplies</b>											
1	M400 Basestation	Ship Date	4	\$16,357.50	\$65,550.00	4	\$65,550.00				
6	Communication Backhaul	Ship Date	4	\$1,092.50	\$4,370.00	4	\$4,370.00				
7	Juniper Archer3 Hard Field	Ship Date	7	\$4,774.17	\$33,419.19	7	\$33,419.19				
8	Juniper Archer3 Single Ethernet Dock	Ship Date	7	\$1,024.78	\$7,173.46	7	\$7,173.46				
9	CommandLink Bluetooth Device	Ship Date	7	\$582.90	\$4,080.30	7	\$4,080.30				
10	AMR Package: VGB with Laptop	Ship Date	1	\$19,954.03	\$19,954.03	1	\$19,954.03				
11	AMR Package: Auto-Vx Software	Ship Date	1	\$4,173.08	\$4,173.08	1	\$4,173.08				
12	AMR Package: Mapping Software	Ship Date	1	\$4,173.14	\$4,173.14	1	\$4,173.14				
13	AMR Package: AutoRead Software	Ship Date	1	\$6,243.57	\$6,243.57	1	\$6,243.57				
69	Trimble TD C600	Ship Date	10	\$16,333.29	\$16,332.90	10	\$16,332.90				
70	CommandLink	Ship Date	10	\$582.90	\$5,825.00	10	\$5,825.00				
71	Trimble R2 Single Receiver (Sub-Foot Configuration)	Ship Date	10	\$87,877.04	\$87,870.40	10	\$87,870.40				
72	Mapping: Continental FieldPoint RTX Software (Price Per Unit/ Year)	Ship Date	10	\$1,606.62	\$16,066.20	10	\$16,066.20				
73	Trimble Utility / TerraFlex Setup	Ship Date	1	\$3,500.00	\$3,500.00	1	\$3,500.00				
49	Post-Installation Door Hinges, Piling for 43,329 Units	Ship Date	1	\$10,414.13	\$10,414.13	1	\$10,414.13				
51	Pre-Installation Postcards, Pricing for 43,329 Units with First Class Mail	Ship Date	1	\$45,916.62	\$45,916.62	1	\$45,916.62				
34	3/4" x 1/2" (7.5" L) ally Remote Disconnect Meter	Ship Date	36,404	\$322.29	\$11,732,645.16	100	\$32,229.00	1,000	\$322,290.00	35,304	\$11,378,126.16
35	1" IPEX Meter		4,573	\$155.19	\$709,683.87					4,573	\$709,683.87
36	1 1/2" OMNI R2		83	\$353.46	\$29,337.18					83	\$29,337.18
37	2" OMNI R2		1,747	\$41.72	\$72,975.84					1,747	\$72,975.84
38	3" OMNI C2		325	\$14,066.11	\$4,566,985.75					325	\$4,566,985.75
39	4" OMNI C2		152	\$2,364.55	\$359,412.40					152	\$359,412.40
40	6" OMNI C2		44	\$4,083.38	\$179,668.72					44	\$179,668.72
41	8" OMNI C2		1	\$6,596.13	\$6,596.13					1	\$6,596.13
42	520M Single Port SmartPoint		43,329	\$81.33	\$3,523,947.57	100	\$8,133.00	1,000	\$81,330.00	42,229	\$3,434,484.57
43	520M Dual Port SmartPoint		6	\$115.46	\$692.76					6	\$692.76
44	510M Single Port SmartPoint		24	\$145.48	\$3,491.52					24	\$3,491.52
45	Meter Box Lid: DF-W486-C (5/8", 3/4", 1")		36,402	\$40.35	\$1,459,526.70	100	\$4,035.00	1,000	\$40,350.00	37,302	\$1,505,155.70
46	Meter Box Lid: DF-W13		900	\$19.94	\$9,970.00					900	\$9,970.00
47	Meter Box Lid: DF-W1812SA		150	\$37.76	\$5,664.00					150	\$5,664.00
81	Meter Box Lid: DF-W36-C		6,573	\$35.42	\$232,815.66					6,573	\$232,815.66
82	Meter Box Lid: DF-W1640-C		3,700	\$85.66	\$316,942.00					3,700	\$316,942.00
85	Ford GT114 3/4" x 1/8" Rubber Meter Gasket		80,089	\$0.36	\$28,832.04	200	\$72.00	2,000	\$720.00	77,889	\$28,040.04
86	Ford GT120 1/8" x 1" Rubber Meter Gasket		10,061	\$0.37	\$3,722.57					10,061	\$3,722.57
87	Ford A34-NL 3/4-1" Adapter (Set of two)		5,338	\$22.81	\$123,128.38	200	\$4,562.00	2,000	\$45,620.00	3,138	\$72,946.38
88	1 1/2" x 1/8" Drop In Flange Gasket		183	\$0.57	\$104.31					183	\$104.31
89	2" x 1/8" Drop In Flange Gasket		3,843	\$0.64	\$2,459.52					3,843	\$2,459.52
90	3" x 1/8" Drop In Flange Gasket		715	\$1.04	\$743.60					715	\$743.60
91	4" x 1/8" Full Face Flange Gasket		334	\$2.01	\$671.34					334	\$671.34
92	6" x 1/8" Full Face Flange Gasket		97	\$2.49	\$241.53					97	\$241.53
93	8" x 1/8" Full Face Flange Gasket		2	\$3.62	\$7.24					2	\$7.24
94	5/8-11 x 1/2" Stainless Hex Cap Screws (1 1/2" and 2" Meters)		8,050	\$1.08	\$8,694.00					8,050	\$8,694.00
95	5/8-11 Hex Stainless Fin Nuts (1 1/2" and 2" Meters)		8,050	\$0.34	\$2,737.00					8,050	\$2,737.00
96	5/8" Flat Washers (1 1/2" and 2" Meters)		8,050	\$0.17	\$1,368.50					8,050	\$1,368.50
97	5/8-11 x 1/2" Stainless Steel Hex Cap Screws (3" - 4" Meters)		5,535	\$1.08	\$5,977.80					5,535	\$5,977.80
98	5/8-11 Hex Stainless Steel Fin Nuts (3" - 4" Meters)		5,535	\$0.39	\$2,158.65					5,535	\$2,158.65
99	5/8" Flat Washers (3" - 4" Meters)		5,535	\$0.23	\$1,273.05					5,535	\$1,273.05
100	3/4"-10 x 1/2" Stainless Steel Hex Cap Screws (6" - 8" Meters)		800	\$1.61	\$1,288.00					800	\$1,288.00
101	3/4"-10 Hex Stainless Steel Fin Nuts (6" - 8" Meters)		800	\$0.52	\$416.00					800	\$416.00
102	3/4" Flat Washers (6" - 8" Meters)		800	\$0.36	\$288.00					800	\$288.00
<b>Networks Setup, Installation &amp; Configuration</b>											
2	M400 Basestation Installation at the East Station Tank	Basestation Installation Complete	1	\$54,239.41	\$54,239.41	1	\$54,239.41				
3	M400 Basestation Installation at the West Station Tank	Basestation Installation Complete	1	\$61,694.12	\$61,694.12	1	\$61,694.12				
4	M400 Basestation Installation South Station Tank	Basestation Installation Complete	1	\$59,766.17	\$59,766.17	1	\$59,766.17				
5	M400 Basestation Installation at City Hall	Basestation Installation Complete	1	\$7,000.00	\$7,000.00	1	\$7,000.00				
6	RNI SaaS Setup	Integration Complete	1	\$24,205.00	\$24,205.00	1	\$24,205.00				
7	RNI Core Education, Performed by Aqua-Metric	Integration Complete	1	\$2,500.00	\$2,500.00	1	\$2,500.00				
8	OWEP Integration for Third-Party GIS	Integration Complete	1	\$2,500.00	\$2,500.00	1	\$2,500.00				
9	OWEP Integration for Third-Party ErQuesta Customer Portal Integration (AMI)	Integration Complete	1	\$2,500.00	\$2,500.00	1	\$2,500.00				
17	Sensus RMI to Hanis MeterSense MDM Integration	Integration Complete	1	\$56,250.00	\$56,250.00	1	\$56,250.00				
24	Sensus Solution Design Workshop	Integration Complete	1	\$13,000.00	\$13,000.00	1	\$13,000.00				
25	OS Billing (ErQuesta to Sensus RMI Multi-Speak (for meter lifecycle) Setup, Integration and Testing	Integration Complete	1	\$93,375.00	\$93,375.00	1	\$93,375.00				
26	Sensus Analytics Service Management Application (SMA) & Pressure Profile Application (PPA) Setup & Integration	Integration Complete	1	\$20,625.00	\$20,625.00	1	\$20,625.00				
48	NovusCenter WOM'S Setup	Integration Complete	1	\$7,500.00	\$7,500.00	1	\$7,500.00				





**Aqua Metric Sales Company**  
4050 Flat Rock Drive | Riverside, CA 92505  
Phone: (951) 637-1400 | Facsimile: (951) 637-1500

Customer: City of Santa Ana, CA  
Attention: Rudy Ross  
Address: 215 South Center Street, Santa Ana, CA 92703  
Phone: (714) 647-4320  
Email: mossa@santa-ana.org

Item	Description	Milestone	Planned Quantity	Unit Price	Planned Total	Alpha POC Quantity	Beta POC Quantity	Beta POC Subtotal	FD Quantity	FDS Subtotal
20	Systems and Software Inc. enQuesta NovusCenter Integration	Integration Complete	1	\$35,294.12	\$35,294.12	1		\$35,294.12		
<b>Professional Services</b>										
<b>NOTE: Pricing for the Professional Services below (Items 18, 19, 22, &amp; 23) may not align exactly as depicted within Alpha POC and Beta POC phases. Actual payments due may vary between Alpha POC and Beta POC phase as necessary until all deliverables have been fulfilled.</b>										
22	Aqua-Metric Professional Services	50% Alpha Start / 50% Beta Start	1	\$75,725.00	\$75,725.00	0.5		\$37,862.50		
18	Harris SmartWorks Software Setup and Professional Services (Travel & Expense Billed Separately)	25% at Contract Execution	25%	\$69,250.00	\$69,250.00	1		\$69,250.00		
		25% at Software Installation	25%	\$69,250.00	\$69,250.00	1		\$69,250.00		
		20% at Completion of Integrations	20%	\$55,400.00	\$55,400.00	1		\$55,400.00		
		15% at Completion of Training	15%	\$41,550.00	\$41,550.00	1		\$41,550.00		
		15% at Completion of UAT	15%	\$41,550.00	\$41,550.00	1		\$41,550.00		
19	Systems and Software Inc. enQuesta AMI Integration (Travel & Expense Billed Separately)	See Attached Schedule	1	\$243,150.00	\$243,150.00	1		\$243,150.00		
23	Professional Services Travel and Expense Budget	Budget - Billed on occurrence	1	\$50,000.00	\$50,000.00	0.5		\$25,000.00		
<b>Annual Fees</b>										
28	Annual Hosted RMI Software-as-a-Service, Water Only	Annual Fees begin on the date of RMI commissioning and are due on the anniversary of RMI commissioning each year thereafter.	1	\$36,829.65	\$36,829.65	1		\$36,829.65		
29	Annual Aqua-Metric Support		1	\$10,000.00	\$10,000.00	1		\$10,000.00		
30	Annual Base-to-End Extended Warranty		4	\$1,093.58	\$6,437.52	4		\$6,437.52		
31	Annual CMVP Fee for Third-Party GLS		1	\$500.00	\$500.00	1		\$500.00		
32	Annual CMVP Fee for Third-Party EnQuesta Customer Portal		1	\$500.00	\$500.00	1		\$500.00		
33	Annual Sensus Analytics Service Management Application & Sensus Pressure Profile Application		1	\$21,250.00	\$21,250.00	1		\$21,250.00		
24	Annual Systems and Software Inc. enQuesta NovusCenter Integration Maintenance	Each Year As Needed for NovusCenter	4	\$7,038.82	\$28,235.28	1		\$7,038.82	3	\$21,176.46
<b>Product Warehousing</b>										
25	Storage and Equipment Housing: Pickup and Delivery of (5) PODs	Invoiced Monthly during project deployment	1	\$2,090.97	\$2,090.97		1	\$2,090.97		
26	Storage and Equipment Housing: Monthly Rental Fee for (5) PODs; Beta through Full Deployment Phase		31	\$1,053.49	\$32,658.19		6	\$6,320.94	25	\$26,337.25
27	Storage and Equipment Housing: Monthly Rental Fee for (1) PODs; Post Close-Out Phase		4	\$210.70	\$842.80				4	\$842.80
28	Storage and Equipment Housing: Monthly Rental Fee for (3) 3-Yard Recycling Containers with 2x Weekly Pickup		34	\$1,308.75	\$44,497.50		6	\$7,852.50	28	\$36,645.00
29	Storage and Equipment Housing: Monthly Rental Fee for (1) 3-Yard Trash Container with 1x Weekly Pickup		34	\$148.22	\$5,039.48		6	\$889.32	28	\$4,150.16
30	Heavy Equipment: Forklift Rental for Full Deployment Phase (26 Months)	Invoiced on Storage Deployment	1	\$34,086.00	\$34,086.00		1	\$34,086.00		
31	Heavy Equipment: Pallet Jack	Invoiced on Storage Deployment	1	\$546.25	\$546.25					
32	Installation Handfield Data Plan (Monthly)	Invoiced Monthly during project deployment	34	\$1,000.00	\$34,000.00	3		\$3,000.00	28	\$28,000.00
<b>Miscellaneous</b>										
45	Concord Mobilization	Alpha POC Installation Kickoff	1	\$18,000.00	\$18,000.00	1		\$18,000.00		
46	Installation Project Supervision: Price per Month	Invoiced Weekly for work completed	40	\$10,000.00	\$400,000.00	6		\$60,000.00	28	\$280,000.00
47	Call Center Services: Price per Month		40	\$2,000.00	\$80,000.00	6		\$12,000.00	28	\$56,000.00
50	Pre-Installation Door Hanger Distribution, Price per Service	Quantities are approximated for budgetary purposes and will vary depending on actual quantities in each phase.	43,229	\$5.76	\$249,575.04	100		\$576.00	42,229	\$243,289.04
59	5/8" Water Meter Installation with Endpoint Installation		31,066	\$68.79	\$2,132,902.74				31,006	\$2,132,902.74
60	3/4" Water Meter Installation with Endpoint Installation		5,398	\$70.52	\$380,666.56	100		\$7,052.00	4,298	\$303,094.96
61	1" Water Meter Installation with Endpoint Installation		4,573	\$68.79	\$314,576.67				4,573	\$314,576.67
62	1 1/2" Water Meter Installation with Endpoint Installation		83	\$266.78	\$22,152.74				83	\$22,152.74
63	2" Water Meter Installation with Endpoint Installation		1,747	\$286.79	\$501,004.66				1,747	\$501,004.66
64	3" Water Meter Installation with Endpoint Installation		325	\$109.21	\$35,676.25				325	\$35,676.25
65	4" Water Meter Installation with Endpoint Installation		152	\$1518.97	\$230,884.44				152	\$230,884.44
66	6" Water Meter Installation with Endpoint Installation		44	\$5,794.83	\$254,752.52				44	\$254,752.52
67	8" Water Meter Installation with Endpoint Installation		1	\$4,427.01	\$4,427.01				1	\$4,427.01
68	Adapter: Sub-Foot GPS Coordinates		43,229	\$5.17	\$224,010.93	100		\$517.00	42,229	\$218,324.93
75	Adapter: Meter Box Cleaning by Hand (Qty. Estimated)		44,329	\$9.14	\$405,167.06	100		\$914.00	43,229	\$395,113.06
76	End Replacement (Labor): 11 x 18		42,804	\$5.69	\$243,706.76	100		\$569.00	41,204	\$234,450.76
77	End Replacement (Labor): 24 x 30/36		3,064	\$13.74	\$42,099.36				3,064	\$42,099.36
83	Angle Stop / Curb Stop Replacement (Easy Replacements Only, Labor Only/Parts Invoiced at Cost Plus 15%)		6,425	\$110.92	\$712,661.00	402		\$44,589.84	4,818	\$534,412.56
84	Angle Stop / Curb Stop RTU Survey Fee		2,140	\$20.00	\$42,800.00				2,140	\$42,800.00
<b>Miscellaneous</b>										
103	Contingency Fund		1	\$1,500,000.00	\$1,500,000.00	6.29%		\$93,750.00	75.00%	\$1,125,000.00
104	Insurance Coverage (Additional Endorsement)	Invoiced upon contract execution.	1	\$50,000.00	\$50,000.00	1		\$50,000.00	0.00%	

Alpha POC	Beta POC	Full Deployment
Materials & Supplies	\$384,093.22	\$490,310.00
Network Setup, Installation & Configuration	\$556,448.82	\$19,491,960.79
Professional Services	\$583,012.50	\$62,862.50
Annual Fees	\$62,575.99	\$0.00
Product Warehousing	\$54,785.38	\$21,176.46
Meter Services	\$142,177.84	\$50,998.60
Miscellaneous	\$143,750.00	\$1,125,000.00
Subtotal	\$1,697,098.37	\$19,683,228.61

## S&amp;S Payment schedule

Project Deliverables	Professional services	License	Payment Amount	Smartworks Milestone
<b>AMI Stage 1</b>				
Contract Signing	\$7,268	\$60,000.00	\$67,268	Contract Execution
Completion of Analysis	\$7,268		\$7,268	Kickoff session Held
Configuration complete	\$7,268		\$7,268	Initial data Sync and AMI integration
Completion of Core Team Training	\$7,268		\$7,268	Initial data Sync and AMI integration
Completion of Simulation	\$14,535		\$14,535	Initial data Sync and AMI integration
Go-Live Stage 1	\$14,535		\$14,535	Initial data Sync and AMI integration
Post Go-Live support	\$14,535		\$14,535	Initial data Sync and AMI integration
<b>AMI Stage 2</b>				
Completion of Analysis	\$7,268		\$7,268	Delivery of requirements document
Configuration complete	\$14,535		\$14,535	Completion of integration
Completion of Core Team Training	\$7,268		\$7,268	Completion of Training
Completion of Simulation	\$14,535		\$14,535	Completion of UAT
Go-Live Stage 1	\$14,535		\$14,535	Completion of UAT
Post Go-Live support	\$14,535		\$14,535	Transition to Support
<b>TOTAL</b>	<b>\$72,675</b>	<b>\$60,000</b>	<b>\$205,350</b>	
<b>Project Management Deliverables</b>			<b>Payment Amount</b>	<b>Date</b>
AMI stage 1 **			\$0	
AMI Stage 2 Installment 1			\$18,900	Delivery of requirements document
AMI stage 2 Installment 2			\$18,900	Completion of Training
<b>** No charge for project management during the AMI stage 1 these costs already part of CIS upgrade</b>				
<b>Total</b>			<b>\$37,800</b>	
Post Go-Live			<b>Maintenance</b>	
Maintenance billed at Start of AMI Stage 2			\$20,720	Start of AMI Stage 2
	<b>Note Maintenance will be prorated to renewal date</b>			



## **EXHIBIT C**

### **Warranties**

This Exhibit C – Warranties shall include available warranty documentation where applicable to the products, software, and services furnished under this Contractor Agreement (the “Agreement”).

#### **1. Aqua-Metric Sales Company Warranty.**

- 1.1. Aqua-Metric warrants that the services provided by Aqua-Metric will be performed in a professional and workmanlike manner with a degree of care, skill and competence that is consistent with the then generally accepted industry standards reasonably expected of similar types of engagements and the deliverables herein this Agreement will substantially conform to the deliverables specified in the applicable Exhibits and Appendices hereto through the term of the Agreement.
- 1.2. Except as specifically set forth in this Exhibit C, the services and software are provided by contractor on an “as is” and “as available” basis without warranties of any kind, either express or implied, including but not limited to implied warranties of merchantability and fitness for a particular purpose; provided; however all warranties offered to Aqua-Metric for such materials, software, services or workmanship by third-party manufacturers, vendors, or subcontractors shall be extended to the City of Santa Ana.
- 1.3. Limitations. This warranty will apply only if: (a) the deliverable(s) have been properly installed and used by or on behalf of the City of Santa Ana at all times and in accordance with the instructions in the applicable documentation; and (b) no modification, alteration or addition has been made to the deliverable(s) other than within the Change Order provisions of this Agreement duly executed by the parties hereto. Unless otherwise expressly provided herein, neither Aqua-Metric nor any of its service providers, licensors, employees or agents warrant that the operation of the services will be uninterrupted or error free. Aqua-Metric will not be responsible for any damages that the City of Santa Ana may suffer arising out of use, or inability to use, the services.

#### **2. Supplier Warranties.**

- 2.1. Supplier warranties provided herein Exhibit C, including Sensus General Limited Warranty, Sensus G500 Limited Warranty, and Sensus AMI System Performance Warranty; shall apply to all material(s), software(s), services, or workmanship furnished under this Agreement.

#### **3. Aqua-Metric Installation Warranty.**

- 3.1. Aqua-Metric warrants that the work furnished to this Agreement shall be 1) performed in a good and workmanlike manner utilizing the new materials provided by Aqua-Metric and/or the City of Santa Ana; 2) free from workmanship defects incurred within thirty-six (36) inches on the customer side of the meter for a period of thirty (30) days; and 3) in accordance with the standards customarily provided by an experienced and competent professional installation organization rendering the same or similar services.
- 3.2. Aqua-Metric will repair, to a usable and safe condition, customer side service line breaks cause by Concord or a Concord employee incurred within thirty-six (36) inches on the customer side of the meter.
- 3.3. Aqua-Metric does not warrant inoperative, damaged, or leaking valves, setters, backflow preventers, irrigation valves, pressure regulators, unions, ball valves, or customer side valves.



- 3.4. Aqua-Metric does not warrant defects to the workmanship or materials caused by customer negligence, tampering, vandalism, or “acts of God”.
- 3.5. The warranty provisions shall become null and void upon any modifications, alterations, changes, damages, or tampering to Aqua-Metric’s work made by the customer or third party on behalf of the customer.

# General Limited Warranty

Revised November 2019

1. **Terms of Sale.** Sensus USA Inc. ("Sensus") warrants its products and parts as set forth below. All products are sold to the buyer ("Customer") pursuant to Sensus' Terms of Sale, available at: [sensus.com/tc](http://sensus.com/tc).
2. **Electricity Meters and Electricity SmartPoint™ Modules.** Sensus warrants the Sensus electricity meters and Sensus electricity SmartPoint Modules to be in compliance with their respective specifications under normal use and service, and to be free from material defects in materials and workmanship for a warranty period of twelve (12) months from the date of the installation or eighteen (18) months from the date of shipment, whichever occurs first. The warranty period for new spare parts and components sold by Sensus is twelve (12) months from the date of shipment. The warranty period for repaired or refurbished parts repaired by Sensus is ninety (90) days from the date of shipment, unless repaired pursuant to a warranty, in which case the repair is warranted for the time remaining of the original warranty period.
3. **Gas Products and Gas SmartPoint Modules.**
  - a. Except for the Sonix meters, Sensus warrants the Sensus gas products to be in compliance with their respective specifications under normal use and service, and to be free from material defects in materials and workmanship for a warranty period of twelve (12) months from the date of the installation or eighteen (18) months from the date of shipment, whichever occurs first. Sensus warrants the Sensus Sonix meters to be free from material defects in materials and workmanship for a warranty period of fifteen (15) years from the date of shipment. Sensus warrants the batteries in the Sensus Sonix meters to be free from material defects in materials and workmanship for a warranty period of ten (10) years from the date of shipment. The warranty period for new spare parts and components sold by Sensus is twelve (12) months from the date of shipment. The warranty period for repaired or refurbished parts repaired by Sensus is ninety (90) days from the date of shipment, unless repaired pursuant to a warranty, in which case the repair is warranted for the time remaining of the original warranty period.
  - b. Sensus warrants the Sensus gas SmartPoint Modules as set forth in the "G500" warranty, as set forth at: [sensus.com/tc](http://sensus.com/tc), or available at 1-800-METER-IT.
4. **Water Meters and Water SmartPoint Modules.** Sensus warrants the Sensus water meters and Sensus water SmartPoint Modules as set forth in the "G500" warranty, as set forth at: [sensus.com/tc](http://sensus.com/tc), or available at 1-800-METER-IT.
5. **VantagePoint® Lighting Control Module.** Sensus warrants the Sensus VantagePoint® Lighting Control Module to be in compliance with their respective specifications under normal use and service, and to be free from material defects in materials and workmanship for a warranty period of ten (10) years from the date of shipment. The warranty period for new spare parts and components sold by Sensus is twelve (12) months from the date of shipment. The warranty period for repaired or refurbished parts repaired by Sensus is ninety (90) days from the date of shipment, unless repaired pursuant to a warranty, in which case the repair is warranted for the time remaining of the original warranty period.
6. **DA Devices and HAN Devices.** Sensus warrants the Sensus DA Devices and Sensus HAN Devices to be in compliance with their respective specifications under normal use and service, and to be free from material defects in materials and workmanship for a warranty period of twelve (12) months from the date of shipment. The warranty period for new spare parts and components sold by Sensus is twelve (12) months from the date of shipment. The warranty period for repaired or refurbished parts repaired by Sensus is ninety (90) days from the date of shipment, unless repaired pursuant to a warranty, in which case the repair is warranted for the time remaining of the original warranty period.
7. **RF Field Equipment.** Sensus warrants the Sensus RF Field Equipment to be in compliance with their respective specifications under normal use and service, and to be free from material defects in materials and workmanship for a warranty period of twelve (12) months from the date of shipment.
8. **Server Hardware.** Sensus provides no warranty on the Server Hardware.
9. **Third Party Goods.** Notwithstanding anything to the contrary herein, Sensus does not warrant any goods manufactured or software supplied by third parties. For example, if Customer elects to buy meters from a third party, the Sensus SmartPoint Modules installed in such third party meters shall, subject to Section 11, below, be covered by the warranty above, but any warranty on the meter itself shall be a matter directly between Customer and such third party meter supplier.
10. **Services.** Sensus warrants that its services shall, at the time of performance, materially conform to the contract requirements, and shall be performed in a professional and workmanlike manner, free from material defects in workmanship.
11. **Remedy.**
  - a. If any Field Device or RF Field Equipment fails during the applicable warranty period (a "Failed Good"), Sensus' obligation, and Customer's exclusive remedy, is, at Sensus' option, to either (i) repair or replace the Failed Good, provided the Customer (a) returns the product to the location designated by Sensus within the warranty period; and (b) prepay the freight costs both to and from such location; or (ii) deliver replacement components to the Customer, provided the Customer installs, at its cost, such components in or on the Failed Good (as instructed by Sensus). In all cases, Customer shall be responsible for returning the Failed Good to Sensus, including all costs associated with the return of the Failed Good, and Sensus shall be responsible for shipping the repaired or replaced good back to Customer's warehouse. Customer shall, in all cases, be responsible for the In/Out Costs. If Sensus determines that the returned good is not defective, Customer shall pay and/or reimburse Sensus for all expenses incurred by Sensus in the examination of the returned good.
  - b. Customer's remedy under the warranty for services shall be, at Sensus' sole cost and expense, to correct or re-perform any defective or non-conforming services to assure compliance with the contract requirements.
  - c. **THIS SECTION 10 SETS FORTH CUSTOMER'S SOLE REMEDY WITH RESPECT TO A FAILED GOOD OR ANY DEFECTIVE OR NON-CONFORMING SERVICE.**
12. **Warranty Exceptions.** This General Limited Warranty does not include costs for removal or installation of products, or costs for replacement labor or materials, which are the responsibility of the Customer. The warranties in this General Limited Warranty do not apply to, and Sensus has no liability for, goods that have been: installed improperly or in non-recommended installations; installed to a socket that is not functional, or is not in safe operating condition, or is damaged, or is in need of repair, tampered with; modified or repaired with parts or assemblies not certified in writing by Sensus, including without limitation, communication parts and assemblies; improperly modified or repaired (including as a result of modifications required by Sensus); converted; altered; damaged; read by equipment not approved by Sensus; for water meters, used with substances other than water, used with non-potable water, or used with water that contains dirt, debris, deposits, or other impurities; subjected to misuse, improper storage, improper care, improper maintenance, or improper periodic testing (collectively, "Exceptions."). If Sensus identifies any Exceptions during examination, troubleshooting or performing any type of support on behalf of Customer, then Customer shall pay for and/or reimburse Sensus for all expenses incurred by Sensus in examining, troubleshooting, performing support activities, repairing or replacing any Equipment that satisfies any of the Exceptions defined above. The above warranties do not apply in the event of Force Majeure, as defined in the Terms of Sale.
13. **THE WARRANTIES SET FORTH IN THIS GENERAL LIMITED WARRANTY ARE THE ONLY WARRANTIES GIVEN WITH RESPECT TO THE GOODS, SOFTWARE LICENSES AND SERVICES SOLD OR OTHERWISE PROVIDED BY SENSUS. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THIS GENERAL LIMITED WARRANTY OR WITH THE TERMS OF SALE, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.**
14. **SENSUS ASSUMES NO LIABILITY FOR COSTS OR EXPENSES ASSOCIATED WITH LOST REVENUE OR WITH THE REMOVAL OR INSTALLATION OF EQUIPMENT. THE FOREGOING REMEDIES ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR THE FAILURE OF EQUIPMENT, LICENSED SOFTWARE OR SERVICES TO CONFORM TO THEIR RESPECTIVE WARRANTIES.**
15. **Limitation of Liability**
  - a. SENSUS' AGGREGATE LIABILITY IN ANY AND ALL CAUSES OF ACTION ARISING UNDER, OUT OF OR IN RELATION TO THIS AGREEMENT, ITS NEGOTIATION, PERFORMANCE, BREACH OR TERMINATION (COLLECTIVELY "CAUSES OF ACTION") SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO SENSUS UNDER THIS AGREEMENT. THIS IS SO WHETHER THE CAUSES OF ACTION ARE IN TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY, IN CONTRACT, UNDER STATUTE OR OTHERWISE.
  - b. AS A SEPARATE AND INDEPENDENT LIMITATION ON LIABILITY, SENSUS' LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES. SENSUS SHALL NOT BE LIABLE FOR: (i) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; NOR (ii) ANY REVENUE OR PROFITS LOST BY CUSTOMER OR ITS AFFILIATES FROM ANY END USER(S), IRRESPECTIVE OF WHETHER SUCH LOST REVENUE OR PROFITS IS CATEGORIZED AS DIRECT DAMAGES OR OTHERWISE; NOR (iii) ANY IN/OUT COSTS; NOR (iv) MANUAL METER READ COSTS AND EXPENSES.
  - c. The limitations on liability set forth in this Agreement are fundamental inducements to Sensus entering into this Agreement. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Sensus the maximum protection permitted under law.
  - d. To the maximum extent permitted by law, no Cause of Action may be instituted by Customer against Sensus more than TWELVE (12) MONTHS after the Cause of Action first arose. In the calculation of any damages in any Cause of Action, no damages incurred more than TWELVE (12) MONTHS prior to the filing of the Cause of Action shall be recoverable.
16. **Definitions.** Any terms used in this General Limited Warranty as defined terms, and which are not defined herein, shall have the meanings given to those terms in the Terms of Sale.
  - a. "Agreement" means this General Limited Warranty, Customer's purchase order (except any Additional Terms), Sensus' Acknowledgement Form (if any), Sensus' invoice and the Terms of Sale.
  - b. "DA Devices" means RTMs and RTUs.
  - c. "Echo Transceiver" (formerly "FlexNet Network Portal" and "FNP") identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them by radio frequency to the relevant FlexNet Base Station.
  - d. "End User" means any end user of electricity/water/gas that pays Customer for the consumption of electricity/water/gas, as applicable.
  - e. "Equipment" means the Field Devices, RF Field Equipment, Server Hardware, and any other goods sold hereunder.
  - f. "FlexNet Base Station" (formerly "Tower Gateway Base Station" and "TGB") identifies the Sensus manufactured device consisting of one transceiver, to be located on a tower that receives readings from the SmartPoint Modules (either directly or via an Echo Transceiver) by radio frequency and passes those readings to the RNI by TCP/IP backhaul communication.
  - g. "Field Devices" means the meters, SmartPoint Modules, DA Devices and HAN Devices.
  - h. "Force Majeure" shall have the meaning set forth in the Terms of Sale.
  - i. "HAN Devices" means the PCTs, IHDs and LCMs.
  - j. "IHDs" means the in-home displays.
  - k. "In/Out Costs" means any costs and expenses incurred by Customer in transporting goods between its warehouse and its End User's premises and any costs and expenses incurred by Customer in installing, uninstalling and removing goods.
  - l. "LCMs" means the load control modules.
  - m. "PCTs" means the programmable controllable thermostats.
  - n. "Remote Transceiver" (formerly "FlexNet Remote Portal" and "FRP") identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them directly to the RNI by TCP/IP backhaul communication.
  - o. "RNI" identifies the regional network interfaces consisting of hardware and software used to gather, store, and report data collected by the FlexNet Base Stations from the SmartPoint Modules.
  - p. "RF Field Equipment" means, collectively, FlexNet Base Stations, Echo Transceivers and Remote Transceivers.
  - q. "RTMs" means the telemetric remote telemetry modules.
  - r. "RTUs" means telemetric MicroRTU (T866).
  - s. "Server Hardware" means the RNI hardware and the FlexServer hardware.
  - t. "SmartPoint™ Modules" identifies the Sensus transmission devices installed on devices such as meters, distribution automation equipment and demand/response devices located at Customer's End Users' premises that take the readings of the meters and transmit those readings by radio frequency to the relevant FlexNet Base Station, Remote Transceiver or Echo Transceiver.



# Sensus Limited Warranty

**1. General Product Coverage.** Unless otherwise provided herein, Sensus USA Inc. ("Sensus") warrants its products and parts to be free from defects in material and workmanship for one (1) year from the date of Sensus shipment and as set forth below. All products are sold to customer ("Customer") pursuant to Sensus' Terms of Sale, available at: [sensus.com/TC](http://sensus.com/TC) ("Terms of Sale").

**2. SR II® and accuSTREAM™ 5/8", 3/4" & 1" Meters** are warranted to perform to new meter accuracy level set forth in the SR II and accuSTREAM Data Sheets available at [sensus.com](http://sensus.com) for five (5) years from the date of Sensus shipment or until the registration shown below, whichever occurs first. Sensus further warrants that the SR II and accuSTREAM meters will perform to at least AWWA Repaired Meter Accuracy Standards for fifteen (15) years from the date of Sensus shipment or until the registration shown below, whichever occurs first:

	New Meter Accuracy	Repair Meter Accuracy
5/8" SR II Meter and accuSTREAM Meter	500,000 gallons	1,500,000 gallons
3/4" SR II Meter and accuSTREAM Meter	750,000 gallons	2,250,000 gallons
1" SR II Meter and accuSTREAM Meter	1,000,000 gallons	3,000,000 gallons

**3. ally® Meters** that register water flow are warranted to perform to the accuracy level set forth in the ally Data Sheet available at [sensus.com](http://sensus.com) for fifteen (15) years from the Date of Installation, but no longer than sixteen (16) years from date of manufacture, not including the meter's sensors, valve, and gear motor, which are warranted under different terms described below. As used herein, "Date of Installation" means the date after which the ally Meter has been out of empty pipe for seven (7) consecutive days, as those days are measured by the ally Meter and stored in the meter's nonvolatile memory.

**4. iPERL® Meters** that register water flow are warranted to perform to the accuracy levels set forth in the iPERL Data Sheet available at [sensus.com](http://sensus.com) for twenty (20) years from the date of Sensus shipment. The iPERL System Component warranty does not include the external housing.

**5. SR II maincases** are warranted to be free from defects in material and workmanship for twenty-five (25) years from the date of Sensus shipment. accuSTREAM maincases will be free from defects in material and workmanship for fifteen (15) years from the date of Sensus shipment.

**6. Sensus OMNI™ Meters and Propeller Meters** are warranted to perform to as set forth in OMNI and Propeller data sheets for one (1) year from the date of Sensus shipment.

**7. Sensus accuMAG™ and Hydroverse™ Meters** are warranted to be free from defects in material and workmanship, under normal use and service, for 18 months from the date of Sensus shipment or 12 months from startup, whichever occurs first.

**8. Sensus Registers** are warranted to be free from defects in material and workmanship from the date of Sensus shipment for the periods stated below or until the applicable registration for AWWA Repaired Meter Accuracy Standards, as set forth above, are surpassed, whichever occurs first:

5/8" thru 1" SR II, accuSTREAM Standard Registers	25 years
5/8" thru 1" SR II, accuSTREAM Encoder Registers	10 years
All HSPU, IMP Contactor, R.E.R. Elec. ROFI	1 year
Standard and Encoder Registers for Propeller Meters	1 year
OMNI and OMNI+ Registers with Battery	10 years

**9. Sensus Electric and Gas Meters** are warranted pursuant to the General Limited Warranty available at [sensus.com/TC](http://sensus.com/TC).

**10. Batteries, iPERL System Components, AMR and FlexNet® Communication Network AMI Interface Devices** are warranted to be free from defects in material and workmanship from the date of Sensus shipment for the period stated below:

Electronic TouchPad	10 years
Act-Pak® Remote Monitoring Instruments	1 year
Gas SmartPoint® Modules and Batteries	20 years <sup>1</sup>
6500 series Hand-Held Device	2 years
Vehicle Gateway Base Station (VGB) and other AMR Equipment	1 year
EasyLink Reader	1 Year
CPTP100	20 Years <sup>2</sup>
FlexNet Base Station (including the R100NA and M400 products)	1 year
RM4160	1 Year
iPERL System Battery and iPERL System Components	20 years <sup>3</sup>

<sup>1</sup> Sensus will repair or replace non-performing Gas SmartPoint Modules (configured to the factory setting of six transmissions per day under normal system operation of up to one demand read to each SmartPoint Module per month and up to five firmware downloads during the life of the product) and batteries.

<sup>2</sup> Sensus will repair or replace non-performing CPTP100 modules (configured at factory setting of four transmissions per day under normal system operations of up to one demand read per month and up to five firmware downloads during the life of the product) and batteries.

Sensus® Electronic Register+™	20 years <sup>4</sup>
Sensus® Smart Gateway Sensor Interface	1 year <sup>5</sup>
SmartPoint® 510M/520M/515M/512M Modules and Batteries	20 years <sup>3</sup>

**11. ally® Meter Batteries and Components, including SmartPoint 510M/520M Modules** are warranted to be free from defects in material and workmanship from the Date of Installation, as defined in Section 3, for the period stated below:

Batteries	15 years <sup>6</sup>
Sensors	5 years
Valve & Gear Motor	5 years <sup>7</sup>
SmartPoint 510M/520M Modules and Batteries in service w/ally	15 years <sup>6</sup>

<sup>3</sup> Sensus will repair or replace non-performing:

- iPERL System Batteries, and/or the iPERL System flowtube, the flow sensing and data processing assemblies, and the register ("iPERL System Components") with hourly reads,
- SmartPoint 510M/520M/515M/512M-PLS Modules (configured to the factory setting of six transmissions per day under normal system operation of up to one demand read to each SmartPoint Module per month and up to five firmware downloads during the life of the product) and batteries, unless the SmartPoint 510M/520M Module is ever paired with an ally Meter, which event immediately amends the warranty terms to those described in Section 11;

at no cost for the first fifteen (15) years from the date of Sensus shipment, and for the remaining five (5) years at a prorated percentage, applied towards the published list price in effect for the year the product is accepted by Sensus under the warranty conditions according to the following schedule:

Years	Replacement Price
1 – 15	0%
16	30%
17	40%
18	50%
19	60%
20	70%
>20	100%

<sup>4</sup> Sensus will repair or replace non-performing Sensus Electronic Register+ with hourly reads for the first ten (10) years from the date of Sensus shipment, and for the remaining ten (10) years, at a prorated percentage, applied towards the published list prices in effect for the year product is accepted by Sensus under warranty conditions according to the following schedule:

Years	Replacement Price	Years	Replacement Price
1 – 10	0%	16	55%
11	30%	17	60%
12	35%	18	65%
13	40%	19	70%
14	45%	20	75%
15	50%	>20	100%

<sup>5</sup> Sensus® Smart Gateway Sensor Interface warranty valid only for analog Meter Sample Rates of four times per hour with a Standard Transmit Rate of hourly or greater for the analog channel(s).

<sup>6</sup> If applicable, any SmartPoint 510M/520M Modules ever paired with an ally Meter are warranted with the following limitations:

- When configured to the default installation setting of six transmissions of metrology and pressure per day and one update of temperature per day, the SmartPoint is warranted to perform up to five (5) firmware upgrades for the SmartPoint Module and up to five (5) firmware upgrades for the ally Meter;
- 2500 Operational Commands, where "Operational Commands" include on demand reads (such as consumption, pressure, temperature), an ally valve command, or a configuration command; and
- 15 Diagnostic Commands, which includes two-way communications tests and installations

for the first ten (10) years from Date of Installation at no cost. For the remaining five (5) years, Customer will pay the reduced Replacement Price of the then-current list price in effect at the time the product is accepted for return in accordance with the following schedule:

Years	Replacement Price	Years	Replacement Price
1 – 10	0%	14	65%
11	35%	15	75%
12	45%	>15	100%
13	55%		

<sup>7</sup> Notwithstanding the foregoing, valve and gear motor components of ally Meters are not warranted beyond two thousand (2000) Valve State Operations, even if the warranty period provided herein has not yet expired. As used herein, "Valve State Operations" means adjustments of the Meter to open, close, or reduce flow.



**12. iPERL and ally Connectors and Cables** are warranted to be free from defects in materials and workmanship, under normal use and service, for ten (10) years from the date of Sensus shipment. Nicor or Itron connectors included with a Sensus product are warranted according to the terms for Third-Party Devices in Section 13.

**13. Third-Party Devices** are warranted to be free from defects in materials and workmanship, under normal use and service, for one (1) year from the date of Sensus shipment. As used in this Sensus Limited Warranty, "Third Party Devices" means any product, device, or component part used with a Sensus product that is manufactured or sold by any party that is not Sensus. Failure of a Third Party Device which subsequently causes failure to a Sensus device shall be the responsibility of the manufacturer of the Third Party Device.

**14. Software.** Software supplied and/or licensed by Sensus is supported according to the terms of the applicable software license or usage agreement. Sensus warrants that any network and monitoring services shall be performed in a professional and workmanlike manner.

**15. Return.** Sensus' obligation, and Customer's exclusive remedy, under this Sensus Limited Warranty is, at Sensus' option, to either (i) repair or replace the product, provided the Customer (a) returns the product to the location designated by Sensus within the warranty period; and (b) prepays the freight costs both to and from such location; or (ii) deliver replacement components to the Customer, provided the Customer installs, at its cost, such components in or on the product (as instructed by Sensus), provided, that if Sensus requests, the Customer (a) returns the product to the location designated by Sensus within the warranty period; and (b) prepays the freight costs both to and from such location. In all cases, if Customer does not return the product within the time period designated by Sensus, Sensus will invoice, and Customer will pay within thirty days of the invoice date, for the cost of the replacement product and/or components.

The return of products for warranty claims must follow Sensus' Returned Materials Authorization (RMA) procedures. Water meter returns must include documentation of the Customer's test results. Test results must be obtained according to AWWA standards and must specify the meter serial number. The test results will not be valid if the meter is found to contain foreign materials. If Customer chooses not to test a Sensus water meter prior to returning it to Sensus, Sensus will repair or replace the meter, at Sensus' option, after the meter has been tested by Sensus. The Customer will be charged Sensus' then current testing fee. All product must be returned in accordance with the RMA process. For all returns, Sensus reserves the right to request meter reading records by serial number to validate warranty claims.

For products that have become discontinued or obsolete ("Obsolete Product"), Sensus may, at its discretion, replace such Obsolete Product with a different product model ("New Product"), provided that the New Product has substantially similar features as the Obsolete Product. The New Product shall be warranted as set forth in this Sensus Limited Warranty.

THIS SECTION 15 SETS FORTH CUSTOMER'S SOLE REMEDY FOR THE FAILURE OF THE PRODUCTS, SERVICES OR LICENSED SOFTWARE TO CONFORM TO THEIR RESPECTIVE WARRANTIES.

**16. Warranty Exceptions and No Implied Warranties.** This Sensus Limited Warranty does not include costs for removal or installation of products, or costs for replacement labor or materials, which are the responsibility of the Customer. The warranties in this Sensus Limited Warranty do not apply to and Sensus has no liability for goods that have been: installed improperly or in non-recommended installations; installed to a socket that is not functional, or is not in safe operating condition, or is damaged, or is in need of repair; tampered with; modified or repaired with parts or assemblies not certified in writing by Sensus, including without limitation, communication parts and assemblies; improperly modified or repaired (including as a result of modifications required by Sensus); converted; altered; damaged; read by equipment not approved by Sensus; for water meters, used with substances other than water, used with non-potable water, or used with water that contains dirt, debris, deposits, or other impurities; subjected to misuse, improper storage, improper care, improper maintenance, or improper periodic testing (collectively, "Exceptions"). If Sensus identifies any Exceptions during examination, troubleshooting or performing any type of support on behalf of Customer, then Customer shall pay for and/or reimburse Sensus for all expenses incurred by Sensus in examining, troubleshooting, performing support activities, repairing or replacing any Equipment that satisfies any of the Exceptions defined above. The above warranties do not apply in the event of Force Majeure, as defined in the Terms of Sale.

**THE WARRANTIES SET FORTH IN THIS SENSUS LIMITED WARRANTY ARE THE ONLY WARRANTIES GIVEN WITH RESPECT TO THE GOODS, SOFTWARE, SOFTWARE LICENSES AND SERVICES SOLD OR OTHERWISE PROVIDED BY SENSUS. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THIS SENSUS LIMITED WARRANTY OR WITH THE TERMS OF SALE, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.**

**SENSUS ASSUMES NO LIABILITY FOR COSTS OR EXPENSES ASSOCIATED WITH LOST REVENUE OR WITH THE REMOVAL OR INSTALLATION OF EQUIPMENT. THE FOREGOING REMEDIES ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR THE FAILURE OF EQUIPMENT, LICENSED SOFTWARE OR SOFTWARE SERVICES, AND OTHER SERVICES TO CONFORM TO THEIR RESPECTIVE WARRANTIES.**

**17. Limitation of Liability.** SENSUS' AGGREGATE LIABILITY IN ANY AND ALL CAUSES OF ACTION ARISING UNDER, OUT OF OR IN RELATION TO THIS AGREEMENT, ITS NEGOTIATION, PERFORMANCE, BREACH OR TERMINATION

(COLLECTIVELY "CAUSES OF ACTION") SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO SENSUS UNDER THIS AGREEMENT. THIS IS SO WHETHER THE CAUSES OF ACTION ARE IN TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY, IN CONTRACT, UNDER STATUTE OR OTHERWISE.

AS A SEPARATE AND INDEPENDENT LIMITATION ON LIABILITY, SENSUS' LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES. SENSUS SHALL NOT BE LIABLE FOR: (I) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; NOR (II) ANY REVENUE OR PROFITS LOST BY CUSTOMER OR ITS AFFILIATES FROM ANY END USER(S), IRRESPECTIVE OF WHETHER SUCH LOST REVENUE OR PROFITS IS CATEGORIZED AS DIRECT DAMAGES OR OTHERWISE; NOR (III) ANY IN/OUT COSTS; NOR (IV) MANUAL METER READ COSTS AND EXPENSES; NOR (V) DAMAGES ARISING FROM MAINCASE OR BOTTOM PLATE BREAKAGE CAUSED BY FREEZING TEMPERATURES, WATER HAMMER CONDITIONS, OR EXCESSIVE WATER PRESSURE. "IN/OUT COSTS" MEANS ANY COSTS AND EXPENSES INCURRED BY CUSTOMER IN TRANSPORTING GOODS BETWEEN ITS WAREHOUSE AND ITS END USER'S PREMISES AND ANY COSTS AND EXPENSES INCURRED BY CUSTOMER IN INSTALLING, UNINSTALLING AND REMOVING GOODS. "END USER" MEANS ANY END USER OF ELECTRICITY/WATER/GAS THAT PAYS CUSTOMER FOR THE CONSUMPTION OF ELECTRICITY/WATER/GAS, AS APPLICABLE.

The limitations on liability set forth in this Agreement are fundamental inducements to Sensus entering into this Agreement. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Sensus the maximum protection permitted under law.



## 1. Terms of Sale

Sensus USA Inc. ("Sensus") warrants the performance of the AMI System to the Customer as set forth below. This warranty and all products and services sold or otherwise provided by Sensus directly to the Customer are pursuant to the Sensus Terms of Sale, available at: <http://na.sensus.com/TC/TermsConditions.pdf> ("Terms of Sale").

## 2. Performance Warranty. The "Performance Warranty" is as follows:

A. **Warranty.** Sensus warrants to Customer that the AMI System deployed for a particular Utility Customer meets the performance test standards set forth below in section 3 ("Performance Test Standards") from the Effective Date until the Warranty End Date. If the Utility Customer's AMI System does not meet such Performance Test Standards, then as Sensus' sole obligation and Customer's sole remedy, Sensus shall take steps that Sensus deems necessary, in Sensus' sole discretion, to cause the AMI System to satisfy the Performance Test Standards. Such steps may include Sensus' delivery to the Utility Customer (without charge to the Utility Customer) the hardware for additional RF Field Equipment, provided that all RF Field Equipment shall be located and installed as directed by Sensus. Utility Customer shall have title to all equipment provided pursuant to this subsection (A). Notwithstanding anything to the contrary, Customer shall pay for any Recurrent RF Field Equipment Fees and any Ongoing Fees for all equipment provided pursuant to this subsection (A).

B. **Limitations.** The Performance Warranty shall only apply; (i) to the Meter Data; (ii) from the Effective Date until the Warranty End Date; (iii) if Sensus has completed a propagation study for the applicable Utility Customer based on the Performance Test Standards, such propagation study has been approved in writing (including without limitation, by email) by Sensus, and such propagation study has been agreed to in writing (including without limitation, by email) by the Utility Customer ("Certified Propagation Study") (for clarity, the Certified Propagation Study consists of all documents of the propagation study, including without limitation, the server map and the document describing the Required RF Field Equipment locations and antennae details); (iv) if the Utility Customer has entered into a Spectrum Lease Agreement with Sensus; (v) if all the Required RF Field Equipment identified in the Certified Propagation Study is installed; (vi) if the Required RF Field Equipment is installed as described in the Certified Propagation Study, including without limitation, in the locations and at the heights identified in the Certified Propagation Study; and (vii) the Required RF Field Equipment is operating and has been maintained to Sensus' specifications (collectively, the "Requirements"). If any Requirement is not satisfied, then: the Performance Warranty is void; Sensus has no obligation to remedy the AMI System performance; Sensus has no obligation to provide RF Field Equipment hardware at no cost; and Customer is responsible for purchasing such RF Field Equipment, even if it is necessary to meet the specifications set forth in the Performance Test Standards. Furthermore, if new and/or different RF Field Equipment locations are required as a result of not meeting any Requirements, Customer agrees to: pay Sensus for the completion of any additional propagation studies; pay Sensus for the additional RF Field Equipment hardware; perform the necessary site preparation; and pay for any Recurrent RF Field Equipment Fees and any Ongoing Fees for all equipment purchased pursuant to this subsection (B). Any equipment required pursuant to this subsection (B) is added to the definition of "Required RF Field Equipment."

## 3. Performance Test Standards

### A. Generally.

- i. The parties shall mutually agree on specific reading routes (each a "Route"). Each Route will be separately tested with the intent to provide incremental acceptance of distinctly defined geographical areas and populations of meters. Each Route shall contain a statistical sample of Test Units ("Route Units"). Route Units only include the Test Units installed in the applicable Route. For Utility Customers with any combination of water, gas, and electricity Endpoints, the water Endpoints, gas Endpoints, and electricity Endpoints will each be tested separately according to the procedure below. For clarity, a single Route will not have a combination of water, gas, and electricity meters, but it will consist of only water, gas, or electricity Test Units.
- ii. Before beginning the Performance Test Standards, all Route Units must be installed. Customer shall send written notice to Sensus once the Test Equipment and all Route Units are installed ("Route Deployment"). Such notice shall indicate the date on which the Route Deployment was completed ("Route Deployment Date").
- iii. Within thirty (30) days after the Route Deployment Date, the parties shall begin the Performance Test Standards on the Route. Customer, Utility Customer, and Sensus shall work in good faith to complete the Performance Test Standards no later than thirty (30) days after commencement of testing.

## B. Route Read Success Test.

- i. The Route Read Success Test will measure the percentage of Route Units that deliver valid billable meter reads during the Billing Window. The Route Read Success Test only measures reads sent from the Route Units; it does not include on demand reads. The commencement date of the Billing Window shall be agreed by Customer and Sensus.

$$\text{Route Read Success} = 100 \times \frac{\text{(# of Route Units that deliver a valid billable meter read during the Billing Window)}}{\text{(total # of Route Units in the applicable Route)}}$$

- ii. If Route Read Success is equal or greater than the Success Percentage during one Billing Window, the Performance Test Standards for that Route has passed. Customer shall promptly issue written notice to Sensus that either (a) Sensus has not successfully completed the Performance Test Standards for the applicable Route; or (b) Sensus has successfully completed the Performance Test Standards for the applicable Route and such notice shall specify the applicable Route and shall state the date on which the Route Read Success Test was successfully completed. If Customer does not issue such notice within five days of completion of the test, then the test is automatically deemed successfully passed. Sensus has no obligation to continue optimizing the system and meeting performance specifications upon successful completion of the Performance Test Standards for each Route. This process shall continue until all Routes have successfully completed the Performance Test Standards. If Sensus does not successfully complete the Performance Test Standards for the applicable Route, then upon receipt of notice, Sensus shall fulfill its obligations in Section 2 above, and the applicable Route shall be retested within a reasonable time.
- iii. Upon completion of the Performance Test Standards for all Routes, Customer shall promptly issue written notice to Sensus that either (a) Sensus has not successfully completed the Performance Test Standards for the AMI System; or (b) Sensus has successfully completed the Performance Test Standards for the AMI System and such notice shall state the date on which the Performance Test Standards was successfully completed. If Customer does not issue such notice within five days of completion of the tests, then the Performance Test Standards for the AMI System is automatically deemed successfully passed. If Sensus does not successfully complete the Performance Test Standards, then upon receipt of notice, Sensus shall fulfill its obligations in Section 2 above, and the AMI System shall be retested within a reasonable time.

4. THE WARRANTY SET FORTH IN SECTION 2 OF THIS PERFORMANCE WARRANTY IS THE ONLY WARRANTY RELATED TO THE PERFORMANCE OF THE AMI SYSTEM. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THESE TERMS OF SALE, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.

5. SENSUS ASSUMES NO LIABILITY FOR COSTS OR EXPENSES ASSOCIATED WITH LOST REVENUE OR WITH THE REMOVAL OR INSTALLATION OF EQUIPMENT. THE FOREGOING REMEDIES ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR THE PERFORMANCE OF THE AMI SYSTEM.

### 6. Limitation of Liability.

SENSUS' AGGREGATE LIABILITY IN ANY AND ALL CAUSES OF ACTION ARISING UNDER, OUT OF OR IN RELATION TO THIS WARRANTY AND ALL OTHER AGREEMENTS BETWEEN SENSUS AND CUSTOMER, THEIR NEGOTIATION, PERFORMANCE, BREACH OR TERMINATION (COLLECTIVELY "CAUSES OF ACTION") SHALL NOT EXCEED (I) IF CUSTOMER IS ALSO THE UTILITY CUSTOMER, THE TOTAL AMOUNT PAID BY CUSTOMER TO SENSUS; OR (II) IF CUSTOMER IS NOT THE UTILITY CUSTOMER, THE TOTAL AMOUNT PAID BY CUSTOMER TO SENSUS SOLELY IN RELATION TO THE UTILITY CUSTOMER. THIS IS SO WHETHER THE CAUSES OF ACTION ARE IN TORT, INCLUDING WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY, IN CONTRACT, UNDER STATUTE OR OTHERWISE, AS A SEPARATE AND INDEPENDENT LIMITATION ON LIABILITY, SENSUS' LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES. SENSUS SHALL NOT BE LIABLE FOR: (I) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; NOR (II) ANY REVENUE OR PROFITS LOST BY CUSTOMER, UTILITY CUSTOMER OR EITHER OF THEIR AFFILIATES FROM ANY END USER(S), IRRESPECTIVE OF WHETHER SUCH LOST REVENUE OR PROFITS IS CATEGORIZED AS DIRECT DAMAGES OR OTHERWISE; NOR (III) ANY IN/OUT COSTS; NOR (IV) MANUAL METER READ COSTS AND EXPENSES. The limitations on liability set forth herein are fundamental inducements to Sensus. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Sensus the maximum protection permitted under law. To the maximum extent permitted by law, no Cause of Action may be instituted against Sensus more than TWELVE (12) MONTHS after the Cause of Action first arose. In the calculation of any damages in any Cause of Action, no damages incurred more than TWELVE (12) MONTHS prior to the filing of the Cause of Action shall be recoverable.



# Sensus AMI System Performance Warranty

## 7. Definitions.

Any terms used in this Performance Warranty as defined terms, and which are not defined herein, shall have the meanings given to those terms in the Terms of Sale, as defined above.

- A. **"AMI System"** identifies the Sensus FlexNet Advanced Meter Infrastructure System deployed by the Customer, comprised of the SmartPoint Modules, RF Field Equipment, regional network interface (RNI), software, FCC licenses, and other Sensus equipment provided to Customer and/or to the Utility Customer. The AMI System only includes the foregoing, as provided by Sensus to the Utility Customer, either directly or through a Sensus authorized distributor. The AMI System does not include goods, equipment, software, licenses or rights provided by a third party(ies).
- B. **"Available Meter"** means an installed Sensus FlexNet meter (with a SmartPoint Module installed) or a Sensus SmartPoint Module which has been installed on a third party meter, and which, in either case, is not an Unavailable Meter (or on an Unavailable Meter in the case of SmartPoint Modules on third party meters) and which satisfies all of the following criteria: (i) it functions properly, is powered, and is not a damaged or failed meter; (ii) if applicable, it is in a deployment area of meters such that a sufficient number of two-way meters are in range of each other; (iii) it is serviced by RF Field Equipment that has not been subjected to a power failure greater than eight (8) total hours; (iv) neither it nor the RF Field Equipment that serves that meter has been affected by a Force Majeure event; (v) jamming of the radio spectrum is not preventing or interfering with radio communication to or from the meter; (vi) it is installed in the Service Territory; (vii) it has not been reported to Utility Customer under Sensus' or Utility Customer's preventative maintenance; (viii) its functioning or performance has not been adversely affected by a failure of Customer and/ or Utility Customer to perform its obligations or tasks for which it is responsible, including without limitation, testing and confirming that the socket to which the meter will be/is connected is in safe operating condition, is fully functional, is not corroded, does not contain improperly installed jaws or other deficiencies, complies with ANSI standards, and is not "hot", damaged, or otherwise in need of maintenance or repair; (ix) its functioning or performance has not been adversely affected by a failure or insufficiency of the back haul telecommunications network for communications among the components of the Sensus AMI System; and (x) it has been installed in compliance with the procedures and specifications approved by Customer and Sensus.
- C. **"Billing Window"** for a meter means the four day period commencing one day prior to the relevant billing day for such meter and ending two days after such billing day. The Billing Window for testing purposes shall be agreed by Customer and Sensus.
- D. **"Customer"** means the entity that purchases goods and/or services directly from Sensus.
- E. **"Effective Date"** means the date the Utility Customer signs the Spectrum Lease Agreement between Utility Customer and Sensus.
- F. **"End User"** means any end user of electricity, water, and/or gas (as applicable) that pays Utility Customer for the consumption of electricity, water, and/or gas, as applicable.
- G. **"Endpoints"** mean both (a) Sensus FlexNet meters (with a SmartPoint Module installed); and (b) Sensus SmartPoint Modules which have been installed on a third party meter.
- H. **"Force Majeure"** means an event beyond a party's reasonable control, including without limitation, acts of God, hurricane, flood, volcano, tsunami, tornado, storm, tempest, mudslide, vandalism, illegal or unauthorized radio frequency interference, strikes, lockouts, or other industrial disturbances, unavailability of component parts of any goods provided hereunder, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, restraints or prohibitions by any court, board, department, commission or agency of the United States or any States, any arrests and restraints, civil disturbances and explosion.
- I. **"In/Out Costs"** means any costs and expenses incurred in transporting goods between to and from End User's premises and any costs and expenses incurred in installing, uninstalling and removing goods.
- J. **"Meter Data"** means the specific metering information, including without limitation, locations and antenna heights, provided to Sensus by Utility Customer in writing prior to the earlier of the; (i) Effective Date; and (ii) the date set forth on the propagation study (collectively, the "Data Date"). The parties recognize and agree that the RF Field Equipment site design and build is based on the specific Meter Data provided to Sensus. For clarity, the Meter Data only contains the information specifically provided to Sensus by the Utility Customer in writing prior to the Data Date. By way of example only (and not as an exhaustive list), the "Meter Data" includes the latitudes and longitudes of each meter, the location of each module either inside or outside (outside is assumed), and, for meters in pits, whether the radio is installed through or under the lid (the assumption is through the lids). New or different metering locations and/ or antenna heights provided after the Data Date are not included as part of the Meter Data.
- K. **"Ongoing fees"** means any reoccurring monthly or annual fees, including without limitation, fees for software and spectrum leases.
- L. **"Recurrent RF Field Equipment Fees"** means any and all costs, fees, and expenses required to; (i) warrant the RF Field Equipment; and (ii) install and keep the RF Field Equipment located in the field, including without limitation, site procurement and preparation fees, fees related to building poles or towers, tower lease fees, costs of electricity supply, and any local, state, or federal government taxes or charges.
- M. **"Remote Transceiver"** identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them directly to the RNI by TCP/IP backhaul communication.
- N. **"Required RF Field Equipment"** means the number, location, and height of the RF Field Equipment set forth in the Certified Propagation Study.
- O. **"RF Field Equipment"** means the FlexNet Base Stations, Echo Transceivers, and Remote Transceivers.
- P. **"Service Territory"** identifies the geographic area where Utility Customer provides electricity, water, and/or gas (as applicable) services to End Users as of the Effective Date. This area will be described in Utility Customer and Sensus' spectrum lease filing with the FCC.
- Q. **"Spectrum Lease Agreement"** means a written, signed agreement between Sensus and Utility Customer whereby the Utility Customer leases certain spectrum from Sensus. The Spectrum Lease Agreement may be included as part of a larger agreement, such as an AMI Agreement or a Software License and Spectrum Lease Agreement.
- R. **"Success Percentage"** means, of the covered meters in the propagation study, 98.5%.
- S. **"Test Equipment"** means the number of RF Field Equipment and production RNIs set forth in the Certified Propagation Study. The Test Equipment specifically does not include test RNIs or backup RNIs; it only includes production RNIs.
- T. **"Test Units"** means Endpoints that are both; (i) Available Meters throughout the entire test period; and (ii) are covered meters, as depicted on the Certified Propagation Study.
- U. **"Unavailable Meters"** include meters with sockets with power cut at the pole, meters that are booted on the line side, sockets that are not provided power due to a power delivery system failure, meters with tamper, theft or other human induced failures that render the meter or SmartPoint Module incapable of providing a read, a Force Majeure event induced failures of the power delivery system, socket or meter, and/ or any system or meter maintenance issue that precludes the meter from transmitting its message to the network. Examples of Unavailable Meters include: (i) Cut At Pole: a meter for which power has been turned off to the socket by Utility Customer; (ii) Booted on Line Side: nominally a meter for which power has been turned off by placing "boots" in the socket from which the power to the meter has effectively been turned off; (iii) Failed or flawed power delivery to the meter socket: Utility Customer power generation, distribution or delivery system failure that has effectively turned off power to the socket and/or meter; (iv) Tampered Meters: sockets, meters or distribution assets that have been modified by unauthorized personnel rendering the meter incapable of providing accurate usage readings from that meter; (v) Broken TouchCoupler unit: the TouchCoupler unit is damaged by intentional or unintentional acts; (vi) Broken Clip: the clip that holds the TouchCoupler unit into the radio package housing is broken and the unit cannot complete the inductive electrical connection; (vii) Improper installation of the TouchCoupler unit: the TouchCoupler unit is not pushed all the way into the housing clip causing the unit to not be able to complete the inductive electrical connection; (viii) Unit not installed through the pit lid: the unit is not installed with the antenna positioned through the pit lid and properly secured with the retaining nut. The radio unit must also be securely attached to the antenna section; (ix) Radio unit not securely attached to the Antenna unit: The water-proof SmartPoint Module housing is not properly installed and secured to the antenna unit; (x) Damaged antenna: the unit's antenna is damaged by intentional or unintentional acts; (xi) Damaged radio package: the unit's water-proof radio package is damaged by intentional or unintentional acts; (xii) Data Base errors: the unit is removed from the system but not updated in the database. The unit is still shown as in the system when in fact has been removed; (xiii) Phantom Units: the unit is removed from the system but is still transmitting and being heard by the system; and (xiv) Other Installation Defect: the unit is otherwise installed improperly so that it does not communicate with the FlexNet Base Station.
- V. **"Utility Customer"** means the utility customer that uses the Sensus goods and services in its AMI System regardless of whether such goods and services are purchased directly from Sensus or from a Sensus authorized distributor. For clarity, the Utility Customer is also the Customer if the Utility Customer purchases directly from Sensus.
- W. **"Warranty End Date"** means the earlier of; (i) the third anniversary of the Effective Date; (ii) successful completion of the applicable Performance Test Standards; or (iii) the termination or expiration of the Spectrum Lease Agreement between Utility Customer and Sensus.



Software as a Service and Spectrum Lease Agreement

EXHIBIT 2

between

CITY OF SANTA ANA, CALIFORNIA  
("Customer")

and  
Sensus USA Inc.  
("Sensus")

IN WITNESS WHEREOF, the parties have caused this Software as a Service and Spectrum Lease ("Agreement") to be executed by their duly authorized representatives as of the day and year written below. The date of the last party to sign is the "Effective Date."

This Agreement shall commence on the Effective Date and continue for/until: 5 Years ("Initial Term"). At the end of the Initial Term, this Agreement shall automatically renew for an additional term of 5 years ("Renewal Term"). The "Term" shall refer to both the Initial Term and the Renewal Term.

This Agreement contains two parts: Part (1) is The FCC Notification for Spectrum Manager Lease, to be filed with the FCC by Sensus on behalf of the Customer and Part (2) is a Software as a Service and Spectrum Lease between Sensus and Customer. Together, these two parts create the Agreement.

Sensus USA Inc.

Customer: CITY OF SANTA ANA CA

By:



By:

Name:

Tim Harriger

Name:

Kristine Ridge

Title:

VP Sales, NA Water

Title:

City Manager

Date:

10/21/2020

Date:

Contents of this Agreement:


Part 1: Notification for Spectrum Manager Lease

Part 2: Agreement

Exhibit A Software

Exhibit B Technical Support

Approved as to Form



John M. Funk  
Assistant City Attorney

Attest

Daisy Gomez  
Clerk of the Council

Recommended for Approval

Nabil Saba  
Executive Director  
Public Works Agency

### Part 1: Notification for Spectrum Manager Lease

In order for Sensus to apply to the FCC on the Customer's behalf for a spectrum manager lease, Customer must complete the information below in boxes one (1) through ten (10) and certify via authorized signature. Customer's signature will indicate that Customer authorizes Sensus to file the spectrum manager lease notification on FCC Form 608 with the Customer as spectrum Lessee, and if Customer does not already have one, ownership disclosure information on FCC Form 602.

1.

<b>Customer/Lessee Name:</b> City of Santa Ana		
<b>Attention To:</b> Nabil Saba		<b>Name of Real Party in Interest:</b>
<b>Street Address:</b> 20 Civic Center Plaza		<b>City:</b> Santa Ana
<b>State:</b> CA	<b>Zip:</b> 92702	<b>Phone:</b> 714-647-5400
<b>Fax:</b>		<b>Email:</b> NSaba@santa-ana.org

Is Customer contact information same as above? ☒ Yes ☐ No (If No, complete box 2 below)

2.

#### Additional Customer/Lessee Contact Information

<b>Company Name:</b>		
<b>Attention To:</b>		
<b>Street Address:</b>		<b>City:</b>
<b>State:</b>	<b>Zip:</b>	<b>Phone:</b>
<b>Fax:</b>		<b>Email:</b>

3.

Customer/Lessee is a(n) (Select one): <input type="checkbox"/> Individual   <input type="checkbox"/> Unincorporated Association   <input type="checkbox"/> Trust <input checked="" type="checkbox"/> Government Entity   <input type="checkbox"/> Corporation   <input type="checkbox"/> Limited Liability Company   <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership   <input type="checkbox"/> Limited Liability Partnership   <input type="checkbox"/> Consortium   <input type="checkbox"/> Other _____
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4.

<b>FCC Form 602:</b> FCC File Number of Customer's Form 602 Ownership Information: _____. If Customer has not filed a Form 602, Sensus will file one for Customer. Please complete questions 5, 6, and 7 below if Customer does <u>not</u> have a Form 602 on file. Customer must complete items 8, 9 and 10 irrespective of whether Customer has an ownership report on file.
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5.

<b>Customer Tax ID:</b> 95-6000785
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6.

#### Individual Contact For FCC Matters

Please designate one individual (the Director of Public Works or similar person) who is responsible to the FCC for the operation of the FlexNet radio system.	
<b>Name:</b> Nabil Saba	
<b>Title:</b> Executive Director, Public Works Agency	
<b>Email:</b> NSaba@santa-ana.org	<b>Phone:</b> 714-647-5400

7.

#### Ownership Disclosure Information

If Customer/Lessee is a government entity, list the names of the Mayor and all Council Members below, as well as verify citizenship and ownership interests in any entity regulated by the FCC. Such ownership must be disclosed where a mayor/council member owns 10% or more, directly or indirectly, or has operating control of any entity subject to FCC regulation. If any answer to Ownership question is Yes, or any answer to Citizenship question is No, provide an attachment with further explanation.		
	<b>US Citizen?</b>	<b>Ownership Disclosure?</b>
Mayor: Miguel Pulido	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member: Vicente Sarmiento	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member: David Penalosa	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member: Jose Solorio	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No



Council Member: Phil Bacerra	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member: Juan Villegas	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member: Nelida Mendoza	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

8.

**Alien Ownership Questions** (if the answer is Yes, provide an attachment explaining the circumstances)

1) Is the Customer/Lessee a foreign government or the representative of any foreign government?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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9.

**Basic Qualification Information**

1) Has the Customer or any party to this application had any FCC station authorization, license, or construction permit revoked or had any application for an initial, modification or renewal of FCC station authorization, license or construction permit denied by the Commission?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2) Has the Customer or any party to this filing, or any party directly or indirectly controlling the Customer or any party to this filing ever been convicted of a felony by any state or federal court?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3) Has any court finally adjudged the Customer or any party directly or indirectly controlling the Customer guilty of unlawfully monopolizing or attempting to unlawfully monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

10.

**Customer/Lessee Certification Statements**

1) The Customer/Lessee agrees that the Lease is not a sale or transfer of the license itself.	<input checked="" type="checkbox"/> Yes
2) The Customer/Lessee acknowledges that it is required to comply with the Commission's Rules and Regulations and other applicable law at all times, and if the Customer/Lessee fails to so comply, the Lease may be revoked, cancelled, or terminated by either the Licensee or the Commission.	<input checked="" type="checkbox"/> Yes
3) The Customer/Lessee certifies that neither it nor any other party to the Application/Notification is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C § 862, because of a conviction for possession or distribution of a controlled substance (See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification.)	<input checked="" type="checkbox"/> Yes
4) The Customer/Lessee hereby accepts Commission oversight and enforcement consistent with the license and lease authorization. The Lessee acknowledges that it must cooperate fully with any investigation or inquiry conducted either by the Commission or the Licensee, allow the Commission or the Licensee to conduct on-site inspections of transmission facilities, and suspend operations at the direction of the Commission or the Licensee and to the extent that such suspension of operation would be consistent with applicable Commission policies.	<input checked="" type="checkbox"/> Yes
5) The Customer/Lessee acknowledges that in the event an authorization held by a Licensee that has associated with it a spectrum leasing arrangement that is the subject of this filing is revoked, cancelled, terminated, or otherwise ceases to be in effect, the Customer/Lessee will have no continuing authority to use the leased spectrum and will be required to terminate its operations no later than the date on which the Licensee ceases to have any authority to operate under the license, unless otherwise authorized by the Commission.	<input checked="" type="checkbox"/> Yes
6) The Customer/Lessee agrees the Lease shall not be assigned to any entity that is not eligible or qualified to enter into a spectrum leasing arrangement under the Commission's Rules and Regulations.	<input checked="" type="checkbox"/> Yes
7) The Customer/Lessee waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by spectrum lease or otherwise.	<input checked="" type="checkbox"/> Yes
8) The Customer/Lessee certifies that it is not in default on any payment for Commission licenses and that it is not delinquent on any non-tax debt owed to any federal agency.	<input checked="" type="checkbox"/> Yes

The Customer/Lessee certifies that all of its statements made in this Application/Notification and in the schedules, exhibits, attachments, or documents incorporated by reference are material, are part of this Application/Notification, and are true, complete, correct, and made in good faith. The Customer/Lessee shall notify Sensus in writing in the event any information supplied on this form changes.

<b>CITY OF SANTA ANA CA</b>			
By:		Title:	
Name:		Date:	
<b>FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.</b>			
WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)) AND/OR FORFEITURE (U.S. Code Title 47, Section 503).			



## Part 2: Agreement

### 1. General

- A. **Agreement Generally.** The scope of this Agreement includes usage terms for Sensus' hosted Software solution, leased spectrum, technical support, and supporting terms and conditions for an advanced metering infrastructure solution that Customer will purchase from Sensus' authorized distributor. Customer is not paying Sensus directly for the services provided by Sensus under the Agreement; rather, Customer shall pay Sensus' authorized distributor pursuant to a separate agreement between Customer and such authorized distributor.

### 2. Software.

- A. **Software as a Service (SaaS).** Sensus shall provide Customer with Software as a Service, as defined in Exhibit A, only so long as Customer is current in its payments for such services.
- B. **UCITA.** To the maximum extent permitted by law, the Parties agree that the Uniform Computer Information Transaction Act as enacted by any state shall not apply, in whole or in part, to this Agreement.

### 3. Spectrum

- A. **Definitions in this Section 3.** In this Section 3 only, "Sensus" shall mean Sensus USA Inc. and its wholly owned subsidiary, Sensus Spectrum LLC.
- B. **Spectrum Lease.** Sensus hereby grants to Customer, and Customer accepts, a spectrum manager lease ("Spectrum Lease") over the frequencies of certain FCC license(s) ("FCC License") solely within Customer's Service Territory. (The frequencies of the FCC License within Customer's geographic Service Territory are called the "Leased Spectrum"). Customer shall pay the Ongoing Fees for use of the Leased Spectrum which will be included within the annual hosting fees purchased from Sensus' authorized distributor.
- C. **FCC Forms.** At the Federal Communications Commission ("FCC"), Sensus will; (1) obtain an FCC Registration Number ("FRN") for Customer; (2) submit on behalf of Customer the FCC Form 602 Ownership Disclosure Information if Customer has not already done so; and (3) file a FCC Form 608, notification/application for long-term spectrum manager lease. This Lease becomes effective when the FCC accepts the FCC Form 608.
- D. **Lease Application.** In order to complete the FCC lease application, Customer will promptly:
- Complete and sign the representations in Part 1 of this Agreement such that Customer demonstrates it qualifies for a spectrum lease under FCC rules. Customer's signature will indicate that Customer authorizes Sensus to; (1) obtain an FRN on behalf of Customer; (2) submit the FCC Form 602 Ownership Disclosure Information on behalf of Customer if Customer has not already done so; and (3) file the spectrum manager lease notification on FCC Form 608 with the Customer as spectrum lessee.
  - Give Sensus the coordinates of the boundaries of Customer's Service Territory or, alternatively, approve Sensus' estimation of the same.
  - If Customer has not already done so; Customer hereby authorizes Sensus to apply on Customer's behalf and obtain for Customer a Federal Registration Number (FRN, the FCC's unique identifier for each licensee) and shall supply Sensus with Customer's Taxpayer Identification Number ("TIN").
  - Provide any other information or other cooperation reasonably necessary for the Parties to perform as set forth herein.
- E. **Permitted Use of Spectrum Lease and Equipment.** Customer may transmit or receive over the Leased Spectrum only in the Service Territory and only using FlexNet equipment manufactured by Sensus and used in accordance with Sensus' specifications. Customer may use the Leased Spectrum only to read and direct Field Devices or any other operation approved by Sensus in writing. Without limiting the foregoing, Customer is prohibited from reselling, subleasing or sublicensing the FlexNet Equipment and Leased Spectrum, and from transmitting voice communications over the Leased Spectrum. For each piece of RF Field Equipment used by Customer, Customer shall affix a Sensus-supplied label to the exterior of the RF Field Equipment cabinet or other appropriate visible place to indicate that RF operation is conducted under authority of FCC License(s) issued to Sensus.
- F. **FCC Forms.** At the Federal Communications Commission (FCC), Sensus will; (1) obtain an FCC Registration Number (FRN) for Customer; (2) submit on behalf of Customer the FCC Form 602 Ownership Disclosure Information if Customer has not already done so; and (3) file a FCC Form 608, notification/application for long-term spectrum manager lease. This Lease becomes effective when the FCC accepts the FCC Form 608.
- G. **Term of Spectrum Lease.** Unless terminated earlier (because, for example, Customer stops using the FlexNet equipment or because this Agreement terminates or expires for any reason), this Spectrum Lease will have the same term as the FCC license. If Customer is operating in compliance with this Agreement and is current on any payments owed to Sensus, when the FCC License renews, the Parties will apply to the FCC to renew this Spectrum Lease.
- H. **Termination of Spectrum Lease.** The Spectrum Lease will terminate: (a) two months after Customer stops transmitting with FlexNet equipment manufactured by Sensus; (b) upon termination, revocation or expiration of the FCC License; (c) upon Customer's breach of this Agreement; or (d) upon termination or expiration of this Agreement for any reason.
- I. **FCC Compliance.** The following FCC requirements apply
- Pursuant to 47 CFR 1.9040(a);
    - Customer must comply at all times with applicable FCC rules. This Agreement may be revoked by Sensus or the FCC if Customer fails to so comply;
    - If the FCC License is terminated, Customer has no continuing right to use the Leased Spectrum unless otherwise authorized by the FCC;
    - This Agreement is not an assignment, sale or other transfer of the FCC License;
    - This Agreement may not be assigned except upon written consent of Sensus, which consent may be withheld in its discretion; and
    - In any event, Sensus will not consent to an assignment that does not satisfy FCC rules.
  - Referencing 47 CFR 1.9010, Sensus retains *de jure* and *de facto* control over the applicable radio facilities, including that;
    - Sensus will be responsible for Customer's compliance with FCC policies and rules. Sensus represents and warrants that it has engineered the FlexNet equipment and accompanying software and other programs to comply with FCC rules. Customer will operate the FlexNet equipment subject to Sensus' supervision and control and solely in accordance with Sensus' specifications. Sensus retains the right to inspect Customer's radio operations hereunder and to terminate this Agreement or take any other necessary steps to resolve a violation of FCC rules, including to order Customer to cease transmission. Sensus will act as spectrum manager in assigning spectrum under the FCC License so as to avoid any harmful interference or other violation of FCC rules. Sensus will be responsible for resolving any interference complaints or other FCC rule violations that may arise; and
    - Sensus will file any necessary FCC forms or applications and Customer agrees to reasonably assist Sensus with such filing by providing any necessary information or other cooperation. Sensus will otherwise interact with the FCC with respect to this Agreement, the FCC License or FlexNet equipment.
  - Customer must continue operations on the spectrum during the Term of this Agreement. If Customer stops operations for any period of time, Customer must notify Sensus by sending an email to legal@xyleminc.com. Customer may not pause or discontinue operations for more than 180 days.



- J. **Interference.** Customer agrees to report to Sensus promptly, and in no event later than 72 hours afterward, any incident related to the Leased Spectrum, including where Customer experiences harmful interference, receives a complaint or other notice of having caused harmful interference, or receives any type of communication from the FCC or other government agency regarding radio transmission.
4. **Equipment.**
- A. **Purchase of Equipment.** Customer shall purchase all Field Devices, RF Field Equipment, and other goods (collectively, "Equipment") from Sensus' authorized distributor pursuant to the terms and conditions (including any warranties on such Equipment) agreed by Customer and Sensus' authorized distributor. This Agreement shall not affect any terms and conditions, including any warranty terms, agreed by Customer and Sensus' authorized distributor. If Customer elects to purchase any equipment or services directly from Sensus, or if Customer pays any fees or other costs to Sensus, then Sensus' Terms of Sale shall apply. The "Terms of Sale" are available at: <https://www.sensus.com/tc>, or 1-800-METER-IT
- B. **THERE ARE NO WARRANTIES IN THIS AGREEMENT, EXPRESS OR IMPLIED. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.**
5. **Services.**
- A. **Installation of Equipment.** Installation services for Field Devices, other goods, and RF Field Equipment will be as agreed between the Customer and Sensus' authorized distributor. Sensus will not provide installation services pursuant to this Agreement
- B. **Technical Support.** Sensus shall provide Customer the technical support set forth in Exhibit B.
- C. **Project Management.** Sensus' authorized distributor will provide project management services to Customer. Any project management of the FlexNet System provided by Sensus shall be subject to a separate agreement which describes the scope and pricing for such work.
- D. **Training.** Sensus' authorized distributor will provide Customer with training on the use of the FlexNet System. Any training provided by Sensus shall be subject to a separate agreement which describes the scope and pricing for such work.
- E. **IT Systems Integration Services.** Except as may otherwise be provided herein, integration of the Software into Customer's new or existing internal IT systems is not included in this Agreement. Any integration work shall be subject to a separate agreement which describes the scope and pricing for such work.
6. **General Terms and Conditions.**
- A. **Infringement Indemnity.** Sensus shall indemnify and hold harmless Customer from and against any judgment by a court of competent jurisdiction or settlement reached from any litigation instituted against Customer in the United States by a third party which alleges that the FlexNet System provided hereunder infringes upon the patents or copyrights of such third party, provided that Sensus shall have the right to select counsel in such proceedings and control such proceedings. Notwithstanding the foregoing, Sensus shall have no liability under this indemnity unless Customer cooperates with and assists Sensus in any such proceedings and gives Sensus written notice of any claim hereunder within fourteen (14) days of receiving it. Further, Sensus shall have no liability hereunder if such claim is related to: (i) any change, modification or alteration made to the FlexNet System by Customer or a third party, (ii) use of the FlexNet System in combination with any goods or services not provided by Sensus hereunder, (iii) Customer's failure to use the most recent version of the Software or to otherwise take any corrective action as reasonably directed by Sensus, (iv) compliance by Sensus with any designs, specifications or instructions provided by Customer or compliance by Sensus with an industry standard, or (v) any use of the FlexNet System other than for the Permitted Use. In the event the FlexNet System is adjudicated to infringe a patent or copyright of a third party and its use is enjoined, or, if in the reasonable opinion of Sensus, the FlexNet System is likely to become the subject of an infringement claim, Sensus, at its sole discretion and expense, may: (i) procure for Customer the right to continue using the FlexNet System or (ii) modify or replace the FlexNet System so that it becomes non-infringing. THIS SECTION STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SENSUS' ENTIRE LIABILITY FOR ANY CLAIM OF INFRINGEMENT.
- B. **Limitation of Liability.** Sensus' aggregate liability in any and all causes of action arising under, out of or in relation to this Agreement, its negotiation, performance, breach or termination (collectively "Causes of Action") shall not exceed the greater of: (a) the total amount paid by Customer directly to Sensus' authorized distributor under this Agreement; or (b) ten thousand US dollars (USD 10,000.00). This is so whether the Causes of Action are in tort, including, without limitation, negligence or strict liability, in contract, under statute or otherwise. As separate and independent limitations on liability, Sensus' liability shall be limited to direct damages. Sensus shall not be liable for: (i) any indirect, incidental, special or consequential damages; nor (ii) any revenue or profits lost by Customer or its Affiliates from any End User(s), irrespective whether such lost revenue or profits is categorized as direct damages or otherwise; nor (iii) any In/Out Costs; nor (v) damages arising from maincase or bottom plate breakage caused by freezing temperatures, water hammer conditions, or excessive water pressure. The limitations on liability set forth in this Agreement are fundamental inducements to Sensus entering into this Agreement. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Sensus the maximum protection permitted under law.
- C. **Termination.** Either party may terminate this Agreement earlier if the other party commits a material breach of this Agreement and such material breach is not cured within forty-five (45) days of written notice by the other party. Upon any expiration or termination of this Agreement, Sensus' and Customer's obligations hereunder shall cease and the software as a service and Spectrum Lease shall immediately cease.
- D. **Force Majeure.** If either party becomes unable, either wholly or in part, by an event of Force Majeure, to fulfill its obligations under this Agreement, the obligations affected by the event of Force Majeure will be suspended during the continuance of that inability. The party affected by the force majeure will take reasonable steps to mitigate the Force Majeure.
- E. **Intellectual Property Rights.**
- i. **Software and Materials.** No Intellectual Property is assigned to Customer hereunder. Excluding Customer Data, Sensus shall own or continue to own all right, title, and interest in and to the Intellectual Property associated with the Software and related documentation, including any derivations and/or derivative works (the "Sensus IP"). To the extent, if any, that any ownership interest in and to such Sensus IP does not automatically vest in Sensus by virtue of this Agreement or otherwise, and instead vests in Customer, Customer agrees to grant and assign and hereby does grant and assign to Sensus all right, title, and interest that Customer may have in and to such Sensus IP. Customer agrees not to reverse engineer any Sensus Products purchased or provided hereunder.
- ii. **Customer Data.** Notwithstanding the prior paragraph, as between Customer and Sensus, Customer remains the owner of all right, title or interest in or to any Customer Data. "Customer Data" means solely usage data collected by the Field Devices. To avoid doubt, Customer Data does not include non-End User usage data collected by the Field Devices, Software, or FlexNet System, such as network and equipment status information or the like.
- iii. **Consent to Use of Customer Data.** Customer hereby irrevocably grants to Sensus a royalty-free, non-exclusive, irrevocable right and license to access, store, and use such Customer Data and any other data or information provided to Sensus, to (1) provide the Service; (2) analyze and improve the Service; (3) analyze and improve any Sensus equipment or software; or (4) for any other internal use. As used herein, "Service" means Sensus' obligations under this Agreement.



- iv. **Copy of Customer Data.** Upon Customer's written request, Sensus will provide Customer a quote to deliver a CMEP file consisting of the most recent 60 days of CMEP interval file data. Sensus will deliver the CMEP file in accordance with the quote upon Customer's acceptance of the quote.
- F. **Data Privacy.** Customer acknowledges that Sensus and its Affiliates (collectively, "Xylem") will collect and process personal data for the purposes outlined in this Agreement. Xylem's data privacy policy is available at <https://www.xylem.com/en-us/support/privacy/>. Customer acknowledges that it has read and understood Xylem's privacy policy and agrees to the use of personal data outlined therein. The collection and use of personal data by Customer is Customer's responsibility.
- G. **Confidentiality.** Except as may be required under applicable law, court order, or regulation, or to the extent required to perform and enforce this Agreement, both parties shall (and shall cause their employees and contractors to) keep all Confidential Information strictly confidential and shall not disclose it to any third party. The Confidential Information may be transmitted orally, in writing, electronically or otherwise observed by either party. Notwithstanding the foregoing, "Confidential Information" shall not include: (i) any information that is in the public domain other than due to Recipient's breach of this Agreement; (ii) any information in the possession of the Recipient without restriction prior to disclosure by the Discloser; or (iii) any information independently developed by the Recipient without reliance on the information disclosed hereunder by the Discloser. "Discloser" means either party that discloses Confidential Information, and "Recipient" means either party that receives it.
- H. **Compliance with Laws.** Customer shall comply with all applicable country, federal, state, and local laws and regulations, as set forth at the time of acceptance and as may be amended, changed, or supplemented. Customer shall not take any action, or permit the taking of any action by a third party, which may render Sensus liable for a violation of applicable laws.
- i. **Export Control Laws.** Customer shall: (i) comply with all applicable U.S. and local laws and regulations governing the use, export, import, re-export, and transfer of products, technology, and services; and (ii) obtain all required authorizations, permits, and licenses. Customer shall immediately notify Sensus, and immediately cease all activities with regards to the applicable transaction, if the Customer knows or has a reasonable suspicion that the equipment, software, or services provided hereunder may be directed to countries in violation of any export control laws. By ordering equipment, software or services, Customer certifies that it is not on any U.S. government export exclusion list.
- ii. **Anti-Corruption Laws.** Customer shall comply with the United States Foreign Corrupt Practices Act (FCPA), 15 U.S.C. §§ 78dd-1, et seq.; laws and regulations implementing the OECD's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; the U.N. Convention Against Corruption; the Inter-American Convention Against Corruption; and any other applicable laws and regulations relating to anti-corruption in the Customer's country or any country where performance of this Agreement, or delivery or use of equipment, software or services will occur.
- I. **Non-Waiver of Rights.** A waiver by either party of any breach of this Agreement or the failure or delay of either party to enforce any of the articles or other provisions of this Agreement will not in any way affect, limit or waive that party's right to enforce and compel strict compliance with the same or other articles or provisions.
- J. **Assignment and Sub-contracting.** Either party may assign, transfer or delegate this Agreement without requiring the other party's consent; (i) to an Affiliate; (ii) as part of a merger; or (iii) to a purchaser of all or substantially all of its assets. Apart from the foregoing, neither party may assign, transfer or delegate this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. Furthermore, Customer acknowledges Sensus may use subcontractors to perform RF Field Equipment installation, the systems integration work (if applicable), or project management (if applicable), without requiring Customer's consent.
- K. **Amendments.** No alteration, amendment, or other modification shall be binding unless in writing and signed by both Customer and by a vice president (or higher) of Sensus.
- L. **Governing Law and Dispute Resolution.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of California. Any and all disputes arising under, out of, or in relation to this Agreement, its negotiation, performance or termination ("Disputes") shall first be resolved by mediation between the Parties. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PARTIES AGREE TO A BENCH TRIAL AND THAT THERE SHALL BE NO JURY IN ANY DISPUTES.
- M. **Acknowledgement of Events.** The Parties acknowledge and agree that the global COVID-19 pandemic ("COVID-19") is ongoing, dynamic, unpredictable, and as such may impact the ability of Sensus to meet its obligations under this Agreement. The Parties agree that, for so long as there is an impact of COVID-19 on Sensus' performance, all performance efforts by Sensus will be on a reasonable efforts basis only and Sensus shall not be responsible for failure to meet its obligations, to the extent that it is precluded from doing so as a result of COVID-19. The Parties shall work, in good faith, to make any reasonable adjustments that may be required as a result of COVID-19.
- N. **Survival.** The provisions of this Agreement that are applicable to circumstances arising after its termination or expiration shall survive such termination or expiration.
- O. **Severability.** In the event any provision of this Agreement is held to be void, unlawful or otherwise unenforceable, that provision will be severed from the remainder of the Agreement and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible; and the Agreement, as so modified, will continue to be in full force and effect.
- P. **Four Corners.** This written Agreement, including all of its exhibits, represents the entire understanding between and obligations of the parties and supersedes all prior understandings, agreements, negotiations, and proposals, whether written or oral, formal or informal between the parties. Any additional writings shall not modify any limitations or remedies provided in the Agreement. There are no other terms or conditions, oral, written, electronic or otherwise. There are no implied obligations. All obligations are specifically set forth in this Agreement. Further, there are no representations that induced this Agreement that are not included in it. The ONLY operative provisions are set forth in writing in this Agreement. Without limiting the generality of the foregoing, no purchase order placed by or on behalf of Customer shall alter any of the terms of this Agreement. The parties agree that such documents are for administrative purposes only, even if they have terms and conditions printed on them and even if and when they are accepted and/or processed by Sensus. Any goods, software or services delivered or provided in anticipation of this Agreement (for e.g., as part of a pilot or because this Agreement has not yet been signed but the parties have begun the deployment) under purchase orders placed prior to the execution of this Agreement are governed by this Agreement upon its execution and it replaces and supersedes any such purchase orders.
- Q. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Additionally, this Agreement may be executed by facsimile or electronic copies, all of which shall be considered an original for all purposes.
7. **Definitions. As used in this Agreement, the following terms shall have the following meanings:**
- A. **"Affiliate"** of a party means any other entity controlling, controlled by, or under common control with such party, where "control" of an entity means the ownership, directly or indirectly, of 50% or more of either; (i) the shares or other equity in such entity; or (ii) the voting rights in such entity.
- B. **"Confidential Information"** means any and all non-public information of either party, including all technical information about either party's products or services, pricing information, marketing and marketing plans, Customer's End Users' data, FlexNet System performance, FlexNet System architecture and design, FlexNet System software, other business and financial information of either party, and all trade secrets of either party.
- C. **"End User"** means any end user of electricity, water, and/or gas (as applicable) that pays Customer for the consumption of electricity, water, and/or gas, as applicable.
- D. **"Field Devices"** means the SmartPoint Modules.
- E. **"FlexNet Base Station"** identifies the Sensus manufactured device consisting of one transceiver, to be located on a tower that receives readings from the SmartPoint



Modules (either directly or via an R100 unit) by radio frequency and passes those readings to the RNI by TCP/IP backhaul communication. For clarity, FlexNet Base Stations include Metro Base Stations.

- F. **"FlexNet System"** is comprised of the SmartPoint Modules, RF Field Equipment, Server Hardware, software licenses, Spectrum Lease, and other equipment provided to Customer hereunder. The FlexNet System only includes the foregoing, as provided by Sensus. The FlexNet System does not include goods, equipment, software, licenses or rights provided by a third party or parties to this Agreement.
- G. **"Force Majeure"** means an event beyond a party's reasonable control, including, without limitation, acts of God, hurricane, flood, volcano, tsunami, tornado, storm, tempest, mudslide, vandalism, illegal or unauthorized radio frequency interference, strikes, lockouts, or other industrial disturbances, unavailability of component parts of any goods provided hereunder, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, restraints or prohibitions by any court, board, department, commission or agency of the United States or any States, any arrests and restraints, civil disturbances and explosion.
- H. **"Hosted Software"** means those items listed as an Application in Exhibit A.
- I. **"In/Out Costs"** means any costs and expenses incurred by Customer in transporting goods between its warehouse and its End User's premises and any costs and expenses incurred by Customer in installing, uninstalling and removing goods.
- J. **"Intellectual Property"** means patents and patent applications, inventions (whether patentable or not), trademarks, service marks, trade dress, copyrights, trade secrets, know-how, data rights, specifications, drawings, designs, maskwork rights, moral rights, author's rights, and other intellectual property rights, including any derivations and/or derivative works, as may exist now or hereafter come into existence, and all renewals and extensions thereof, regardless of whether any of such rights arise under the laws of the United States or of any other state, country or jurisdiction, any registrations or applications thereof, and all goodwill pertinent thereto.
- K. **"LCM"** identifies the load control modules.
- L. **"Ongoing Fee"** means the annual or monthly fees, as applicable, to be paid by Customer to Sensus' authorized distributor during the Term of this Agreement.
- M. **"Patches"** means patches or other maintenance releases of the Software that correct processing errors and other faults and defects found previous versions of the Software. For clarity, Patches are not Updates or Upgrades.
- N. **"Permitted Use"** means only for reading Customer's Field Devices in the Service Territory. The Permitted Use does not include reading third devices not provided by Sensus or reading Field Devices outside the Service Territory.
- O. **"R100 Unit"** identifies the Sensus standalone, mounted transceiver that takes the radio frequency readings from the SmartPoint Modules and relays them by radio frequency to the relevant FlexNet Base Station or directly to the RNI by TCP/IP backhaul communication, as the case may be.
- P. **"Release"** means both Updates and Upgrades.
- Q. **"Remote Transceiver"** identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them directly to the RNI by TCP/IP backhaul communication.
- R. **"RF Field Equipment"** means, collectively, FlexNet Base Stations, R100 units (if any) and Remote Transceivers (if any).
- S. **"RNI"** identifies the regional network interfaces consisting of hardware and software used to gather, store, and report data collected by the FlexNet Base Stations from the SmartPoint Modules. The RNI hardware specifications will be provided by Sensus upon written request from Customer.
- T. **"RNI Software"** identifies the Sensus proprietary software used in the RNI and any Patches, Updates, and Upgrades that are provided to Customer pursuant to the terms of this Agreement.
- U. **"Service Territory"** identifies the geographic area where Customer utilizes Sensus equipment to provide services to End Users as of the Effective Date. This area will be described on the propagation study in the parties' Spectrum Lease filing with the FCC.
- V. **"Server Hardware"** means the RNI hardware.
- W. **"SmartPoint™ Modules"** identifies the Sensus transmission devices installed on devices such as meters, distribution automation equipment and demand/response devices located at Customer's End Users' premises that communicate with the relevant devices and transmit those communications by radio frequency to the relevant piece of RF Field Equipment.
- X. **"Software"** means all the Sensus proprietary software provided pursuant to this Agreement, and any Patches, Updates, and Upgrades that are provided to Customer pursuant to the terms of this Agreement. The Software does not include any third party software.
- Y. **"Updates"** means releases of the Software that constitute a minor improvement in functionality.
- Z. **"Upgrades"** means releases of the Software which constitute a significant improvement in functionality or architecture of the Software.
- AA. **"WAN Backhaul"** means the communication link between FlexNet Base Stations and Remote Transceivers and RNI.



## Exhibit A Software

### Software as a Service

#### 1. Description of Services.

This exhibit contains the details of the Software as a Service that Sensus shall provide to Customer if both; (i) pricing for the application of Software as a Service has been provided to the Customer; and (ii) the Customer is current in its payments to Sensus' authorized distributor for such application of Software as a Service.

##### A. Software as a Service Generally.

Software as a Service is a managed service in which Sensus will be responsible for the day-to-day monitoring, maintenance, management, and supporting of Customer's software applications. In a Software as a Service solution, Sensus owns all components of the solution (server hardware, storage, data center, network equipment, Sensus software, and all third-party software) required to run and operate the application. These software applications consist of the following (each an "Application"):

- Regional Network Interface (RNI) Software

The managed application systems consist of the hardware, Sensus Software, and other third-party software that is required to operate the software applications. Each Application will have a production, and Disaster Recovery (as described below) environment Test environments are not provided unless otherwise specifically agreed by Sensus in writing. Sensus will manage the Applications by providing 24 x 7 x 365 monitoring of the availability and performance of the Applications.

B. **Use of Software as a Service.** Subject to the terms of this Agreement, Sensus shall make Software as a Service available to Customer to access and use solely for the Permitted Use and solely for so long as Customer is current in its payments to Sensus or its authorized distributor for Software as a Service. The Software as a Service term commences on the date that Sensus first makes Software as a Service available to Customer for use, and ends upon the earlier of: (i) the expiration or termination of the Agreement; (ii) breach by Customer of this exhibit or the Agreement; or (iii) Customer's termination of Software as a Service as set forth in paragraph (C) below.

C. **Termination of an Application.** Customer shall have the option at any time before the end of the Term to terminate any Application by giving Sensus one hundred twenty (120) days prior written notice. Such notice, once delivered to Sensus, is irrevocable. Should Customer elect to terminate any Application, Customer acknowledges that; (a) Customer shall pay all applicable fees, including any unpaid Software as a Service fees due in the current calendar year plus a ten percent (10%) early termination fee, where such fee is calculated based on the annual Software as a Service fee due in the current calendar year; and (b) Software as a Service for such Application shall immediately cease. If Customer elects to terminate the RNI Application in the Software as a Service environment but does not terminate the Agreement generally, then upon delivery of the notice to Sensus, Customer shall purchase the necessary (a) RNI hardware from a third party and (b) RNI software license at Sensus' then-current pricing. No portion of the Software as a Service fees shall be applied to the purchase of the RNI hardware or software license.

##### D. Software as a Service means only the following services:

- Sensus will provide the use of required hardware, located at Sensus' or a third-party's data center facility (as determined by Sensus), that is necessary to operate the Application.
- Sensus will provide production and disaster recovery environments for Application.
- Sensus will provide patches, updates, and upgrades to latest Sensus Hosted Software release.
- Sensus will configure and manage the equipment (server hardware, routers, switches, firewalls, etc.) in the data centers:
  - Network addresses and virtual private networks (VPN)
  - Standard time source (NTP or GPS)
  - Security access points
  - Respond to relevant alarms and notifications
- Capacity and performance management. Sensus will:
  - Monitor capacity and performance of the Application server and software applications 24x7x365 using KPI metrics, thresholds, and alerts to proactively identify any potential issues related to system capacity and/or performance (i.e. database, backspool, logs, message broker storage, etc.)
  - If an issue is identified to have a potential impact to the system, Sensus will open an incident ticket and manage the ticket through resolution per Exhibit B, Technical Support.
  - Manage and maintain the performance of the server and perform any change or configuration to the server, in accordance to standard configuration and change management policies and procedures.
  - Manage and maintain the server storage capacity and performance of the Storage Area Network (SAN), in accordance to standard configuration and change management policies and procedures.
  - Exceptions may occur to the system that require Sensus to take immediate action to maintain the system capacity and performance levels, and Sensus has authority to make changes without Customer approval as needed, in accordance to standard configuration and change management policies and procedures.
- Database management. Sensus will:
  - Implement the data retention plan and policy, and will provide the policy upon request.
  - Monitor space and capacity requirements.
  - Respond to database alarms and notifications.
  - Install database software upgrades and patches.
  - Perform routine database maintenance and cleanup of database to improve capacity and performance, such as rebuilding indexes, updating indexes, consistency checks, run SQL query/agent jobs, etc.
- Incident and Problem Management. Sensus will:
  - Proactively monitor managed systems (24x7x365) for key events and thresholds to proactively detect and identify incidents.
  - Respond to incidents and problems that may occur to the Application(s).
  - Maintain policies and procedures for responding to incidents and performing root cause analysis for ongoing problems.
  - Correlate incidents and problems where applicable.
  - Sensus personnel will use the self-service portal to document and track incidents.
  - In the event that Sensus personnel is unable to resolve an issue, the issue will be escalated to the appropriate Subject Matter Expert (SME).



- (g) Maintain responsibility for managing incident and problems through resolution and will coordinate with Customer's personnel and/or any required third-party vendor to resolve the issue.
- (h) Provide telephone support consistent with Exhibit B, Technical Support in the case of undetected events.
- viii. Security Management. Sensus will:
  - (a) Monitor the physical and cyber security of the server and Application(s) 24x7x365 to ensure system is highly secure in accordance with NIST Security Standards.
  - (b) Perform active intrusion prevention and detection of the data center network and firewalls, and monitor logs and alerts.
  - (c) Conduct period penetration testing of the network and data center facilities.
  - (d) Conduct monthly vulnerability scanning by both internal staff and external vendors.
  - (e) Perform anti-virus and Malware patch management on all systems.
  - (f) Install updates to virus protection software and related files (including virus signature files and similar files) on all servers from the update being generally available from the anti-virus software provider.
  - (g) Respond to any potential threat found on the system and work to eliminate any virus or malware found.
  - (h) Adhere to and submit certification to NERC/CIP Cyber Security standards.
  - (i) Monitors industry regulation/standards regarding security – NERC, FERC, NIST, OpenSG, etc. through the dedicated Sensus security team.
  - (j) Provide secure web portal access (SSL) to the Application(s).
- ix. Backup and Disaster Recovery Management. Sensus will:
  - (a) Perform daily backups of data providing one (1) year of history for auditing and restoration purposes.
  - (b) Back-up and store data (on tapes or other storage media as appropriate) off-site to provide protection against disasters and to meet file recovery needs.
  - (c) Conduct incremental and full back-ups to capture data, and changes to data, on the Application(s).
  - (d) Replicate the Application(s) environments to a geographically separated data center location to provide a full disaster recovery environment for the Application production system.
  - (e) Provide disaster recovery environment and perform fail-over to Disaster Recovery environment within forty-eight (48) hours of declared event.
  - (f) Generate a report following each and any disaster measuring performance against the disaster recovery plan and identification of problem areas and plans for resolution.
  - (g) Maintain a disaster recovery plan. In the event of a disaster, Sensus shall provide the services in accordance with the disaster recovery plan.
  - (h) In the case of a disaster and loss of access to or use of the Application, Sensus would use commercially reasonable efforts per the Recovery Time Objectives (RTO) and Recovery Point Objectives (RPO) specified herein to restore operations at the same location or at a backup location within forty-eight (48) hours.
  - (i) The Application shall have a RTO of forty-eight (48) hours.
  - (j) The RPO shall be a full recovery of the Application(s), with an RPO of one (1) hours, using no more than a twenty-four (24) hour old backup. All meter-related data shall be pushed from each Base Station/TGB restoring the database to real-time minus external interfaced systems from the day prior.
  - (k) Data from external interfaced systems shall be recreated within a forty-eight (48) hour period with the assistance of Customer personnel and staff, as needed.

**E. Customer Responsibilities:**

- i. Coordinate and schedule any changes submitted by Sensus to the system in accordance with standard configuration and change management procedures.
- ii. Participate in all required configuration and change management procedures.
- iii. Customer will log incidents related to the managed Application with Sensus personnel via email, web portal ticket entry, or phone call.
- iv. Responsible for periodic processing of accounts or readings (i.e., billing files) for Customer's billing system for billing or other analysis purposes.
- v. Responsible for any field labor to troubleshoot any SmartPoint modules or smart meters in the field in populations that have been previously deployed and accepted.
- vi. First response labor to troubleshoot FlexNet Base Station, R100s, Remote Transceivers or other field network equipment.
- vii. Responsible for local area network configuration, management, and support.
- viii. Identify and research problems with meter reads and meter read performance.
- ix. Create and manage user accounts.
- x. Customize application configurations.
- xi. Support application users.
- xii. Investigate application operational issues (e.g., meter reads, reports, alarms, etc.).
- xiii. Respond to alarms and notifications.
- xiv. Perform firmware upgrades over-the-air, or delegate and monitor field personnel for on-site upgrades.

**F. Software as a Service** does not include any of the following services:

- i. Parts or labor required to repair damage to any field network equipment that is the result of a Force Majeure event.
- ii. Any integration between applications, such as Harris MeterSense, would require a Professional Services contract agreement to be scoped, submitted, and agreed in a signed writing between Sensus and all the applicable parties.

**If an item is not listed in subparagraphs in item (D) above, such item is excluded from the Software as a Service and is subject to additional pricing.**

**2. Further Agreements**

**A. System Uptime Rate.**

- i. Sensus (or its contractor) shall manage and maintain the Application(s) on computers owned or controlled by Sensus (or its contractors) and shall provide Customer access to the managed Application(s) via internet or point to point connection (i.e., Managed-Access use), according to the terms below. Sensus endeavors to maintain an average System Uptime Rate equal to ninety-nine (99.0) per Month (as defined below). The System Uptime Rate, cumulative across all Applications, shall be calculated as follows:

$$\text{System Uptime Rate} = 100 \times \frac{\text{TMO} - \text{Total Non-Scheduled Downtime minutes in the Month}}{\text{TMO}}$$



ii. **Calculations**

- a. **Targeted Minutes of Operation** or **TMO** means total minutes cumulative across all Applications in the applicable month minus the Scheduled Downtime in the Month.
- b. **Scheduled Downtime** means the number of minutes during the Month, as measured by Sensus, in which access to any Application is scheduled to be unavailable for use by Customer due to planned system maintenance. Sensus shall provide Customer notice (via email or otherwise) at least seven (7) days in advance of commencement of the Scheduled Downtime.
- c. **Non-Scheduled Downtime** means the number of minutes during the Month, as measured by Sensus, in which access to any Application is unavailable for use by Customer due to reasons other than Scheduled Downtime or the Exceptions, as defined below (e.g., due to a need for unplanned maintenance or repair).

iii. **Exceptions.** Exceptions mean the following events:

- Force Majeure
- Emergency Work, as defined below; and
- Lack of Internet Availability, as described below.

a. **Emergency Work.** In the event that Force Majeure, emergencies, dangerous conditions or other exceptional circumstances arise or continue during TMO, Sensus shall be entitled to take any actions that Sensus, in good faith, determines is necessary or advisable to prevent, remedy, mitigate, or otherwise address actual or potential harm, interruption, loss, threat, security or like concern to any of the Application(s) ("**Emergency Work**"). Such Emergency Work may include, but is not limited to: analysis, testing, repair, maintenance, re-setting and other servicing of the hardware, cabling, networks, software and other devices, materials and systems through which access to and/or use of the Application(s) by the Customer is made available (the "**Managed Systems**"). Sensus shall endeavor to provide advance notice of such Emergency Work to Customer when practicable and possible.

b. **Lack of Internet Availability.** Sensus shall not be responsible for any deterioration of performance attributable to latencies in the public internet or point-to-point network connection operated by a third party. Customer expressly acknowledges and agrees that Sensus does not and cannot control the flow of data to or from Sensus' networks and other portions of the Internet, and that such flow depends in part on the performance of Internet services provided or controlled by third parties, and that at times, actions or inactions of such third parties can impair or disrupt data transmitted through, and/or Customer's connections to, the Internet or point-to-point data connection (or portions thereof). Although Sensus will use commercially reasonable efforts to take actions Sensus may deem appropriate to mitigate the effects of any such events, Sensus cannot guarantee that such events will not occur. Accordingly, Sensus disclaims any and all liability resulting from or relating to such events.

iv. **System Availability.** For each month that the System Uptime Rates for the production RNI falls below 99.0%, Sensus will issue Customer the following Service Level Credits:

System Uptime Rate per calendar month	Service Level Credit
Less than 99.0% but at least 97.5%	5% of the monthly RNI SaaS Fees in which the service level default occurred (Note: SaaS fees are pre-paid annually and for purposes of SLA Credits are computed on a monthly basis.)
Less than 97.5% but at least 95.0%	10% of the monthly RNI SaaS Fees in which the service level default occurred
Less than 95.0%	20% of the monthly RNI SaaS Fees in which the service level default occurred

Service Level Credits for any single month shall not exceed 20% of the RNI SaaS Fee associated with the month in which the service level default occurred. Sensus records and data will be the sole basis for all Service Level Credit calculations and determinations, provided that such records and data must be made available to Customer for review and agreement by Customer. To receive a Service Level Credit, Customer must issue a written request no later than ten (10) days after the Service Level Credit has accrued. Sensus will apply each valid Service Level Credit to the Customer's invoice within 2 billing cycles after Sensus' receipt of Customer's request and confirmation of the failure to meet the applicable Service Level Credit. Service Level Credits will not be payable for failures to meet the System Uptime Rate caused by any Exceptions. No Service Level Credit will apply if Customer is not current in its undisputed payment obligations under the Agreement. Service Level Credits are exclusive of any applicable taxes charged to Customer or collected by Sensus. Sensus shall not refund an unused Service Level Credits or pay cash to Customer for any unused Service Level Credits. Any unused Service Level Credits at the time the Agreement terminates will be forever forfeited. THE SERVICE LEVEL CREDITS DESCRIBED IN THIS SECTION ARE THE SOLE AND EXCLUSIVE REMEDY FOR SENSUS' FAILURE TO MEET THE SYSTEM UPTIME REQUIREMENT OR ANY DEFECTIVE SAAS PERFORMANCE. IN NO EVENT SHALL THE AGGREGATE AMOUNT OF SERVICE LEVEL CREDITS IN ANY ANNUAL PERIOD EXCEED 20% OF THE ANNUAL RNI SAAS FEE.

B. **Data Center Site-Security.** Although Sensus may modify such security arrangements without consent or notice to Customer, Customer acknowledges the following are the current arrangements regarding physical access to and support of the primary hardware components of the Managed Systems:

- i. The computer room(s) in which the hardware is installed is accessible only to authorized individuals.
- ii. Power infrastructure includes one or more uninterruptible power supply (UPS) devices and diesel generators or other alternative power for back-up electrical power.
- iii. Air-conditioning facilities (for humidity and temperature controls) are provided in or for such computer room(s) and can be monitored and adjusted for humidity and temperature settings and control. Such air systems are supported by redundant, back-up and/or switch-over environmental units.
- iv. Such electrical and A/C systems are monitored on an ongoing basis and personnel are available to respond to system emergencies (if any) in real time.
- v. Dry pipe pre-action fire detection and suppression systems are provided.
- vi. Data circuits are available via multiple providers and diverse paths, giving access redundancy.

C. **Responsibilities of Customer.**

- i. Customer shall promptly pay all Software as a Service fees.
- ii. Customer may not (i) carelessly, knowingly, intentionally or maliciously threaten, disrupt, harm, abuse or interfere with the Application(s), Managed Systems or any of their functionality, performance, security or integrity, nor attempt to do so; (ii) impersonate any person or entity, including, but not limited to, Sensus, a Sensus employee or another user; or (iii) forge, falsify, disguise or otherwise manipulate any identification information associated with Customer's access to or use of the Application(s).
- iii. The provisioning, compatibility, operation, security, support, and maintenance of Customer's hardware and software ("**Customer's Systems**") is exclusively the responsibility of Customer. Customer is also responsible, in particular, for correctly configuring and maintaining (i) the desktop environment used by Customer to access the Application(s) managed by Sensus; and (ii) Customer's network router and firewall, if applicable, to allow



data to flow between the Customer's Systems and Sensus' Managed Systems in a secure manner via the public Internet.

- iv. Upon receiving the system administrator account from Sensus, Customer shall create username and passwords for each of Customer's authorized users and complete the applicable Sensus registration process (Authorized Users). Such usernames and passwords will allow Authorized Users to access the Application(s). Customer shall be solely responsible for maintaining the security and confidentiality of each user ID and password pair associated with Customer's account, and Sensus will not be liable for any loss, damage or liability arising from Customer's account or any user ID and password pairs associated with Customer. Customer is fully responsible for all acts and omissions that occur through the use of Customer's account and any user ID and password pairs. Customer agrees (i) not to allow anyone other than the Authorized Users to have any access to, or use of Customer's account or any user ID and password pairs at any time; (ii) to notify Sensus immediately of any actual or suspected unauthorized use of Customer's account or any of such user ID and password pairs, or any other breach or suspected breach of security, restricted use or confidentiality; and (iii) to take the Sensus-recommended steps to log out from and otherwise exit the Application(s) and Managed Systems at the end of each session. Customer agrees that Sensus shall be entitled to rely, without inquiry, on the validity of the user accessing the Application(s) application through Customer's account, account ID, usernames or passwords.
- v. Customer shall be responsible for the day-to-day operations of the Application(s) and FlexNet System. This includes, without limitation, (i) researching problems with meter reads and system performance, (ii) creating and managing user accounts, (iii) customizing application configurations, (iv) supporting application users, (v) investigating application operational issues, (vi) responding to alarms and notifications, and (vii) performing over-the-air commands (such as firmware updates or configuration changes).

**D. Software Solution Components.**

- i. **Description of Software Solutions.** Sensus software consists of a core communication module and a set of applications. Some applications are required to perform basic solution capabilities, other applications are optional and add additional capabilities and function to the overall solution. As Customer's business process expands and/or new Sensus offerings are made available, additional applications and functionality can dynamically be added to the solution, provided Customer purchases such additional applications.
- ii. **Regional Network Interface.** The Regional Network Interface (RNI) or Sensus head-end is the centralized intelligence of the FlexNet network; the RNI's primary objective is to transfer endpoint (such as meters) data to the Customer and the advanced feature applications. The RNI is adaptable to Customer configurations by simultaneously supporting a wide range of FlexNet enabled endpoints; including but not limited to meters (electric, water, gas), street lighting, and Home Area Network devices.
  - a. **Core Package**
    - (i) **Communication**
      1. Manages all inbound and outbound traffic to and from endpoints
      2. Outbound routing optimization
      3. Route analyzer
      4. AES256 bit encryption of radio messages
      5. Reports and metric details of network performance and troubleshooting aids
      6. Management of RF equipment (base stations and endpoint radios)
    - (ii) **Data Collection**
      1. Missing read management
      2. Management of duplicate reads
      3. 60 day temporary storage
    - (iii) **Application integration**
      1. To Sensus Analytics applications
      2. Enable 3<sup>rd</sup> party application integration
      3. Batch CMEP file export
      4. Real-time access through MultiSpeak
    - (iv) **Endpoint Management**
      1. Gas, water, electric, lighting concurrent support
      2. Remote configuration
      3. Remote firmware updates
      4. Reports, metrics and Troubleshooting
    - (v) **User Management**
      1. Secure access
      2. Password management
      3. Definable user roles
      4. User permissions to manage access to capabilities
  - b. **Integration of RNI.** Sensus shall provide RNI integration support services to Customer only to the extent specifically provided below:
    - (i) Sensus shall meet with the representative from the Customer's system(s) targeted for integration to determine which integration method is appropriate (e.g., Multispeak, CMEP, etc.).
      1. In scope and included integration efforts: Provide the gateway URLs to the integrating system as needed, provide Customer with standard integration API documentation, validate and test that the correct Customer information is flowing into and/or out of the RNI.
      2. Out of scope and subject to additional charges: Modifications or extensions to the standard API provided by Sensus and any integration efforts not outlined above as in scope and included.
    - (ii) **Customer Responsibilities:**
      1. Provide Sensus with information about the relevant information Customer wishes to transfer and integrate with the RNI.
      2. Establish the network and security required for the two systems to reasonably communicate.
      3. Verify integration to third party system functionality is working as intended.
    - (iii) If an item is not listed in subparagraph (i) above, such item is excluded from the integration of Sensus RNI Support and is subject to additional pricing.

**3. Third Party Software.**

- A. RedHat Linux.** If Sensus is providing Customer with a license to use RedHat Linux Software, Customer agrees to the following:

By entering into this Agreement, Customer agrees to abide by and to be legally bound by the terms and conditions of the Red Hat End User License Agreements identified below, each of which are incorporated into this Agreement by reference and are available at the websites identified below. Please read the Red Hat End User License Agreements and incorporated references carefully.

Subscription:

Red Hat Enterprise Linux

JBoss Enterprise Middleware

End User License Agreement:

[http://www.redhat.com/licenses/rhel\\_rha\\_eula.html](http://www.redhat.com/licenses/rhel_rha_eula.html)

[http://www.redhat.com/licenses/jboss\\_eula.html](http://www.redhat.com/licenses/jboss_eula.html)



## Exhibit B Technical Support

### 1. Introduction

Sensus Technical Services provides utility customers with a single point of contact for Tier 1 support of technical issues as well as any coordination of additional resources required to resolve the issue. Requests that require specialized skills are to be forwarded to a senior support engineer or Technical Advisor within the team for further analysis. If Technical Services has exhausted all troubleshooting efforts for the product type, the issue will escalate to the Engineering Support Team. Occasionally, on-site troubleshooting/analysis may be required. The preferred order of on-site support is:

- a) The Customer (for assistance with the easiest and lowest time-consuming activities such as power on/power off).
- b) The local distributor.
- c) Sensus employees or contracted personnel, if required to fulfill a contract commitment.

### 2. Support Categories

- 2.1. General questions regarding functionality, use of product, how-to, and requests for assistance on Sensus AMR, AMI, RF Network Equipment, Metering Products, Sensus Lighting Control, and Demand Response Management System (FlexNet Home).
- 2.2. Proactive reporting and resolution of problems.
- 2.3. Reactive reporting to isolate, document, and solve reported hardware/software defects.
- 2.4. Responding to service requests and product changes.
- 2.5. Addressing customer inquiries with printed or electronic documentation, examples, or additional explanation/clarification.

### 3. Support Hours

- 3.1. Standard Support Hours: Toll-free telephone support (1-800-638-3748 option #2) is available Monday thru Friday from 8:00 a.m. EST to 8:00 p.m. EST. After-hours, holiday and weekend support for Severity 1 and Severity 2 issues is available by calling 1-800-638-3748, option #8.

### 4. Support Procedures

- 4.1. Customer identifies an issue or potential problem and calls Technical Services at 1-800-638-3748 Option #2. The Customer Service Associate or Technical Support Engineer will submit a Salesforce ticket.
- 4.2. The Customer Service Associate or Technical Support Engineer will identify the caller name and utility by the assigned software serial number, city, and state based on where the call originated. The Customer Service Associate or Technical Support Engineer will require a brief description of the problem symptoms, or error messages depending on nature of the incident. The nature of the problem and severity levels will be mutually agreed upon by both parties (either at the time the issue is entered or prior to upgrading or downgrading an existing issue) using the severity definitions below as a guideline. The severity level is then captured into Salesforce for ticket creation and resolution processing. Any time during the processing of this ticket, if the severity level is changed by Sensus, the customer will be updated.

#### A. Severity Levels Description:

**Sev1** Customer's production system is down. The system is unusable resulting in total disruption of work. No workaround is available and requires immediate attention.

Example: Network mass outage, all reading collection devices inoperable, inoperable head end software (e.g., FlexWare, Sensus MDM). Not able to generate billing files.

**Sev2** Major system feature/function failure. Operations are severely restricted; there is a major disruption of work, no acceptable work-around is available, and failure requires immediate attention.

Examples: Examples: Network equipment failure (e.g., FlexNet Echo, FlexNet Remote, Base Station transceiver, or VGB); inoperable reading devices (e.g., AR5500, VXU, VGB, or CommandLink); head end software application has important functionality not working and cannot create export file for billing system operations.

**Sev3** The system is usable and the issue doesn't affect critical overall operation.

Example: Minor network equipment failure (e.g., Echo/Remote false alarms or Base Station transceiver false alarms); head end software application operable but reports are not running properly, modification of view or some non-critical function of the software is not running.

- 4.3. The Customer Service Associate or Technical Support Engineer identifies whether or not the customer is on support. If the customer is not on support, the customer is advised of the service options as well as any applicable charges that may be billed.
- 4.4. Calls are placed in a queue from which they are accessible to Technical Support Engineers on a first-come-first-served basis. A 1st level Customer Service Associate may assist the customer, depending on the difficulty of the call and the representative's technical knowledge. Technical Support Engineers (Tier 1 support) typically respond/resolve the majority of calls based on their product knowledge and experience. A call history for the particular account is researched to note any existing pattern or if the call is a new report. This research provides the representative a basis and understanding of the account as well as any associated problems and/or resolutions that have been communicated.
  - a. Technical Services confirms that there is an issue or problem that needs further analysis to determine its cause. The following information must be collected: a detailed description of the issue's symptoms, details on the software/hardware product and version, a description of the environment in which the issue arises, and a list of any corrective action already taken.
  - b. Technical Services will check the internal database and product defect tracking system, to see if reports of a similar problem exist, and if any working solutions were provided. If an existing resolution is found that will address the reported issue, it shall be communicated to the customer. Once it is confirmed that the issue has been resolved, the ticket is closed.
  - c. If there is no known defect or support that defines the behavior, Technical Services will work with the customer to reproduce the issue. If the issue can be reproduced, either at the customer site or within support center test lab, Technical Services will escalate the ticket for further investigation / resolution.

If the issue involves units that are considered to be defective with no known reason, the representative will open a Special Investigation RMA through the Salesforce system. If it is determined that a sample is required for further analysis, the customer will be provided with instructions that detail where to send the product sample(s) for a root cause analysis. Once it is determined that the issue cannot be resolved by Tier 1 resources, the ticket will be escalated to Tier 2 support for confirmation/workarounds to resolve immediate issue. Technical Services will immediately contact the customer to advise of the escalation. The response and escalation times are listed in Section 5. At this time, screen shots, log files, configuration files, and database backups will be created and attached to the ticket.

### 5. Response and Resolution Targets.

Sensus Technical Support will make every reasonable effort to meet the following response and resolution targets:

Severity	Standard Target Response	Standard Target Resolution	Resolution (one or more of the following)
1	30 Minutes	Immediately assign trained and qualified Services Staff to correct the error on an expedited basis. Provide ongoing communication on the status of a correction (24 hours).	<ul style="list-style-type: none"> <li>Satisfactory workaround is provided.</li> <li>Program patch is provided.</li> <li>Fix incorporated into future release.</li> <li>Fix or workaround incorporated into Salesforce Knowledge Base.</li> </ul>
2	4 hours	Assign trained and qualified Services Staff to correct the error. Provide communication as updates occur (48 hours).	<ul style="list-style-type: none"> <li>Satisfactory workaround is provided.</li> <li>Program patch is provided.</li> <li>Fix incorporated into future release.</li> <li>Fix or workaround incorporated into Salesforce Knowledge Base.</li> </ul>
3	1 Business Day	30 business days	<ul style="list-style-type: none"> <li>Answer to question is provided.</li> <li>Satisfactory workaround is provided.</li> <li>Fix or workaround incorporated into Salesforce Knowledge Base.</li> <li>Fix incorporated into future release.</li> </ul>

6. **Problem Escalation Process.**

- 6.1. If the normal support process does not produce the desired results, or if the severity has changed, the issue may be escalated as follows to a higher level of authority.
- 6.1.1.1. Severity 1 issues are escalated by Sales or Technical Services to a Supervisor if not resolved within 2 hours; to the Manager level if not resolved within 4 hours; to the Director level if not resolved within the same business day; and to the VP level if not resolved within 24 hours.
- 6.1.1.2. A customer may escalate an issue by calling 1-800-638-3748, Option 2. Please specify the Salesforce ticket number and the reason why the issue is being escalated.
- 6.1.1.3. In the event that a customer is not satisfied with the level of support or continual problem with their products, they may escalate a given Salesforce ticket to Manager of Technical Services (1-800-638-3748, Option 2).

7. **General Support Provisions and Exclusions.**

- 7.1. Sensus provides online documentation for Sensus products, and all Sensus customers are provided access to this online database, which includes operation, configuration and technical manuals. The customer shall provide names and email accounts to Sensus so Sensus may provide access to the product documentation.
- 7.2. Specialized support from Sensus is available on a fee basis to address support issues outside the scope of this support plan or if not covered under another specific contract or statement of work. For example: specialized systems integration services or out of warranty network equipment repair.



## Hosting Service Agreement

This **Hosting Service Agreement** (the "**Agreement**"), is entered into on November 17, 2020 (the "**Effective Date**") by and between City of Santa Ana ("**Customer**") and N. Harris Computer Corporation of 1 Antares Drive, Suite 400, Ottawa, Ontario K2E 8C4 ("**SmartWorks**").

**WHEREAS**, Concurrently with the execution of this Hosting Agreement, Customer will enter into a Software License and Services Agreement with SmartWorks to acquire a license to use certain software from SmartWorks and to receive certain maintenance and support services, and shall enter into an agreement with SmartWorks' authorized reseller for certain related professional services to be provided by SmartWorks.

**WHEREAS**, Customer has requested certain application hosting services for such software from SmartWorks and SmartWorks has agreed to provide such hosting services to Customer on the terms and conditions set out in this Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants and obligations contained here and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### 1. Definitions

The following terms shall have the meaning set out below, all other capitalized terms not otherwise defined in this Section shall have the meaning set forth in the Agreement:

- (a) "**Annual Hosting Fees**" means the annual hosting fees set out in Schedule "A" to this Agreement.
- (b) "**Confidential Information**" means, with respect to a party hereto, all information or material which: is (A) marked "Confidential," "Restricted," or "Proprietary Information" or other similar marking, (B) known by the parties to be considered confidential, proprietary, or is confidential under federal or state law or (C) which should be known or understood to be confidential or proprietary by an individual exercising reasonable commercial judgment in the circumstances. Confidential Information of SmartWorks shall include, without limitation, the Software, the Documentation, and any information with respect to the Hosting Services that SmartWorks may provide to Customer from time to time, including without limitation, all information disclosed by SmartWorks or its service providers relating to the security of its facilities, computer systems and products. Confidential Information does not include information to the extent that such information: (i) is or becomes generally known to the public by any means other than a breach of the obligations of a receiving party hereunder; (ii) was previously known to the receiving party as evidenced by its written records; (iii) is rightly received by the receiving party from a third party who is not under an obligation of confidentiality; or (iv) is independently developed by the receiving party without reference to or use of the other party's Confidential Information and which such independent development can be established using evidence that would be acceptable to a court of competent jurisdiction.
- (c) "**Data**" means all data, software, text, information, audio, video and images that are provided by or on behalf of Customer to SmartWorks or its third party service provider and all other content transmitted, posted, received or created through Customer's use of the Hosting Services or the Software.
- (d) "**Documentation**" means user guides, operating manuals, education materials, product descriptions and specifications, technical manuals, and supporting materials.
- (e) "**Fees**" means the Annual Hosting Fees and other fees as listed in Schedule "A" of this Agreement.
- (f) "**Hosting Services**" means the web-based hosting services to be provided by or on behalf of SmartWorks under this Agreement that includes hosting, monitoring, and operating the Software on hardware and related equipment at a site owned or controlled by SmartWorks and the delivery of exclusive access via the Internet to the Customer to use the Software granted to the Customer pursuant to the Software License Agreement and Section 2 hereof. The Hosting Services shall also



include storing all data entered and maintained by Users through use of the Software.

- (g) **“Maximum Channels”** means the maximum number of channels or existing systems and connected devices such as Supervisory Control and Data Acquisition (SCADA) and sensors in the emerging Internet of Things (IoT) that collect data regarding electricity being consumed by a customer of Customer or collect data regarding electricity provided by a customer to Customer, with which Customer is authorized to use the Software as specified in Schedule “A”
- (h) **“Maximum Meters”** means the maximum number of meters with which Customer is authorized to use the Software as specified in Schedule “A”.
- (i) **“Software”** means the software product(s) including all Upgrades and Upgrades (as those terms are defined in the Software License and Services Agreement) that SmartWorks licensed to Customer pursuant to the Software License Agreement and as listed in Schedule “A” of the Software License and Services Agreement.
- (j) **“Software License and Services Agreement”** shall have the meaning ascribed to it in the Recitals.
- (k) **“Third Party Components”** means any third party telecommunications, energy/utility transportation, managed facilities and/or software applications and services that SmartWorks or its service providers has licensed or purchased and provided access to or otherwise made available to Customer as part of the Hosting Services.
- (l) **“User”** means an employee or legal agent of Customer that has been authorized by the Customer to access and use the Hosting Services.

## 2. Authorization

Subject to the terms and conditions of this Agreement, including without limitation, payment by Customer of the Annual Hosting Fees, SmartWorks hereby grants to Customer a personal, non-exclusive, non-transferable limited right during the Term to allow Users to access and use the Hosting Services solely in connection with its use of the Software as permitted pursuant to the Software License and Services Agreement.

## 3. Fees

In consideration of receiving the Hosting Services, Customer agrees to pay to SmartWorks the Fees as described in this Section 3 and Schedule “A” in accordance with the payment terms set out in Schedule “A”.

The Annual Hosting Fees, and any other fees set out in this Agreement are exclusive of taxes. Customer agrees to pay all foreign, federal, state, provincial, county or local income taxes, value added taxes, use, personal, property sales and any other taxes, tariff, duty or similar charges that may be levied by a taxing authority (excluding taxes on SmartWorks’ net income).

If any Fees are not paid when due, then at SmartWorks’ discretion, such Fees may accrue late interest at the rate of 1.5% (18% per annum) of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such fee was due until the date paid, and/or (b) SmartWorks may suspend the Service, including all Customer access to the Service, pursuant to Section 10 but in no event prior to giving Customer 15 days written notice.

## 4. Term

Unless terminated earlier in accordance with the terms hereof, this Agreement shall commence on the Effective Date and shall continue for a period of one (1) year (the **“Initial Term”**). Thereafter, this Agreement shall be



automatically renewed for successive one (1) year periods (each a "**Renewal Term**") subject to a four percent (4%) increase in the Annual Hosting Fees unless either party provides written notice to the other party of its intention not to renew within one hundred and twenty (120) days of the end of the then current term. The Initial Term and Renewal Term(s) shall collectively be referred to as the "**Term**".

## **5. Restrictions on Use**

**(a)** Except as expressly provided herein, Customer may not give away, rent, lease or otherwise sell, re-sell, sublicense, distribute or transfer the license rights granted under this Agreement or otherwise use the Hosting Services or the Software except as expressly permitted by this Agreement and the Software License Agreement without the prior written consent of SmartWorks.

**(b)** Customer agrees that it will not reverse engineer, decompile, translate or otherwise attempt to derive, or permit or help others to derive the source code relating to all or any part of the software used as part of the Hosting Services, or attempt to otherwise convert or alter the software used as part of the Hosting Services into human readable code, except to the extent applicable law expressly prohibits the foregoing restriction.

**(c)** No third party, other than duly authorized legal agents or employees of Customer authorized pursuant to Section 2 hereunder, shall have access to or use of the Hosting Services.

**(d)** Customer shall not copy, frame or mirror any part or content of the Hosting Services, other than copying or framing on Customer's own intranets or otherwise for Customer's own internal business purposes.

**(e)** Customer shall not access or use the system (including, without limitation, the network infrastructure and cloud services) used to provide the Hosting Services separately from the Hosting Services and shall not use third-party tools to access the system used to provide the Hosting Services.

**(f)** Customer shall not access the Hosting Services in order to (i) build a competitive product or service; (ii) copy any ideas, features, functionality or graphics of the Software; or (iii) knowingly allow access to any competitor of SmartWorks.

**(g)** The Customer shall not transmit, upload, post, distribute, store or otherwise publish, through use of the Hosting Services, any data, material or Information that: (i) contains a software virus, Trojan horse, worm or other harmful or deleterious computer code, files or programs that may adversely affect any hardware or software, or that intercepts or misappropriates any data or information; (ii) is threatening, defamatory, libelous, harassing, profane, is an invasion of privacy, offensive, obscene or harmful; (iii) infringes or otherwise violates any patent, copyright, trademark, trade secret or other intellectual property or proprietary right of any third party; (iv) violates any law, statute, ordinance or regulation; or (v) includes unsolicited bulk e-mails, advertisements or solicitations.

**(h)** Customer shall not knowingly transmit any data to the system used by SmartWorks or its third party service provider to provide the Hosting Services that contains software viruses or other harmful or deleterious computer code, files or programs.

**(i)** Customer shall not interfere with or disrupt services or networks connected to the system used to provide the Hosting Services and shall not attempt to gain unauthorized access to the Hosting Services or such services or networks connected to the system used to provide the Hosting Services.

**(j)** Customer shall not use the Hosting Services for unlawful, obscene, offensive or fraudulent Data or activity, such as advocating or causing harm, evading filters, sending abusive or deceptive messages.

**(k)** Customer shall not provide the results of using the Hosting Services for the purposes of monitoring its availability, performance, functionality, benchmarking or competitive analysis to any third party.

**(l)** In addition to its termination rights under Section 10, SmartWorks may restrict or limit Customer's access to the Hosting Services if SmartWorks reasonably determines that Customer has engaged in or is likely to engage in



(whether knowingly or unknowingly) any prohibited conduct described herein and such conduct, in SmartWorks' reasonable opinion poses any risk of any kind or nature to SmartWorks or its service providers' network, business or other customers. As promptly as practicable after becoming aware of Customer's engagement in any such prohibited conduct, SmartWorks will use reasonable efforts to notify Customer of the restriction or limitation to Customer's access to the Hosting Services and will promptly restore Customer's access after SmartWorks has had reasonable assurance that such conduct has been permanently discontinued. In addition to and without limiting the foregoing, SmartWorks reserves the right to refuse to post or to remove in whole or in part any information or materials provided or submitted by or on behalf of Customer in connection with its use of the Hosting Services that SmartWorks determines, in its reasonable discretion, are either in violation of this Agreement or pose any risk of any kind or nature to SmartWorks or its service provider's network, business or other customers.

## **6. Hosting Services**

- (a)** SmartWorks and/or its service provider shall provide all facilities, equipment, and software required to deliver the Hosting Services for up to the Maximum Meters and Maximum Channels.
- (b)** SmartWorks shall use commercially reasonable efforts to make the Hosting Services available to Users twenty four (24) hours per day, seven (7) days per week; subject to the terms further defined in Schedule "B". The system resources that are used by SmartWorks to provide the Hosting Services may be used for the applications of other SmartWorks customers or third parties.
- (c)** SmartWorks reserves the right to have additional User acceptance criteria that may be applied to Users prior to their ability to have access to the Hosting Services. SmartWorks shall inform Customer of such criteria but SmartWorks shall be free to implement such criteria at any time without prior written warning to the Customer and/or to Users. Where Users do not accept such and/or agree to such criteria, SmartWorks reserves its rights to not grant to such Users access to the Hosting Services. SmartWorks reserves its rights to restrict access to the Hosting Services to Users for any violation of any additional terms and conditions to which such Users accept/agree to access the Hosting Services.
- (d)** SmartWorks shall provide installation, configuration, system administration and maintenance of the facilities and equipment and software required to operate and ensure availability of the Hosting Services. Customer, not SmartWorks, shall be responsible for creating and maintaining all User account information and for performing all other application level system administration functions that are available within the Hosting Services.
- (e)** SmartWorks shall comply with the terms and conditions regarding access and use of Data as set out in Section 12 of this Agreement.
- (f)** Customer acknowledges that in order to provide the Hosting Services SmartWorks or its service provider may be required to purchase access to Third Party Components. Customer further acknowledges that the availability of such Third Party Components is based solely on the best information available to SmartWorks and its service providers as of the Effective Date including third party representations and government regulations and is subject to change during the Term with little or no advance notice. If any necessary Third Party Components are determined by SmartWorks to be unavailable as a result of changes to any third party availability, governmental regulations or other condition or circumstance outside of SmartWorks' control, then (a) SmartWorks shall not be in breach hereof or otherwise liable for any failure or inability to provide the Hosting Services as a result of such unavailability of any Third Party Components; and (b) SmartWorks may in its sole discretion modify, change or replace the applicable Third Party Components and otherwise attempt to mitigate the impact of the such unavailability of Third Party Components, and reserves the right to pass on any price increases by revising the Hosting Fees, subject to the right to terminate set out in Section 10, providing SmartWorks provides written notice of 3<sup>rd</sup> party requirements
- (g)** The infrastructure deployed to support the Customer's Hosting Services solution is based upon the scope of Hosting Services solution as defined in Schedule "A" and/or a statement of work executed by Customer and



SmartWorks (or its authorized reseller) for the implementation and other professional services to be performed by SmartWorks. Should the technical demands of the infrastructure materially change due to changes such as total number of meters, interval lengths, or number of virtual meters, SmartWorks reserves the right to reassess and redefine the infrastructure required for acceptable performance and adjust the Annual Hosting Fees accordingly.

## 7. Customer Responsibilities

- (a) **Customer Equipment.** Customer agrees that it shall be responsible, at its sole expense, for providing all Internet access, including but not limited to obtaining, installing and maintaining all equipment, hardware, network, Internet or direct telecommunications connections and software applications (e.g. web browser) at Customer's facilities required for Users to access and use the Hosting Services. SmartWorks shall not be responsible for the operation of any Internet, network or other communication services. Customer further acknowledges that access to and the operation of the Hosting Services requires Customer's and Users' hardware to be of sufficient quality, condition and repair, and Customer agrees to and/or to ensure that Users' maintain their applicable hardware in the appropriate quality, condition and repair at its sole cost and expense.
- (b) **Passwords.** Customer agrees to comply with all SmartWorks and its service providers' security policies and procedures made available to it and as may be amended from time to time. Customer and its Users shall be responsible for keeping any and all passwords and user ID's assigned to its Users secret and confidential. Customer agrees that it is and shall remain solely and completely liable for any communications or other uses that are made using Customer's or its Users' passwords and user ID's, as well as any obligation that may result from such use. Customer agrees to notify SmartWorks promptly in writing if it believes that a password has been stolen or might otherwise be misused, of any unauthorized use of any password or user ID, or any other breach of security suspected by Customer related to the Hosting Services.
- (c) **Users.** The Customer is responsible for: (i) the actions of Users using the Hosting Services in accordance with this Agreement; (ii) ensuring that Users agree to any further terms and conditions as may be provided by SmartWorks from time to time for Users; and (iii) informing SmartWorks of any information about Users' actions that may affect either the Hosting Services or third party data contained in or used by the Hosting Services, or SmartWorks' ability to provide the Hosting Services as contemplated by this Agreement.
- (d) **Compliance with Laws.** Customer represents and warrants to SmartWorks that it and its Users will at all times be in compliance with all applicable local, state, provincial, federal and international laws, rules and regulations including but not limited to those laws regarding restrictions on exports (including the U.S. Export Administration Regulations, end-user, end use and destination restrictions by Canadian, U.S. and other governments related to SmartWorks and its service provider's products, services and technologies), defamation, libel, harm to reputation, invasion of privacy, misuse or failure to protect personal information, violation of secrecy, confidentiality, unfair competition and other situations which could generate liability.
- (e) **Data Security.** Customer acknowledges and agrees that use of or connection to the Internet is inherently insecure and provides opportunity for unauthorized access by a third party to Customer's and its Users' (as well as SmartWorks' and its service providers') computer systems, networks and any and all information stored therein. Customer is solely responsible for ensuring that (i) Customer's computer systems are secure and protected from unwanted interference (such as "hackers" and viruses), (ii) all transmissions are screened for viruses or other harmful code prior to transmission to SmartWorks' servers; and (iii) Data is encrypted. If any Data could be subject to governmental regulation or may require security measures beyond those specified by SmartWorks for the Hosting Services, Customer will not input or provide such content or Data unless SmartWorks has otherwise first agreed in writing to implement additional security and other measures. By using the Hosting Services, Customer acknowledges that it meets Customer's requirements and data (including personal information) processing instructions.

SMARTWORKS AND ITS THIRD PARTY SERVICE PROVIDER DO NOT GUARANTEE THE PRIVACY, SECURITY, AUTHENTICITY, AND NON-CORRUPTION OF ANY INFORMATION TRANSMITTED OR STORED IN ANY SYSTEM CONNECTED TO THE INTERNET. SMARTWORKS AND ITS THIRD PARTY



SERVICE PROVIDER SHALL NOT BE RESPONSIBLE FOR ANY ADVERSE CONSEQUENCES WHATSOEVER OF CUSTOMER'S OR ITS USERS' CONNECTION TO OR USE OF THE INTERNET, AND SMARTWORKS AND ITS THIRD PARTY SERVICE PROVIDER SHALL NOT BE RESPONSIBLE FOR ANY USE BY CUSTOMER OR ANY USER OF CUSTOMER'S INTERNET CONNECTION IN VIOLATION OF ANY LAW, RULE OR REGULATION.

## **8. Warranty and Warranty Disclaimer**

- (a) **Limited Warranty.** SmartWorks warrants to Customer that the Hosting Services shall be performed at the service level availability, as stated in this Agreement, provided that all use of the Hosting Services is for the purposes and in accordance with the terms and conditions of this Agreement. The foregoing limited warranty will not apply if there has been misuse, modification, damage not caused by SmartWorks or its third party service provider, failure to comply with instructions provided by SmartWorks or if otherwise stated in this Agreement. Customer's sole remedy in the event the Hosting Services do not conform to the foregoing limited warranty is for SmartWorks to use commercially reasonable efforts to correct such non-conformance and the right to terminate this Agreement in accordance with Section 10.
- (b) **Warranty Disclaimer.** TO THE GREATEST EXTENT PERMITTED BY LAW, EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET OUT IN SECTION 8(A), THE HOSTING SERVICES, THE SOFTWARE, AND ANY OTHER PRODUCTS OR SERVICES PROVIDED UNDER THIS AGREEMENT ARE PROVIDED TO CUSTOMER "AS IS" AND THERE ARE NO OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESSED OR IMPLIED, WRITTEN OR ORAL, ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE, REGARDING THEM OR ANY OTHER PRODUCT, SERVICE OR MATERIAL PROVIDED HEREUNDER OR IN CONNECTION HERewith.

SMARTWORKS, ITS THIRD PARTY SERVICE PROVIDER, LICENSORS AND SUPPLIERS DISCLAIM ANY IMPLIED WARRANTIES OR CONDITIONS REGARDING THE SOFTWARE, THE HOSTING SERVICES, AND ANY OTHER PRODUCTS, SERVICES AND MATERIALS PROVIDED HEREUNDER OR IN CONNECTION HERewith, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, MERCHANTABILITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.

SMARTWORKS, ITS THIRD PARTY SERVICE PROVIDER, LICENSORS AND SUPPLIERS DO NOT REPRESENT OR WARRANT THAT THE HOSTING SERVICES OR THE SOFTWARE SHALL OPERATE ERROR FREE OR UNINTERRUPTED, SHALL MEET ANY OR ALL OF CUSTOMER'S PARTICULAR REQUIREMENTS, OR THAT SMARTWORKS OR ITS THIRD PARTY SERVICE PROVIDER WILL PREVENT THIRD PARTY DISRUPTIONS OR UNAUTHORIZED THIRD PARTY ACCESS TO THE HOSTING SERVICES OR SYSTEM USED TO PROVIDE THE HOSTING SERVICES.

WITHOUT LIMITING THE FOREGOING, SMARTWORKS DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH REGARD TO PRODUCTS OR SERVICES FROM THIRD PARTIES (INCLUDING WITHOUT LIMITATION THE THIRD PARTY COMPONENTS, THE HARDWARE, THE OPERATION OF THE INTERNET, NETWORK OR OTHER COMMUNICATION SERVICES) AND ASSUMES NO RESPONSIBILITY OR LIABILITY WITH RESPECT TO THE FOREGOING OR THE APPROPRIATENESS OF YOUR DATA MANAGEMENT SYSTEM OR THE ACCURACY OF DATA CONTAINED IN SUCH SYSTEM.

NO AGREEMENTS VARYING OR EXTENDING ANY EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT SHALL BE BINDING ON EITHER PARTY UNLESS IN WRITING AND SIGNED BY AN AUTHORIZED SIGNING OFFICER OF SMARTWORKS.

## **9. Limitations on Liability**

**TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER AGREES THAT THE ENTIRE COLLECTIVE LIABILITY OF SMARTWORKS AND ITS THIRD PARTY SERVICE PROVIDER AND CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO THE HOSTING SERVICES, AND ANY OTHER**



PRODUCTS, MATERIALS OR SERVICES SUPPLIED BY SMARTWORKS IN CONNECTION WITH THIS AGREEMENT FOR DAMAGES FOR ANY CAUSE AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING FUNDAMENTAL BREACH OR NEGLIGENCE, SHALL BE LIMITED TO ACTUAL DIRECT DAMAGES AND SHALL NOT EXCEED IN THE AGGREGATE (2x) ANNUAL HOSTING FEES PAID BY CUSTOMER TO SMARTWORKS UNDER THIS AGREEMENT DURING THE THEN-CURRENT TERM OF THE AGREEMENT UP TO AND INCLUDING THE DATE OF TERMINATION (AND IN NO EVENT BEING GREATER THAN 12 MONTHS).

CUSTOMER FURTHER AGREES THAT IN NO EVENT SHALL SMARTWORKS OR ITS THIRD PARTY SERVICE PROVIDER BE LIABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING FUNDAMENTAL BREACH OR NEGLIGENCE, FOR ANY INDIRECT, PUNITIVE, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION FOR LOST PROFITS, LOSS OF REVENUE, FAILURE TO REALIZE ANTICIPATED SAVINGS, LOST OR DAMAGED DATA, LOSS OF GOODWILL, BUSINESS OPPORTUNITIES OR REPUTATION, OR ECONOMIC LOSS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGES, OR SUCH LOSSES OR DAMAGES ARE FORESEEABLE.

## 10. Suspension and Termination

(a) **Suspension of Hosting Services.** In addition to any other rights that SmartWorks may have under this Agreement, at law or in equity, SmartWorks may suspend, limit or terminate Customers' use of the Hosting Services if SmartWorks determines there is a material breach of this Agreement, a security breach, or violation of law by Customer or any User. If SmartWorks' service provider determines that the cause of the suspension can reasonably be remedied, SmartWorks will provide notice of the actions Customer and its Users must take to reinstate the Hosting Services. If such action is not taken within a reasonable time, SmartWorks may terminate this Agreement effectively immediately upon written notice to Customer to that effect.

(b) **This Agreement may be terminated as follows:**

- i. If SmartWorks is in material breach of any of its obligations or any provision under this Agreement, Customer must notify the breaching party in writing of such default (a "**Default Notice**"). Upon receipt of a Default Notice, SmartWorks must correct the default at no additional cost to Customer within ninety (90) days, or issue a written notice of its own disputing the alleged default within thirty (30) days, of the date of receipt of a Default Notice. If SmartWorks fails to correct the default within such ninety (90) day period, and did not issue a notice disputing the alleged default within such thirty (30) day period, Customer may terminate this Agreement upon written notice to SmartWorks to that effect.
- ii. If Customer has failed to pay any amounts when due under this Agreement, SmartWorks shall have the right to (i) suspend performance of the Hosting Services (including Customer access to the Hosting Services) until all amounts are paid in full; and/or (ii) terminate this Agreement effective immediately upon written notice to Customer to that effect.
- iii. SmartWorks may terminate this Agreement effective immediately upon written notice to Customer if Customer has breached its obligations of confidentiality or any intellectual property right or proprietary right of SmartWorks or its service provider or in accordance with Section 10(a) in the event of a material breach by Customer.
- iv. Either party may terminate this Agreement effective immediately upon written notice to the other party if the other party: (i) becomes insolvent; (ii) becomes the subject of any proceeding under any bankruptcy, insolvency or liquidation law, whether domestic or foreign, and whether voluntary or involuntary, which is not resolved favorably to the subject party within ninety (90) days of commencement thereof; or (iii) becomes subject to property seizure under court order, court injunction or other court order which has a material adverse effect on its ability to perform hereunder.



- v. This Agreement shall automatically terminate in the event that the Software License and Services Agreement is terminated.
- vi. If any such modification, change or replacement of the original Third Party Components pursuant to Section 6(f) includes a material price increase with respect to the Hosting Services enabled by such Third Party Components or impairs Customer's ability to utilize such Hosting Services in substantially the same manner as they were utilized prior to the modification, change or replacement, Customer may terminate this Agreement by providing written notice to SmartWorks within twenty (20) days after Customer's receipt of notification of such material price increase or discovery of such impairment.

## 11. Effects of Termination

In the event of termination or expiration of this Agreement:

- (a) All rights granted to Customer in this Agreement shall immediately terminate and SmartWorks will immediately cease to perform or provide the Hosting Services.
- (b) Customer will pay all amounts due under this Agreement up to and through the date of termination and all costs reasonably incurred in collecting the amounts due to SmartWorks (including court costs, attorney fees, and repossession charges to the extent not prohibited by law).
- (c) Customer shall return to SmartWorks or at SmartWorks' option purge or destroy all copies of any Confidential Information of SmartWorks in its possession or under its control (except as required under any statute or legislation related to retention requirements), and provide a duly authorized certificate of an officer of Customer confirming same within thirty (30) days.
- (d) Except as otherwise provided in this Agreement, termination of this Agreement shall not affect any right of action of either party arising from anything which was done or not done, as the case may be, prior to the termination taking effect.
- (e) Any cancellation and/or termination of this Agreement prior to the end of the Initial Term shall result in the following: an acceleration of all Annual Hosting Fees due for each year of the Initial Term not already invoiced and/or paid, which amount will be due immediately. This section will not affect SmartWorks' right to collect any further invoiced amounts for other Professional Service Fees.
- (f) Conditional upon Customer's payment of all Fees that are due to SmartWorks, SmartWorks will furnish the Customer with a copy of the Data in a format to be mutually agreed upon between the parties in writing (typically a .csv file). The anticipated services to provide a copy of the Data are one to two days and will be billed at SmartWorks' then current daily rate. Upon receipt of notice from Customer confirming receipt of the Data, SmartWorks shall destroy all copies of the Data and delete all Data on the database and an Officer of SmartWorks shall certify the destruction and deletion to the Customer. Subject to any legal requirement that SmartWorks must retain a copy of the Data, SmartWorks shall not delete the Data for 90 days from the date of termination except: (i) where SmartWorks has provided the Data to Customer pursuant to this Subsection; or (ii) where it has received written instructions from Customer to delete the Data. Following 90 days from the date of termination if Customer has not communicated with SmartWorks regarding the Data, SmartWorks shall have the right to delete all Data at any time as either required by law or as determined by SmartWorks in its sole discretion. Notwithstanding the foregoing, SmartWorks shall be permitted to delete all Data without providing notification to Customer and SmartWorks shall not be required to adhere to the time frames detailed above where SmartWorks is required by law to delete such Data.

## 12. Ownership

- (a) **By SmartWorks.** SmartWorks its service providers and licensors are and shall at all times remain the owner of all copyright, trademarks, trade secrets, patents and any other intellectual property rights in and to the Hosting Services, Software, Documentation, and related documentation, materials, logos, names and other support materials provided to the Customer pursuant to the terms of this Agreement. Customer shall acquire



no right whatsoever to all or any part of the Hosting Services, underlying system or software except the limited right to access and use the Hosting Services in accordance with the terms of this Agreement and the Software License Agreement SmartWorks, its service providers and its licensors reserve all rights not expressly granted to Customer. Customer must fully reproduce any copyright or other notice marked on any part of the documentation or other materials on all authorized copies and must not alter or remove any such copyright or other notice. Customer shall report to SmartWorks any infringement or misappropriation of SmartWorks Intellectual Property Rights or other rights in the Hosting Services or the Documentation of which Customer becomes aware. Customer hereby grants to SmartWorks a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Hosting Services, and underlying system and software any suggestions, ideas, enhancement requests, recommendations or other feedback provided by Customer relating to the operation of the Hosting Services.

- (b) Customer Data.** As between SmartWorks and Customer, all Data will remain the sole and exclusive property of Customer. Customer is solely responsible for ensuring the accuracy, quality, integrity, reliability, appropriateness and right to view and use the Data. Subject to the terms and conditions of the Agreement, Customer grants to SmartWorks a world-wide, non-exclusive, royalty-free license to access the Data for the purpose of performing the Hosting Services. Access to the Data shall only be by SmartWorks' employees and/or subcontractors whose job function requires access. Except as specified in this Agreement, SmartWorks may not access the Data for any other purpose without the express written consent of Customer. Access to Data by any outside party shall only be in accordance with the terms of this Agreement or where required by law.

Customer grants to SmartWorks a world-wide, non-exclusive, royalty-free license to aggregate or compile Data with the customer data of other customers using the Hosting Services so long as such aggregation or compilation omits any data that would enable the identification of Customer, its clients or any individual, company or organization ("Aggregated Data"). SmartWorks shall have a worldwide, perpetual, royalty-free license to use, modify, distribute and create derivative works based on such Aggregated Data, including all reports, statistics or analyses created or derived therefrom. Additionally, Customer grants SmartWorks the right to access Data to provide feedback to Customer concerning its use of the Hosting Services.

Customer authorizes SmartWorks to disclose the fact that Customer is a customer of SmartWorks and uses the Hosting Services.

If and to the extent (i) SmartWorks and its third party service provider are processing personal data on behalf of Customer acting as Customer's subprocessor, and (ii) the European General Data Protection Regulation (EU/2016/679) ("**GDPR**") applies to such processing of personal data, to the extent legally required Customer shall enter into a data processing agreement.

SmartWorks' third party service provider and its affiliates, and their contractors and subprocessors, may wherever they do business, store and otherwise process business contact information ("**BCI**") of Customer and its Users, for example, name, business telephone, address, email, and user IDs for business dealings with them. Where notice to or consent by the individuals is required for such processing, Customer will notify and obtain such consent. SmartWorks' third party service provider may use personnel and resources in locations worldwide and third party suppliers to support the delivery of its products and services. SmartWorks' third party service provider collects Account Data, defined as information other than Data and BCI that Customer provides to the third party service provider to enable SmartWorks' or Customer's use of the third party service provider's products or that it collects using tracking technologies, such as cookies and web beacons, regarding SmartWorks' or Customer's use of the third party service provider's products. Additional details are available at the link to SmartWorks' third party service provider's Online Privacy Statement set out in Schedule "A".

**(c) Data and Privacy Policy of Customer**

The Customer represents and warrants to SmartWorks that:



- i. Data that is either provided to or acquired by SmartWorks from Customer is owned exclusively by Customer and that the Customer has full right and title to provide the Data to SmartWorks and its third party service provider;
- ii. Data that is either provided to or acquired by SmartWorks is subject to a privacy policy in effect as of the Effective Date and Customer's customers have provided to Customer their written consent for its collection, use and storage by SmartWorks and its third-party service providers in accordance with this Agreement and in any jurisdiction in North America;
- iii. Customer complies with all applicable privacy legislation as of the Effective Date in the performance of its obligations hereunder in respect of any Data collected, used, transferred, created or disclosed pursuant to this Agreement; and
- iv. Customer will not provide SmartWorks with data of any kind for which SmartWorks or its third party service provider either has no need or does not have the right to collect, use and store under the terms of this Agreement.

#### **(d) Audit Rights**

In order to assist SmartWorks with the protection of its proprietary information and Confidential Information and to enable SmartWorks to verify Customer's compliance with the terms and conditions of this Agreement, Customer shall permit SmartWorks and its independent auditor to visit during normal business hours any premises at which the Hosting Services are used or being accessed and shall provide SmartWorks with access to its records including usage data. SmartWorks shall provide Customer with reasonable notice of any such audit, but in no event less than 15 business days.

### **13. Confidential Information**

The parties agree to keep confidential any and all Confidential Information with respect to the other party which it has received or may in the future receive in connection with this Agreement and shall only disclose such Confidential Information of the other party (i) to its agents, employees or representatives who have a need to know such information, for the purpose of performance under this Agreement and exercising the rights granted under this Agreement, and who have entered into a non-disclosure agreement at least as protective of the other party's Confidential Information as this Agreement, or (ii) to the extent required by applicable law or during the course of or in connection with any litigation, arbitration or other proceeding based upon or in connection with the subject matter of this Agreement, provided that the receiving party shall give the disclosing party reasonable notice prior to such disclosure and shall comply with any applicable protective order or equivalent. The parties each agree to hold the other party's Confidential Information in confidence and to take all reasonable steps, which shall be no less than those steps it takes to protect its own confidential and proprietary information, to protect the Confidential Information of the other party.

In addition to any other restrictions on SmartWorks' use of the Data, the confidentiality obligations above apply except to the extent that both parties agree that the Data may be subject to privacy laws providing for the owners of the Data to review such Data or to challenge the collection and storage of the Data. Customer shall indemnify and reimburse SmartWorks in relation to all reasonable fees and other disbursements paid by SmartWorks to comply with such requests, whether by an individual or a government body, or to challenge such requests at either SmartWorks' or Customer's request. Customer represents and warrants to SmartWorks that as of the Effective Date no individual, government body or third party has requested a review of the Data or challenged the collection and storage of the Data to be stored in the Software.

### **14. Indemnity**

Customer is solely responsible for its Data, its use, and its Users' use, of the Hosting Services in any way, and all legal liability arising out of or relating thereto. Customer shall defend, indemnify and hold SmartWorks and its third



party service providers, if applicable, and each of their respective officers, directors, employees and agents (the "Indemnities") harmless from and against any and all losses, costs, damages and expenses (including reasonable attorney's fees) that the Indemnities may suffer in connection with any demands, claims, actions, suits or proceedings arising out of or in connection with (i) the use of the Hosting Services including but not limited to any Third Party Components by Customer or its Users; (ii) any breach by Customer or its Users of this Agreement; or (iii) Customer's Data, including but not limited to any third party claims that the inclusion, use, reference, incorporation of or linking to any third party materials or the Customer's Data violates such third party's copyright and/or other intellectual property, privacy or other rights, or that such use is illegal.

## 15. General

**Governing Law; Venue:** This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

### (a) Notice

Any notice required or permitted to be given to any party to this Agreement shall be given in writing and shall be delivered either personally, mailed by prepaid registered post or sent by facsimile to the appropriate address or facsimile number set out below. Any such notice shall be conclusively deemed to have been given and received on the day on which it is delivered or transmitted (or on the next succeeding business day if delivered or received by facsimile after 5:00 p.m. local time on the date of delivery or receipt, or if delivered or received by facsimile on a day other than a business day), if personally delivered or sent by facsimile or, if mailed, on the third business day following the date of mailing, and addressed, in the case of the SmartWorks, to:

N. HARRIS COMPUTER CORPORATION

1 Antares Drive, Suite 400  
Ottawa, Ontario K2E 8C4  
Attention: CEO / Legal  
Telephone: 613-226-5511, extension 2149

and in the case of the Customer, to:

City of Santa Ana  
20 Civic Center Plaza  
P.O. Box 1988  
Santa Ana, CA 92702  
Attn: Clerk of the Council

With copy to Executive Director, Public Works Agency (at same address)

Each party may change its particulars respecting notice, by issuing notice to the other party in the manner described in this Section 15(c).

- (b) **Currency:** Unless otherwise indicated, all dollar amounts referred in this Agreement are in lawful money of the United States of America.
- (c) **Use of Name.** Customer agrees to the following promotional activities in relation to the purchase of SmartWorks' solutions, products and services: (i) Customer permits SmartWorks to issue a mutually agreed upon press release announcing Customer's purchase of SmartWorks' products and services; and (ii) Customer grants SmartWorks the right to reasonably include the Customer's name and logo in published lists



referencing the users of the products and services of SmartWorks. Customer may unilaterally withdraw their consent to the above promotional activities at any time by providing written notice to SmartWorks of said revocation.

- (d) **Entire Agreement:** This Agreement together with the Schedules attached to this Agreement constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, representations, negotiations, understandings, arrangements, and communications between the parties, both written and oral, relating to the subject matter hereof. No terms and conditions in any Customer orders, or in any other documentation employed by or on behalf of Customer in connection with this Agreement, regardless of the date of such documentation, will affect the terms of this Agreement, even if such document is accepted by the receiving party, with such provisions being deemed deleted. This Agreement may only be modified by a written amendment signed by an authorized representative of each of the parties.
- (e) **Waiver.** No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent, or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.
- (f) **Assignment:** Customer may not assign any of its rights or duties under this Agreement without the prior written consent of SmartWorks, such consent not to be unreasonably withheld. This Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and permitted assigns.
- (g) **Severability:** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable under any applicable law, then such provision shall be deemed modified to the extent necessary in order to render such provision valid and enforceable. If such provision may not be so saved, it shall be severed and the remainder of this Agreement shall remain in full force and effect.
- (h) **Allocation of Risk:** Customer acknowledges and agrees that the warranty disclaimer and limitation of liability contained in this Agreement are fundamental elements of the basis of the bargain between SmartWorks and Customer and set forth an allocation of risk reflected in the fees and payments due hereunder.
- (i) **Relationship:** The parties are and shall at all times remain independent contractors in the performance of this Agreement and nothing herein shall be deemed to create a joint venture, partnership or agency relationship between the parties. Neither party will have the power to bind the other party or to contract in the name of or create any liability against the other party in any way for any purpose. Neither party will be responsible for the acts or defaults of the other party or of those for whom the other party is law responsible.
- (j) **Equitable Relief:** Customer acknowledges and agrees that it would be difficult to compute the monetary loss to SmartWorks arising from a breach or threatened breach of this Agreement by Customer and that, accordingly, SmartWorks will be entitled to specific performance, injunctive or other equitable relief in addition to or instead of monetary damages in the event of a breach or threatened breach of this Agreement by Customer.
- (k) **Force Majeure:** No default, delay or failure to perform on the part of SmartWorks shall be considered a breach of this Agreement 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, floods, acts of any governmental body, acts of God or the public enemy or default of a common carrier, unavailability of Third Party Components or other disasters or events.
- (l) **Survival:** Sections 1 (Definitions), 3 (Fees), 5 (Restrictions on Use), 6(f) (Compliance with Laws), 6(g) (Security), 8(b) (Warranty Disclaimer), 9 (Limitations on Liability), 11 (Effects of Termination), 12 (Ownership), 13 (Confidential Information), 14 (Indemnity), 15 (General) and any other provision of this Agreement which is required to ensure that the parties fully exercise their rights and their obligations hereunder shall survive any termination or expiration of this Agreement unless and until waived expressly in writing by the party to whom they are the benefit.
- (m) **Counterparts:** This Agreement may be executed in counterparts (whether by facsimile signature, PDF via email, or otherwise), each of which when so executed shall constitute an original and all of which together shall constitute one and the same instrument.

**[Signatures on Following Page]**



**IN WITNESS WHEREOF**, SmartWorks and the Customer have duly executed this Agreement to be effective on the Effective Date first written above.

N. HARRIS COMPUTER CORPORATION

Eric Chabot

Signature

Eric Chabot

Name

Executive Vice-President

Title

October 1, 2020

Date

CITY OF SANTA ANA

Signature

Kristine Ridge

Name

City Manager

Title

Date

APPROVED AS TO FORM

John M. Funk

John M. Funk

Assistant City Attorney

ATTEST

Daisy Gomez

Clerk of the Council

RECOMMENDED FOR APPROVAL

Nabil Saba

Executive Director

Public Works Agency

**Schedule "A"**  
**Fees and Payment Schedule \***

Customer shall pay the Annual Hosting Fees set out in the table below

<b><i>Annual Recurring Fees (includes support services)</i></b>	<b><i>Amount</i></b>
Annual Hosting Fee:	<b>\$12,720</b>

The Annual Hosting Fees are based on the maximum meters, channel and Interval lengths set out in the table below

<b>Service</b>	<b>Number of Meters</b>	<b>Channel</b>	<b>Interval Length</b>
<b>Water Residential</b>	40,050	Gal	60 minutes
<b>Water Commercial</b>	4,450	Gal	60 minutes

**PAYMENT TERMS:**

The Annual Hosting Fees will be due in advance of the Initial Term and each Renewal Term, and is non-refundable.

Professional Services Fees stated above, and any applicable travel and lodging expenses, will be invoiced as incurred and shall be due and payable thirty (30) days from the date of invoice.

**ADDITIONAL PROFESSIONAL SERVICE(S) FEES:**

Additional Professional Services may be provided on-site or via the telephone. Additional Professional Services work provided via telephone is billed at the rate of two hundred and thirty (\$230) per hour. Additional Professional Services work performed on-site does not include travel, lodging and per diem expenses. Professional Services performed one year or more after the execution date of this Agreement shall be billed at the then current SmartWorks Professional Services rates. Help line support and Support Services do not include training or other Professional Services.

Customer shall incur a seven-hundred fifty dollar (\$750) daily surcharge for any Professional Services provided on weekends or SmartWorks recognized holidays; plus the corresponding standard Professional Services fees and any applicable travel charges per paragraph 4.

Additional Professional Services may include, but are not limited to, the following: software installation, configuration, data validation, system setup, system balancing, interface setup, interface testing, process training, application training and business requirements gathering.

**RESET OF TERM TO MATCH FISCAL YEAR:**

Customer may request that SmartWorks match the annual invoicing of the Annual Subscription Fees with Customer's fiscal year. In order for Customer to elect to match annual invoicing with their fiscal year, Customer must make said request to SmartWorks in writing and during the Initial Term of this Agreement. If such election is



made SmartWorks shall, a) issue a prorated invoice for any Subscription Fees due for the portion of the year remaining in Customer's current fiscal year, b) extend the then current term to expire at the end of the Customer's subsequent fiscal year, c) issue an annual invoice thereafter on the annual anniversary date of Customer's fiscal year for any Subscription Fees due, and d) reset future annual terms to expire at the end of Customer's fiscal year. Annual Subscription Fees are invoiced in advance of an upcoming annual term. Subscription fees shall be due and payable thirty (30) days from date of invoice.

Third Party Service Provider's Online Privacy Policy: <https://www.ibm.com/privacy/details/us/en/>

## **SCHEDULE B**

### **SERVICES AVAILABILITY**

#### **1. Availability Requirement.**

SmartWorks shall use commercially reasonable efforts to make the Services Available 100% of the time of the time in any given calendar month as measured over the course of the total number of days in each calendar month during the Term (each such calendar month, a "**Service Period**"), excluding un-Availability as a result of any of the Exceptions described below in this Section 1 (the "**Availability Requirement**").

"**Service Level Failure**" means a material failure of the Services to meet the Availability Requirement.

"**Available**" means the Services are available for access and use by Customer in a production environment. For the purposes of calculating the Availability Requirement, the Services will not be considered un-Available and no Service Level Failure will be deemed to have occurred in connection with any failure to meet the Availability Requirement that is due, in whole or in part, to any: (a) Customer Cause; (b) Customer's Internet connectivity; (c) a force majeure event (as described in Section 20(m)); (d) failure, interruption, outage, or other problem with any software, hardware, system, network, facility, or other matter not supplied by SmartWorks pursuant to this Agreement; (e) Routine Scheduled Downtime; (f) any interruption to the access or use of the Services that occurs in a non-production environment; (g) Emergency Work; or (i) disabling, suspension, or termination of the Services for cause by SmartWorks. For clarity, references to "Customer" in this Schedule B include Authorized Users.

#### **2. Customer Cause.**

For the purposes of this Schedule B, "**Customer Cause**" means any of the following causes: (a) any negligent or improper use, misapplication, misuse or abuse of, or damage to, the Services by Customer or its representatives; (b) any interference or modification to or alteration of the Services by Customer or its representatives; (c) any use of the Services by Customer or its representatives in a manner inconsistent with the then-current Documentation; (d) any use by Customer or its representatives of any third party products that SmartWorks has not provided or caused to be provided to Customer; or (e) any use by Customer of a non-current version or release of Third Party Components, notwithstanding notice from SmartWorks that updates, fixes or patches are required.

#### **3. Service Level Failures and Remedies.**

- (a) In the event of a Service Level Failure, SmartWorks shall issue a credit to Customer in the amounts set out in the table below (a "**Service Level Credit**"), provided however, that SmartWorks has no obligation to issue any Service Level Credit unless Customer: (i) reports the Service Level Failure to SmartWorks immediately on becoming aware of it; and (ii) requests such Service Level Credit in writing within ten (10) days of the Service Level Failure.

<b>Service Period Availability</b>	<b>Service Level Credit (Percentage of Monthly Payment of Annual Subscription Fee)</b>
Equal to or greater than 99%	0%
Equal to or greater than 98%	3%
Equal to or greater than 97%	5%
Equal to or greater than 95%	10%
Less than 95%	15%

The Service Period Availability is calculated by subtracting the total number of minutes that the Services are un-Available in a Service Period from the total number of minutes in a Service Period and then dividing the difference by the total number of minutes in a Service Period.



- (b) Any Service Level Credit payable to Customer under this Agreement will be issued to Customer in the last calendar month of the Term. This Section 3 sets forth SmartWorks' sole obligation and liability and Customer's sole remedy for any Service Level Failure.

#### **4. Routine Scheduled Downtime.**

For the purposes of this Schedule B, "**Routine Scheduled Downtime**" means a period of time during which SmartWorks conducts routine system maintenance and for which SmartWorks has provided Customer written notice a minimum of three business days prior to such period, which will be between 6PM and midnight Central Time on weekdays and or any time on weekends, as agreed by the parties.

#### **5. Factors Outside SmartWorks's Reasonable Control.**

For the purposes of this Schedule B, outages due to force majeure events include power surges or network or device failure external to SmartWorks' data centers. In the event of a force majeure event, SmartWorks shall be entitled to take any actions determined, in its sole discretion, necessary or advisable to prevent, remedy, mitigate, or otherwise address actual or potential harm, interruption, loss, threat, security, or like concern to SmartWorks' hosting infrastructure resulting from such force majeure event ("**Emergency Work**"). SmartWorks shall provide advance notice of such Emergency Work to Customer when practicable and possible. SmartWorks shall not be held responsible for any deterioration of performance or un-Availability during such force majeure events or Emergency Work.

#### **6. Unauthorized Actions.**

SmartWorks shall not be responsible for any un-Availability that results from Customer's unauthorized action or lack of action when required, or from Customer's employees, agents, contractors, or vendors, or anyone gaining access to the Services by means of Customer passwords or equipment, or otherwise resulting from Customer failure to follow appropriate security practices. Although SmartWorks will use commercially reasonable efforts to mitigate the effects of any such events, SmartWorks cannot guarantee that such events will not occur. Accordingly, SmartWorks disclaims any and all liability resulting from or relating to such events.

#### **7. Failure to Adhere to Requirements.**

SmartWorks shall not be responsible for any un-Availability which results from Customer's failure to adhere to any required configurations, follow any policies for acceptable use, or use of the Services in a manner inconsistent with the features and functionality of the Services (for example, attempts to perform operations that are not supported, exceeding prescribed quotas, if applicable, or suspected abusive behavior) or inconsistent with SmartWorks' published guidance.

## **Schedule C**

### **Security**

1. Harris shall store and process Data in accordance with industry standard practices.
2. Response to Legal Orders, Demands or Requests for Data.
  - a. Where permitted by law SmartWorks shall:
    - i. Promptly notify the Customer of any subpoenas, warrants, or other legal orders, demands or requests received by SmartWorks seeking Data;
    - ii. Consult with the Customer regarding its response;
    - iii. Cooperate with the Customer's reasonable requests, at Customer's expense, in connection with efforts by the Customer to intervene and quash or modify the legal order, demand or request; and
    - iv. Upon the Customer's request, provide the Customer with a copy of its response.
  - b. If the Customer receives a subpoena, warrant, or other legal order, demand ("requests") or request seeking Data maintained by SmartWorks, Customer will promptly provide a copy of the request to SmartWorks. SmartWorks will, where permitted by law, promptly supply Customer with copies of records or information required for the Customer to respond, and will cooperate with Customer's reasonable requests, and at Customer's expense, in connection with its response.



## Software License and Services Agreement

This **Software License and Services Agreement** (the “**Agreement**”), is entered into on November 17, 2020 (the “**Effective Date**”) by and between City of Santa Ana (“**Customer**”) and N. Harris Computer Corporation of 1 Antares Drive, Suite 400, Ottawa, Ontario K2E 8C4 (“**SmartWorks**”).

**NOW THEREFORE**, in consideration of the mutual covenants and obligations contained here and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### 1. Interpretation.

(a) Definitions. In this Agreement the following expressions shall have the meanings indicated below. Other terms are defined in the body of this Agreement.

“**Confidential Information**” shall mean the Software, and any information which is confidential in nature or that is treated by SmartWorks as being confidential which is disclosed by SmartWorks or obtained by Customer in connection with this Agreement, whether such information is in oral, written, graphic or electronic form, which: is (i) marked "Confidential," "Restricted," or "Proprietary Information" or other similar marking, (ii) known by the Customer to be considered confidential or proprietary, such as the Software, or (iii) which should be known or understood to be confidential or proprietary by an individual exercising reasonable commercial judgment in the circumstances. Confidential Information does not include information to the extent that such information: (i) is or becomes generally known to the public by any means other than a breach of the obligations of a receiving party hereunder; (ii) was previously known to the receiving party as evidenced by its written records; (iii) is rightly received by the receiving party from a third party who is not under an obligation of confidentiality; or (iv) is independently developed by the receiving party's employees or independent contractors who have not had access to or use of the other party's Confidential Information which such independent development can be established by evidence that would be acceptable to a court of competent jurisdiction;

“**Documentation**” means user guides, operating manuals, educational materials, product descriptions and specifications, technical manuals, and supporting materials, as may be amended or supplemented from time to time and delivered to Customer by SmartWorks;

“**Fees**” means the License Fees, Maintenance and Support Fees, and any other applicable fees set out in Schedule “A” to this Agreement;

“**Intellectual Property Rights**” shall mean any proprietary right, including but not limited to those provided under: (i) patent law; (ii) copyright law; (iii) trade-mark law; (iv) design patent or industrial design law; or (vi) any other statutory provision or common law principle that may provide a right in either (a) ideas, formulae, algorithms, concepts, inventions or know-how; or (b) the expression of such ideas, formulae, algorithms, concepts, inventions or know-how;

“**License Fees**” means the fees to be paid by Customer in respect of the license rights to use the Software, as set out in Schedule “A”;

“**Maximum Channels**” means the maximum number of channels [or existing systems and connected devices such as Supervisory Control and Data Acquisition (SCADA) and sensors in the emerging Internet of Things (IoT)] that collect data regarding electricity being consumed by a customer of Customer or collect data regarding electricity provided by a customer to Customer, with which Customer is authorized to use the Software as specified in Schedule “A”.

“**Maximum Meters**” means the maximum number of meters with which Customer is authorized to use the Software as specified in Schedule “A”.



**“Maintenance and Support Fees”** means the fees for the Maintenance and Support Services set out in Schedule “A”;

**“Maintenance and Support Services”** means maintenance and support services to be provided by SmartWorks pursuant to the terms and conditions of Schedule “B”;

**“Open Source License”** means terms that, as a condition of use, copying, modification or redistribution of software, require that such software and/or derivative works thereof to be disclosed or distributed in source code form, to be licensed for the purpose of making derivative works, or to be redistributed free of charge, including without limitation software distributed under the GNU General Public License or GNU Lesser/Library GPL;

**“Required Hardware”** shall have the meaning set out in Section 6(b);

**“Required Programs”** shall have the meaning set out in Section 6(a);

**“Software”** means the object code version of the SmartWorks software products listed in Schedule “A” and includes any Updates or Upgrades that have been provided to Customer as part of the Maintenance and Support Services. Third Party Software is not included in the definition of Software except where this Agreement explicitly states otherwise;

**“Third Party Software”** means third party software products licensed to Customer by the applicable third party licensors. Future Releases of the Software may require alternate third-party software to be upgraded or licensed by Customer, which will be subject to a third party license agreement between Customer and the relevant third-party software licensor;

**“Updates”** means any published changes, additions or corrections to the Software that primarily include a minor modification or enhancement to the Software related to a bug fix, minor additional functionality that SmartWorks or its authorized reseller makes generally available to its customers as part of its Maintenance and Support Services;

**“Upgrades”** means a major overhaul of the Software which is a complete new published version of the Software that modifies, revises or alters the Software and adds features, functionality or enhancements to such Software, that SmartWorks or its authorized reseller makes generally available to its customers subject to the payment of additional fees; and

**“User(s)”** means any employee or legal agent of Customer.

#### b) Schedules

The Schedules described below and attached to this Agreement shall be deemed to be integral parts of this Agreement.

Schedule “A” - Software, Maximum Meters, Maximum Channels, Fees

Schedule “B” - Maintenance and Support Services

In the event of any conflict or inconsistency between the terms and conditions in the main body of this Agreement and the terms and conditions in any Schedule, the terms and conditions of the main body of this Agreement shall control unless otherwise expressly stated in the provision giving rise to the conflict or inconsistency.

2. Term This Agreement will commence on the Effective Date and shall continue until terminated in accordance with Section 13 (the “**Term**”).

#### 3. Fees

In consideration of receiving the license rights granted in this Agreement, and the Maintenance and Support Services, Customer agrees to pay to SmartWorks or its authorized reseller the License Fees, and Maintenance



and Support Fees in advance in accordance with the payment terms set out in Schedule "A". All Fees are non-refundable. Unless otherwise specified, all references to amounts of money in this Agreement and the related Schedules refer to U.S. currency. Maintenance and Support Fees may increase on an annual basis by a maximum of four percent (4%) at SmartWorks' or its authorized reseller's discretion. The Fees and any other fees set out in this Agreement are exclusive of taxes. Customer agrees to pay all foreign, federal, state, provincial, county or local income taxes, value added taxes, use, personal, property sales and any other taxes, tariff, duty or similar charges that may be levied by a taxing authority (excluding taxes on SmartWorks' net income). Customer shall reimburse SmartWorks for all travel and out of pocket expenses incurred in connection with any Customer request for onsite services.

If any Fees are not paid when due, then at SmartWorks' or its authorized reseller's discretion, (a) such Fees may accrue late interest at the rate of 1.5% (18% per annum) of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such fee was due until the date paid.

#### 4. License Grant

(a) Subject to the terms and conditions of this Agreement including, without limitation, the payment of the License Fees, SmartWorks hereby grants to Customer a personal, perpetual (subject to Section 13), non-exclusive, non-transferable, limited license (without any right to sublicense):

- (i) to install and allow Users to use the Software with up to the Maximum Channels and Maximum Meters in accordance with the Documentation solely for Customer's internal business purposes; and
- (ii) to make one (1) archival backup copy of the Software and to copy the Documentation; provided that Customer must reproduce any copyright or other notice marked on any part of the Software and Documentation on all authorized copies and must not alter or remove any such copyright or other notice.

(b) Use of the Software on any system that (i) does not meet the Required Programs and Required Hardware requirements set out in Section 6 voids all warranties with respect to the Software and relieves SmartWorks of any obligation to provide Maintenance and Support Services.

(c) The license rights granted in this Section 4 do not include the right to use any Third Party Software.

(d) Restrictions Without limiting the generality of Section 4, and in addition to the other restrictions listed therein, Customer shall not, and will not allow, direct or authorize (directly or indirectly) any third party to: (i) disassemble, de-compile, reverse engineer, defeat license encryption mechanisms, or translate any part of the Software, or otherwise attempt to derive, reconstruct or discover the source code of the Software except and only to the extent that applicable law expressly permits, despite this limitation; (ii) modify, translate, or create derivative works of the Software or Documentation or merge all or any part of the Software with another program; (iii) give away, rent, lease, lend, sell, sublicense, distribute, transfer, assign, or use the Software for timesharing or bureau use or to publish or host the Software for use by any third party; (iv) take any actions that would cause the Software to become subject to any Open Source License or quasi-open source license agreement; and (v) use the Software in any manner for purposes of (A) developing, using or providing a competing software product or service; (B) copying any ideas, features, functionality or graphics of the Software; or (C) knowingly allow access to any competitor of SmartWorks.

(e) Customer acknowledges and agrees that any breach of this Agreement by its Users shall constitute a breach by Customer.

#### 5. Ownership

(a) The Software, Documentation, related materials, and other information relating to the Software or used in conjunction with the Software, whether distributed in print, magnetic, electronic, or video format, in effect as of the date the Software are provided to the Customer are and shall remain the sole and exclusive property of SmartWorks, its licensors and/or its affiliates and Customer acknowledges and agrees that all Intellectual Property Rights therein are and shall remain with SmartWorks, its affiliates and/or its licensors. Any rights not expressly



granted herein are reserved by SmartWorks. Customer may not obscure, remove or otherwise alter any copyright, trademark or other proprietary notices from the Software, the Documentation, Third Party Software and related material supplied by SmartWorks. Customer shall report to SmartWorks any infringement or misappropriation of SmartWorks Intellectual Property Rights or other rights in the Software or the Documentation of which Customer becomes aware. Customer hereby grants to SmartWorks a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Software, and any suggestions, ideas, enhancement requests, recommendations or other feedback provided by Customer relating to the Software.

(b) In order to assist SmartWorks with the protection of its proprietary information and Confidential Information and to enable SmartWorks to ensure that the Customer is complying with its obligations, during the Term and for a period of two (2) years thereafter, Customer shall permit Harris, upon reasonable notice, but in no event less than 15 business days, to visit during normal business hours any premises at which the Software is used or installed and shall provide SmartWorks with access to its Software. Such audit shall be at SmartWorks' expense, however, in the event that the audit reveals that Customer is in violation of the usage terms of this Agreement, Customer shall reimburse SmartWorks for such expenses and promptly pay any additional License Fees and Maintenance and Support Fees not properly licensed or paid, such fees will be invoiced at SmartWorks' then current rate. However, in the event that the audit reveals that the Customer is in full compliance of the usage terms of this agreement, SmartWorks shall reimburse the Customer for its reasonably incurred expenses.

#### 6. Required Programs and Hardware

(a) Customer acknowledges that the use of the Software shall require that Customer obtain and install additional required minimum third-party software programs as set out in the Documentation and modified from time to time by SmartWorks (the "**Required Programs**"). Customer agrees that the purchase of the Required Programs shall be at Customer's sole cost and that the cost thereof is not included in the fees herein, including for any future updates about which Customer is provided with commercially reasonable advance notice.

(b) Customer acknowledges that the use of the Software requires that Customer have, at a minimum, hardware necessary to run SmartWorks programs as set out in the Documentation and modified from time to time by SmartWorks (the "**Required Hardware**").

#### 7. Third Party Software

(a) In the event that SmartWorks shall distribute to Customer any Third Party Software, Customer shall pay to SmartWorks in full in advance the license fees listed on the SmartWorks website at [www.SmartWorks.com](http://www.SmartWorks.com) for the Third Party Software. Such license fees are exclusive of taxes. Customer agrees to pay all foreign, federal, state, provincial, county or local income taxes, value added taxes, use, personal, property sales and any other taxes, tariff, duty or similar charges that may be levied by a taxing authority (excluding taxes on SmartWorks' net income). It is acknowledged by the parties that in the event that any Third Party Software is provided by SmartWorks to Customer pursuant to this Agreement, such Third Party Software shall be distributed to Customer by SmartWorks subject to the terms and conditions of the applicable license agreement for such Third Party Software to be entered into directly between Customer and the owner/licensor of such Third Party Software. SmartWorks makes no warranties, express or implied, with respect to the Third Party Software, including, without limitation, their merchantability or fitness for a particular purpose and SmartWorks accepts no liability of any kind whatsoever with respect to the Third Party Software. Any warranty Customer has with respect to the Third Party Software shall be solely provided by the Third Party Software licensor except where this Agreement may expressly state otherwise. Customer shall be responsible for the installation of any Third Party Software unless otherwise agreed by SmartWorks in writing.

#### 8. Maintenance and Support Services

Subject to the payment of the Maintenance and Support Fees, Maintenance and Support Services will be provided by SmartWorks in accordance with the Standard Maintenance and Support Services Terms for SmartWorks Products set forth in Schedule "B".

#### 9. Confidential Information.

Customer agrees:



- (i) to keep confidential any and all Confidential Information with respect to SmartWorks which it has received or may in the future receive in connection with this Agreement and to take all reasonable steps, which shall be no less than those steps it takes to protect its own confidential and proprietary information, to protect the Confidential Information of SmartWorks from unauthorized use, disclosure, copying or publication;
- (ii) not to use the Confidential Information of SmartWorks other than in the course of exercising its rights or performing its obligations under this Agreement;
- (iii) not to disclose or release such Confidential Information except to the extent required by applicable law or during the course of or in connection with any litigation, arbitration or other proceeding based upon or in connection with the subject matter of this Agreement, provided that Customer shall first give reasonable notice to SmartWorks prior to such disclosure so that it may obtain a protective order or equivalent and provided that the Customer shall comply with any such protective order or equivalent;
- (iv) not to disclose or release such Confidential Information to any third person without the prior written consent of SmartWorks, except for authorized employees or agents of Customer who have a need to know such information for the purpose of performance under this Agreement and exercising its rights under this Agreement, and who are bound by confidentiality obligations at least as protective of SmartWorks' Confidential Information as this Agreement; and
- (v) to take such actions as may be reasonably necessary to enforce its agreements with its employees and agents, including commencing legal proceedings.

#### 10. Warranty

- (a) **Limited Warranty.** SmartWorks warrants to Customer that as long as Customer has paid all Maintenance and Support Fees to obtain Maintenance and Support Services, the Software will perform substantially in accordance with the Documentation when properly used and in the manner specifically contemplated by the Documentation, the terms of this Agreement and where Customer has installed the Required Programs and on the Required Hardware. In the event the Software does not substantially conform to the Documentation, Customer promptly notifies SmartWorks of the nature of the failure and such additional information regarding the failure as SmartWorks may reasonably request and the error can be reproduced by SmartWorks, SmartWorks shall make commercially reasonable efforts to provide a suitable workaround, repair or replace the non-conforming Software in accordance with the Maintenance and Support Services. The foregoing shall be Customer's sole and exclusive remedy for breach of the exclusive warranty in this Section 10(a).
- (b) **Exclusions to SmartWorks Warranty.** SmartWorks shall not be liable for any breach of the foregoing warranties which results from causes beyond the reasonable control of SmartWorks, including but not limited to:
  - (i) Where the installation, integration, modification or enhancement of the Software has not been carried out by SmartWorks or its authorized agent, or where Customer has taken any action which is expressly prohibited by the Documentation or this Agreement;
  - (ii) Any combination of the Software with any software, equipment or services not supplied, recommended or authorized by or on behalf of SmartWorks other than the Required Programs and Required Hardware;
  - (iii) Use of the Software on any system that (i) does not meet any of the Required Programs and Required Hardware requirements set out in Section 6 or (ii) exceeds the Maximum Meters or Maximum Channels.
  - (iv) User error, or other use of the Software in a manner for which it was not intended or other than as permitted in this Agreement;
  - (v) Customer's failure to install a new Update which has been released to remedy an error or bug, and which SmartWorks has stated to Customer is a required Update necessary for security purposes or for legislative compliance purposes or other reasons as SmartWorks may determine is important in its sole discretion;
  - (vi) SmartWorks personnel are not given full, free and safe access to the facility where the Software is installed during attempts to remedy an error;



- (vii) Customer's failure to upgrade hardware to meet the demands of any upgraded Software or improvements in Software functionality; which SmartWorks has stated to Customer is required;
  - (viii) Customer's computer(s), network or other hardware malfunctioned and the malfunction caused the defect, or any other event of force majeure as set out in Section 15(h);
  - (ix) Any failures, losses or errors resulting from or related to hosting services used in connection with the Software, including without limitation, any harmful actions of Users or third parties, or resulting from corrupt data (for greater certainty, Customer is not permitted to use a third party to host the Software, such hosting services may only be provided by SmartWorks' service providers or where applicable its authorized reseller's service providers that have been approved by SmartWorks in advance in writing); or
  - (x) Any failure of the Software due to external causes such as, but not limited to, power failures or electrical surges.
- (c) Customer Warranty.

Customer represents and warrants to SmartWorks that it shall comply with all applicable laws in connection with its use of the Software and in its performance under this Agreement including but not limited to those laws regarding restrictions on exports and economic sanctions including end-user, end use and destination restrictions by Canadian, U.S. and other governments related to SmartWorks and its service providers products, services and technologies, and the U.S. Export Administration Regulations, and the International Traffic in Arms Regulations).

(d) Disclaimer.

TO THE GREATEST EXTENT PERMITTED BY LAW, EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET OUT IN SECTION 10(A) THE SOFTWARE IS LICENSED, THE MAINTENANCE AND SUPPORT SERVICES, ALL DOCUMENTATION AND OTHER MATERIALS AND SERVICES ARE PROVIDED TO CUSTOMER, "AS IS" AND THERE ARE NO WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESSED OR IMPLIED, WRITTEN OR ORAL, ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE, REGARDING THEM OR ANY OTHER PRODUCT, SERVICE OR MATERIAL PROVIDED HEREUNDER OR IN CONNECTION HERewith.

SMARTWORKS, ITS LICENSORS AND SUPPLIERS DISCLAIM ANY IMPLIED WARRANTIES OR CONDITIONS REGARDING THE SOFTWARE, THE DOCUMENTATION, THE PROFESSIONAL SERVICES, THE MAINTENANCE AND SUPPORT SERVICES, AND ANY OTHER PRODUCTS, SERVICES AND MATERIALS PROVIDED HEREUNDER OR IN CONNECTION HERewith, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.

11. Intellectual Property Indemnity

(a) In the event that there is a third party claim against Customer alleging that Customer's use of the Software in accordance with this Agreement constitutes an infringement of a valid United States or Canadian patent, copyright, trade-mark or trade secret, SmartWorks shall, at its expense, defend Customer and pay any amounts finally awarded against Customer by a court of competent jurisdiction or agreed to in a settlement approved by SmartWorks in advance, provided that: (i) Customer gives SmartWorks prompt written notice of any such claim and full opportunity to defend the same; (ii) Customer has not made any admissions or entered into settlement negotiations either prior to or after providing notice to SmartWorks of the applicable claim except with SmartWorks' prior written consent, (iii) SmartWorks has sole control of the defense of any claim or proceeding and all negotiations for its compromise or settlement; and (iv) Customer assists and provides information to SmartWorks throughout the action or proceeding.

(b) SmartWorks' liability for any claims under this Section 11 shall be reduced to the extent such claim arises from: (i) alterations or modifications to the Software by Customer or a third party in any manner whatsoever except with the prior written consent of SmartWorks; (ii) combination, integration or use of the Software with software, hardware or other materials other than the Required Hardware and Required Software where such claim would not have arisen but for such combination, integration or use; (iii) use of the Software other than in compliance with



this Agreement; (v) compliance with the Customer's written instructions or specifications; or (vi) use of the Software after notice from SmartWorks that it should cease due to possible infringement.

(c) In the event that Customer's use of the Software is finally held to be infringing or SmartWorks deems that it may be held to be infringing, Customer agrees that SmartWorks shall have the right, in SmartWorks' sole discretion to: (1) procure for Customer the right to continue use of the Software; or (2) modify or replace the Software so that it becomes non-infringing.

(d) The foregoing states SmartWorks' entire liability, and Customer's exclusive remedy, with respect to any claims of infringement of any copyright, patent, trade-mark, trade secret or other intellectual property and property interest rights relating to the Software, or any part thereof or use thereof. The indemnity provisions of this Section 11 shall not apply to any Third Party Software.

## 12. Limitation of Liability.

TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SMARTWORKS, ITS AFFILIATES AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND SHAREHOLDERS, BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES, FOR LOST REVENUE OR LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF DATA, FAILURE TO REALIZE EXPECTED SAVINGS, OR COST OF SUBSTITUTE GOODS OR SERVICES) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT OR IN TORT (INCLUDING FUNDAMENTAL BREACH OR NEGLIGENCE) OR UNDER ANY OTHER LEGAL THEORY, EVEN IF IT HAS BEEN ADVISED OF THE LIKELIHOOD OF THE OCCURRENCE OF SUCH LOSS OR DAMAGE OR SUCH LOSS OR DAMAGE IS FORSEEABLE AND NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

SMARTWORKS, ITS AFFILIATES, AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND SHAREHOLDERS' ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO THE SOFTWARE, AND ANY OTHER PRODUCTS, MATERIALS OR SERVICES SUPPLIED BY SMARTWORKS IN CONNECTION WITH THIS AGREEMENT FOR DAMAGES FOR ANY CAUSE AND REGARDLESS OF THE CAUSE OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING FUNDAMENTAL BREACH, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED IN THE AGGREGATE AN AMOUNT THAT IS EQUAL TO THE SUM OF: THE LICENSE FEES PAID TO SMARTWORKS BY CUSTOMER UNDER THIS AGREEMENT; AND THE MAINTENANCE AND SUPPORT FEES PAID TO SMARTWORKS IN THE TWELVE MONTH PERIOD PRECEDING THE DATE OF THE CLAIM.

## 13. Termination. This Agreement may be terminated as follows:

(a) If either party is in material breach of any of its obligations or any provision under this Agreement, the other party must notify the breaching party in writing of such default (a "**Default Notice**"). Upon receipt of a Default Notice, the breaching party must correct the default within ninety (90) days, or issue a written notice of its own disputing the alleged default within thirty (30) days, of the date of receipt of a Default Notice. If the breaching party fails to correct the default within such ninety (90) day period, and did not issue a notice disputing the alleged default within such thirty (30) day period, the other party may terminate this Agreement upon written notice to breaching party to that effect

(b) If Customer has failed to pay any of the Fees when due, then SmartWorks or its authorized reseller shall have the right to terminate this Agreement effective immediately upon written notice to that effect. If Customer has failed to pay any Maintenance and Support Fees when due, SmartWorks may, at its option, suspend Maintenance and Support Services until all outstanding Maintenance and Support Fees have been paid in full and/or exercise its right to terminate this Agreement in accordance with this section.

(c) Notwithstanding any other provision of this Agreement, if the Customer breaches (i) any term of Section 4, Section 7, or any other Intellectual Property Right of SmartWorks; or (ii) its confidentiality obligations under Section 9, then SmartWorks shall have the right to terminate this Agreement effective immediately upon written notice to Customer to that effect.

(d) Either party may terminate this Agreement effective immediately upon written notice to the other party if the other party: (i) becomes insolvent; (ii) becomes the subject of any proceeding under any bankruptcy, insolvency or liquidation law, whether domestic or foreign, and whether voluntary or involuntary, which is not



resolved favourably to the subject party within ninety (90) days of commencement thereof; or (iii) becomes subject to property seizure under court order, court injunction or other court order which has a material adverse effect on its ability to perform hereunder.

14. Effects of Termination.

Upon termination of this Agreement, all warranties related to the Software shall automatically terminate upon termination of this Agreement. All outstanding Fees owed by Customer to SmartWorks associated with such termination shall be immediately due and payable. Except as otherwise expressly provided in this Agreement, termination of this Agreement shall be without prejudice to any other right or remedy to which either party may be entitled to in law or in equity.

15. General

(a) Entire Agreement. This Agreement supersedes all prior representations, arrangements, negotiations, understandings and agreements between the parties, both written and oral, relating to the subject matter hereof and shall constitute the entire agreement between the parties hereto with respect to the matters covered herein. The terms of this Agreement may not be changed except by an amendment signed by the authorized representative of each party.

(b) Equitable Relief. Customer acknowledges and agrees that it would be difficult to compute the monetary loss to SmartWorks arising from a breach or threatened breach of this Agreement and that, accordingly, SmartWorks will be entitled to specific performance, injunctive or other equitable relief in addition to, or instead of monetary damages in the event of a breach or threatened breach of this Agreement by Customer.

(c) Governing Law. This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

(d) Waiver. No waiver, modification, extension, addendum or any other change of any provision of this Agreement shall be valid unless in writing and signed by the party against whom enforcement is sought. The waiver by either party of a breach or a default of any provision of this Agreement shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either party to enforce any provision of this Agreement be construed as a waiver of any right, power or privilege by such party.

(e) Allocation of Risk. Customer acknowledges that the limited warranties, disclaimers and limitations of liability contained in this Agreement are fundamental elements of the basis of bargain between Customer and SmartWorks and set forth an allocation of risk reflected in the fees and payments due hereunder.

(f) Survival. The following sections and articles shall survive the termination or expiration of this Agreement: Sections 1, 3, 4(b), 4(c), 4(d), 4(e), 5, 6, 7, 9, 10(b), 10(c), 10 (d), 12, 14, 15, and any other provisions which are required to ensure that the parties fully exercise their rights and obligations hereunder; unless and until waived expressly in writing by the party to whom they are the benefit.

(g) Force Majeure. No default, delay or failure to perform on the part of SmartWorks shall be considered a breach of this Agreement 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.

(h) Notice. Any notice required or permitted to be given to any party to this Agreement shall be given in writing and shall be delivered personally, mailed by prepaid registered post or sent by facsimile to the appropriate



address or facsimile number set out below. Any such notice shall be conclusively deemed to have been given and received on the day on which it is delivered or transmitted (or on the next succeeding business day if delivered or received by facsimile after 5:00 p.m. local time on the date of delivery or receipt, or if delivered or received by facsimile on a day other than a business day), if personally delivered or sent by facsimile or, if mailed, on the third business day following the date of mailing, and addressed,

in the case of SmartWorks, to:

[insert address]

Fax No.:

Attention: [insert name]

With a copy to:

N. HARRIS COMPUTER CORP  
1 Antares Drive, Suite 400  
Ottawa, Ontario K2E 8C4  
Attention: General Counsel  
Telephone: 613-226-5511, Ext. 2149

And in the case of Customer, to:

City of Santa Ana  
20 Civic Center Plaza  
P.O. Box 1988  
Santa Ana, CA 92702  
Attn: Clerk of the Council

With copy to Executive Director, Public Works Agency (at same address)

- (i) Assignment. Customer may not assign any of its rights or duties under this Agreement without the prior written consent of SmartWorks. The Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and permitted assigns.
- (j) Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and which shall together constitute one Agreement.
- (k) U.S. Government Restricted Rights. The Software was (i) developed exclusively at private expense; (ii) is a trade secret of SmartWorks or its licensors for the purposes of the Freedom of Information Act; (iii) are "commercial computer software" subject to limited utilization (Restricted Rights); and (iv) including all copies of the Software, in all respects is and shall remain proprietary to SmartWorks or its licensors. Use, duplication or disclosure by the U.S. Government or any person or entity acting on its behalf is subject to restrictions for software developed exclusively at private expense as set forth in: (i) for the DoD, the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 and/or 252.227.7014 or any successor clause, and (ii) for all government agencies, the Commercial Computer Software – Restricted Rights clause at FAR 52.227-19 or any successor clause. The U.S. Government shall refrain from changing or removing any insignia or lettering from the Software or from producing copies of the Software and manuals (except one copy of the Software for backup purposes). Use of the Software shall be limited to the facility for which it was acquired. All other U.S. Government personnel using the Software are hereby on notice that use of the Software is subject to restrictions that are the same as, or similar to, those specified above. The manufacturer/owner is N. Harris Computer Corporation.

**IN WITNESS WHEREOF**, SmartWorks and the Customer have duly executed this Agreement to be effective on the Effective Date first written above.

N. Harris Computer Corp (dba SmartWorks)

*Eric Chabot*

Signature

Eric Chabot

Name

Executive Vice-President

Title

October 1, 2020

Date

City of Santa Ana

Signature

Kristine Ridge

Name

City Manager

Title

Date

APPROVED AS TO FORM

*John M. Funk*

John M. Funk

Assistant City Attorney

ATTEST

Daisy Gomez

Clerk of the Council

RECOMMENDED FOR APPROVAL

Nabil Saba

Executive Director

Public Works Agency



## SCHEDULE "A"

### Fees

#### SOFTWARE:

<b><i>One-time Fee</i></b>	<b><i>Amount</i></b>
<b><i>License Fee:</i></b>	<b>\$122,870</b>
<b><i>Annual Recurring Fees</i></b>	<b><i>Amount</i></b>
<b><i>Maintenance and Support Fee:</i></b>	<b>\$30,718</b>

\* All charges are exclusive of out of pocket expenses for services performed on site. Charges for actual and reasonable out-of-pocket expenses including, but not limited to, travel and lodging expenses will be billed monthly as incurred. All pricing is exclusive of applicable sales, use or similar taxes. Customer is responsible for any such taxes that may apply; if Customer is tax exempt, evidence of such tax exemption must be provided. Lapsed payments may lead to denial of access to the Maintenance and Support Service in accordance with Section 16(b)(ii) of the Agreement.

#### PAYMENT TERMS:

The License Fee will be due in advance of the Term, and is non-refundable.

Annual Maintenance and Support Fees are invoiced in advance of an upcoming annual term. Annual Maintenance and Support Fees shall be due and payable thirty (30) days from date of invoice.

#### PROFESSIONAL SERVICE(S) FEES:

Professional services may be provided on-site or via the telephone. Professional services work provided via telephone is billed at the rate of two hundred and thirty (\$230) per hour. Professional services work performed on-site does not include travel, lodging and per diem expenses. Professional services performed shall be billed at the then current SmartWorks professional services rates. Help line support and Maintenance and Support Services do not include training or other professional services.

Customer shall incur a seven-hundred fifty dollar (\$750) daily surcharge for any professional services provided on weekends or SmartWorks recognized holidays; plus the corresponding standard professional services fees and any applicable travel charges per paragraph 4.

Professional services may include, but are not limited to, the following: software installation, configuration, data validation, system setup, system balancing, interface setup, interface testing, process training, application training and business requirements gathering.

Professional services fees, and any applicable travel and lodging expenses, will be invoiced as incurred and shall be due and payable thirty (30) days from the date of invoice.

#### RESET OF TERM TO MATCH FISCAL YEAR:

Customer may request that SmartWorks match the annual invoicing of the Maintenance and Support Fees with Customer's fiscal year. In order for Customer to elect to match annual invoicing with their fiscal year, Customer

must make said request to SmartWorks in writing and during the first year of the Term of this Agreement. If such election is made SmartWorks shall, a) issue a prorated invoice for any Maintenance and Support Fees due for the portion of the year remaining in Customer's current fiscal year, b) extend the then current term to expire at the end of the Customer's subsequent fiscal year, c) issue an annual invoice thereafter on the annual anniversary date of Customer's fiscal year for any Maintenance and Support Fees due, and d) reset future annual terms to expire at the end of Customer's fiscal year. Annual Maintenance and Support Fees are invoiced in advance of an upcoming annual term. Annual Maintenance and Support Fees shall be due and payable thirty (30) days from date of invoice.



**SCHEDULE "B"**  
**MAINTENANCE AND SUPPORT SERVICES**



**Standard Support and Maintenance Services**  
**SmartWorks Products**

*The purpose of this Exhibit is to provide our customers with information on our standard coverage, the services which are included as part of your annual software support, a listing of ticket priorities, an outline of our escalation procedures and other important details.*

*SmartWorks reserves the right to make modifications to this document as required.*

**Last Updated: January 31, 2018**

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## STANDARD SUPPORT AND MAINTENANCE SERVICES – GUIDELINES

The services listed below are services that are included as part of your software support.

- Support for the SmartWorks products as implemented by our Professional Services group includes:
  - The SmartWorks products and all default functionality
  - The SmartWorks product side of the interfaces with other third party systems, as implemented by our Professional Services Consultants
  - Customized rules developed by Professional Services staff. Rules developed or modified by the Organization are not supported through the standard Support and Maintenance agreement.
  - The integrity of the data within the SmartWorks products, to the extent that the SmartWorks product has manipulated it. The SmartWorks products are not responsible for the completeness or accuracy of the data originating in third party systems (e.g. AMI, CIS, etc.)
  - Advice on VEE parameter settings and processes, however the VEE settings themselves are the responsibility of the Organization
- We will create and install software updates (release notes will be available upon request and on the Customer Hub) that may include:
  - Defect corrections (as warranted)
  - Planned enhancements
  - State (Provincial) and/or Federal mandated changes (charges may exist depending on scope)
- From time to time, we will provide software upgrades (note that there may be charges in implementation depending on the scope of services)
- We will troubleshoot customer issues and provide recommendations for resolution
- We will provide remote training on subjects of limited scope. As a rule of thumb, a subject of limited scope can be addressed in about 15 minutes over the phone. If a customer makes numerous training requests in a short period of time, we may deem the training requests to be of a broad nature.
- HealthWatch - Online Diagnostics
  - HealthWatch rules will collect data and alert Support Services when specific thresholds have been met (e.g. disk space limit reached, no interval data for two days, etc.)
  - We will proactively monitor your solution to identify small issues before they become big problems using our HealthWatch tool. Depending on the nature of the issue, we may either alert you or attempt to address the issue ourselves.
  - If customer decides to opt-out of HealthWatch, charges may apply.
- Customer Care Program. On a periodic basis, we will share useful information regarding the use of your SmartWorks products and our services through one or more of the following methods:
  - Support Bulletins
  - Communication on new products and services
  - On-site visits (as required)
  - Webinars
  - Surveys
  - Knowledge Base
- If requested, provide an Outstanding Tickets Report with conference call
- Ability to attend the annual customer conference (attendance fees apply)
- Opportunity to participate in BETA programs at our discretion
- We shall provide an online ticketing system with the following features:
  - Ability to log and close tickets
  - Ability to view and update tickets
  - Ability to update contact information



- Access to published documentation
- Access to support knowledge base
- Ability to report on metrics
- 800 Toll Free Telephone Support

### **Customer Responsibilities**

In order to effectively provide our support services, the customer Customer is responsible for the following items:

- Customer shall notify SmartWorks of suspected defects in any of the Software supplied by SmartWorks. Customer shall provide, upon SmartWorks request, additional data deemed necessary or desirable by SmartWorks to reproduce the environment in which such defect occurred.
- Customer shall allow the use of online diagnostics on the Software supplied by SmartWorks to Customer. Customer shall provide to SmartWorks, at Customer's expense, access to the Designated Computer System via the Customer's communications software.
- Customer shall ensure that its personnel are, at relevant stages of the project, educated and trained in the proper use of the Software in accordance with applicable SmartWorks manuals and instructions. If Customer's personnel are not properly trained as mutually determined by SmartWorks and Customer, Customer agrees that such personnel will be trained by SmartWorks or Customer within fifteen (15) days of determination. If Customer desires SmartWorks to perform the required training then SmartWorks shall be compensated in accordance with this Agreement.
- Customer shall establish proper backup procedures necessary to replace critical Customeral data in the event of loss or damage to such data from any cause. Customer shall provide SmartWorks with access to qualified functional or technical personnel to aid in diagnosis and to assist in repair of the Software in the event of error, defect or malfunction.
- Customer shall have the sole responsibility for:
  - The performance of any tests it deems necessary prior to the use of the Software.
  - Assuring proper Designated Computer System installation, configuration, verification, audit controls and operating methods.
  - Implementing proper procedures to assure security and accuracy of input and output and restart and recovery in the event of malfunction.
  - Timely upgrade and keeping current all third party license releases and/or Software products to meet the requirements of the SmartWorks Software.
- Customer is responsible for the data quality, completeness, and availability from 3rd party applications on which SmartWorks product relies.
- Customer shall be responsible for rules created and/or edited by Customer staff.
- Customer shall be solely responsible for all VEE parameters settings, the regular monitoring of validation failures, and the rectification of any validation failures.

### **SOLUTION UPDATES**

SmartWorks will make software updates available from time to time. When an update is available, SmartWorks will make an announcement to its customers.

Customers are expected to make commercially reasonable efforts to keep current on the latest version of the SmartWorks Software.



Once a new version is available, you shall have 6 months to update your software. After that time, SmartWorks will charge you at the standard services rate for any support related activities performed by SmartWorks in addition to the support fees you are already paying.

Further, SmartWorks will not provide any support services for customers on a version that is more than one (1) version older than the current version.

**BILLABLE SUPPORT SERVICES**

The services listed below are services that are out of scope of your support and maintenance agreement and are therefore considered billable services.

- Provision of remote or on-site training on subjects of broad scope
- New interfaces or connections to non-SmartWorks (or third party) applications
- Creation of test instances
- Custom modifications (e.g. rules, reports, new data, etc.)
- Data conversions and global modification to setup table data
- Database maintenance, repairs and optimization, refreshes, backups, restores
- Extended Hardware and Operating System support
- Upgrades and support of third party software (e.g. database software, OS, web server, etc.)
- Installations and/or re-installations of software solution
- Support for rules, reports, database procedures, or screens developed by, or modified by, the Organization
- Cleansing or re-processing of data originating from a third party system (e.g. AML, CIS, etc.)

Note: If customer purchases a billable service with a maintenance fee such as the ones listed above, the Organization is responsible for supporting these items.

**Test Databases and Environments**

We support customers in the maintenance of independent Test Environments for testing purposes. This allows customers the opportunity to test fixes, modifications, new business processes and/or scenarios without risking any potentially unwanted changes to the live environment. The creation of Test Databases and Environments is a billable service; quotations and incremental maintenance rates will be provided on request.

**OPERATIONS**

**Hours**

Our standard hours of support are from 8:00 a.m. EST to 8:00 p.m. EST, Monday to Friday, excluding designated statutory holidays. Weekend assistance is available, but must be scheduled in advance, and in most cases is billable.

**Holiday Schedule**

Below is a listing of statutory holidays. Please note that support services will be closed on designated days as outlined below.

New Year’s Eve	Early Closure (noon EST)
----------------	--------------------------

New Year's Day	Closed
President's Day (USA) /Family Day (Canada)	Closed
Victoria Day (Canada)	Closed
Labor Day	Closed
Canada Day (Canada)	Closed
Thanksgiving Day (Canada)	Closed
Christmas Eve	Early Closure (noon EST)
Christmas Day	Closed
Boxing Day (Canada)	Closed

## **Ticket Process**

All issues or questions reported to support are tracked via a TeamSupport Customer Hub ticket. Our support analysts cannot provide assistance unless a support ticket is logged. The use of a TeamSupport ticket allows us to track the resolution of your issues. As well, it helps us measure our activities so we can properly forecast our staffing requirements. Our current process for logging tickets includes the following: TeamSupport's SmartWorks Customer Hub (via website), email, phone and fax.

- Your ticket must contain at a minimum: your organization name, contact person, software product and version, module and/or menu selection, nature of issue, detailed description of your question or issue and any other information you believe pertinent.
- Our support system or one of our support analysts will provide you with a ticket id to track your issue and your ticket will be logged into our support tracking database.
- Your ticket will be stored in a queue and the first available support representative will be assigned to deal with your issue.
- As the support representative assigned to your tickets investigates your issue, you will be notified of status updates, actions and a resolution plan via the support ticketing system. If we require additional information, you will be contacted by the assigned support representative to supply the information required.
- All correspondence and actions associated with your ticket will be tracked against your ticket ID in our support database. At any time, you may log onto our website to see the status of your ticket.
- Once your issue has been resolved, the ticket will be set to a "Resolved" status. You will then have time to evaluate the resolution and provide feedback. Once you are satisfied that the issue has been addressed, you will then close the ticket. We will do our best to provide you with adequate time to evaluate the resolution. However, we will then close a ticket if we do not receive any feedback for an extended period of time. You will always be notified of a pending or actual ticket closure. You will have the option of re-opening the ticket if needed.
- Once your ticket has been closed, you will receive an automated notification by email. This email will contain the entire event history of the ticket from the time it was created and leading up to the resolution of the ticket. You also have the option of viewing both your open and closed tickets, if available to you, via our website.
- If your issue needs to be escalated to a development resource or programmer for resolution, your issue will be forwarded to our development team. Your support ticket will remain open until our development



team provides a response. If a development item opens, you will be provided with a development tracking number upon request. Issues escalated to development will be scheduled for resolution and may not be resolved immediately depending on the nature and complexity of the issue. If an issue is determine to be an enhancement or feature, we will log a ticket in our product management queue and will notify you when a release has been made available.

- You may contact the support department at your convenience for a status update on your development issues.

### **Ticket Priorities**

In an effort to assign our resources to incoming tickets as effectively as possible, SmartWorks has identified three ticket priorities: 1(high/critical), 2(medium), and 3(low). The criteria used to establish a ticket priority are as follows:

Priority Level	Description
1	<ul style="list-style-type: none"> <li>• Program errors without workarounds</li> <li>• Incorrect calculation errors impacting one-third of records</li> <li>• Error messages preventing data integration and update</li> <li>• Performance issues of severe nature impacting critical processes</li> </ul> <p><i>Note: in most cases issues affecting a test environment only will not be considered a priority of 1</i></p>
2	<ul style="list-style-type: none"> <li>• System errors that have workarounds</li> <li>• Calculation errors impacting less than one-third of records</li> <li>• Reports calculation issues</li> <li>• Performance issues not impacting critical processes</li> <li>• Usability issues</li> <li>• Workstation connectivity issues (Workstation specific)</li> </ul>
3	<ul style="list-style-type: none"> <li>• Training questions, how to, or implementation of new processes</li> <li>• Aesthetic issues</li> <li>• Issues where a workaround is available for a large majority of cases</li> <li>• Recommendations for enhancements on system changes</li> <li>• Questions on documentation</li> <li>• Test environment issues or questions</li> </ul>

### **Response Times**

Response times will vary and are dependent on the priority of the ticket. We do our best to ensure that we deal with incoming tickets in the order that they are received, however, tickets will be escalated based on the

urgency of the issue reported. If a support ticket is logged during standard operating hours, our response times are as follows:

Priority	Initial Response Time*	R&D Response Time from Escalation	Update Frequency
1	Within 4 hours	Same day	Every 2 business days
2	Within 8 hours	Within one week	Every 5 business days
3	Within 24 hours	Within 3 weeks	Every 10 business days

\* During Business Hours

**Example:**

- Priority 1 Support Ticket received Monday January 2 at 10 am >> Support Analyst responds Monday January 2 by noon >> Support Analyst sends update Monday January 2.

- Priority 1 Support Ticket received Monday January 2 at 9 PM >> Support Analyst responds Tuesday January 3 by noon >> Support Analyst sends update Tuesday January 3.

**Escalation Process**

We strive to provide a satisfying and positive support experience. However, if at any time you are not completely satisfied with the resolution of your issue, you are encouraged to escalate within Support Services, as follows:

**Level 1:** Your ticket's assigned Support Analyst

**Level 2:** Team Lead, Support Services

**Level 3:** Manager, Support Services

**Level 4:** Executive Vice President, SmartWorks



**THIRKETTLE CORPORATION**  
**ANNUAL SERVICES AGREEMENT**

This Annual Services Agreement (the “Agreement”) is made by and between Thirkettle Corporation dba Aqua-Metric Sales Company, a California corporation, having its principal location at 4050 Flat Rock Drive, Riverside, CA 92505 (the “Contractor”) and City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California, having its principal location at 20 Civic Center, Santa Ana CA 92702 (the “Client”). Contractor and Client are each referred to individually as “Party” or collectively as the “Parties”. The Parties agree as follows:

**RECITALS**

- A. By separate agreement, Contractor has been engaged by Client to provide and install a fully functioning Advanced Metering Infrastructure (AMI) / Meter Data Management (MDM) system, and related software and services within the Contractor Agreement (or “Master Agreement”). Capitalized terms shall have the same meanings as defined within the Contractor Agreement.
- B. Contractor has been engaged by Client to provide Sensus, Inc. (a) Software-as-a-Service (the “SaaS Services”) hosted services required for the daily operation of the FlexNet System (or the “AMI System”); and (b) Maintenance and Support services for the infrastructure and related software (the “Support Services”).
- C. Contractor agrees to, in accordance with the terms of this Agreement, perform the services and supply the goods as described in the attached Exhibits and Appendices (the “Work”), which is attached hereto and made a part hereof for all purposes. This Agreement shall include the following:
  - i. This Annual Services Agreement
  - ii. Exhibit A: Annual Services Pricing
  - iii. Exhibit B: Support Standards
  - iv. Exhibit C: Support Datasheet

In consideration of the mutual agreements, covenants, representations and warranties contained herein, and in reliance thereon, intending to be legally bound, Contractor and Client agree as follows:

1. **TERM.** This Agreement shall commence on November 17, 2020 (the “Effective Date”) and shall extend for one (1) year unless terminated earlier in accordance within the provisions of this Agreement or otherwise extended by the parties. This Agreement will automatically renew for additional one (1) year terms unless terminated pursuant to the terms hereunder.
2. **SERVICES.** This Agreement sets forth the annual subscription services, terms, and/or conditions billed by Contractor to Client on an annual recurring basis beginning on the first anniversary from the date the first year fees have been invoiced by Contractor to Client. For clarity, Contractor will invoice first year annual fees concluding the RNI commissioning within the Alpha Proof of Concept Phase of the Project. Contractor, through itself and through Sensus, Inc., agrees to perform and provide Client the annual services detailed herein Exhibit A.
3. **PRICING AND PAYMENT.** Subject to the provisions of this Agreement, Client shall pay Contractor for the annual hosting and support fees in the amount set forth herein Exhibit A. Contractor shall automatically invoice Client for payment not more than ninety (90) days prior to the anniversary date of the Implementation Date. Client shall issue payment within forty-five (45) days of receipt of invoice. Notwithstanding, if Client fails to pay any invoice by the anniversary date, Contractor may seek termination per Section 13 of this Agreement. Seeking termination per Section 15 does not preclude the Contractor from continuing to provide services that have already been paid for by the Client. Failure to give termination notice prior to renewal will result in automatic renewal and Client agrees to be responsible for subsequent annual fees. Reinstatement of lapsed Support Services will require full payment of Support Services fees that would have been due from the renewal of the last active period through the reinstatement date plus a ten percent (10%) reinstatement fee. Payment of the applicable amount for

the current support period will be due upon reinstatement. This reinstatement policy applies if support has been cancelled or there is otherwise a lapse in coverage, such as for nonpayment of fees. Annual recurring fees will incur an automatic three percent (3%) annual increase to the antecedent fee for service. All pricing and payments shall be in US currency.

4. MODIFICATIONS, AMENDMENTS AND CHANGE ORDERS. No modification or amendment to this Agreement or the Work herein shall be binding upon either Party hereto unless such amendment is set forth in writing and duly executed by an authorized representative of each Party. An authorized representative for Client is not the designated contact for the Agreement/Project but is either the City Manager or the Executive Director of the Public Works Agency, or their designee. Contractor and Client each acknowledge additional product and services not detailed or described herein may be required to complete the Work. Either Party may initiate a request to modify, add or remove additional product or services. No additional product or service will be inclusive unless upon written amendment to this Agreement duly executed by an authorized representative from both Parties. Unless otherwise agreed upon, all additional product or services rendered will be quoted at current market values at the time of request.

5. SUSPENSION OR TERMINATION OF SERVICE.

- 5.1. Client may discontinue Support Services upon written notice and within sixty (60) days prior to the renewal anniversary. In the event of termination, Client acknowledges and agrees Contractor and/or Sensus will not be held responsible to diagnose, troubleshoot, update, repair, or replace any hardware or software previously purchased by Client. Client will be responsible for the purchase of hardware, software Updates or Upgrades, or hourly support and maintenance fees described in Exhibit B.

6. OWNERSHIP.

- 6.1. Contractor Materials. Contractor or its suppliers shall retain all right, title and interest (including but not limited to copyright and other proprietary or intellectual property rights) in the Contractor Confidential Information, the Contractor Proprietary Materials (excluding Client Work Product, Client Data and Client Confidential Information).
  - 6.2. Client Materials. The Client shall retain all right, title and interest (including copyright and other proprietary or intellectual property rights) in the Client Work Product, Client Confidential Information and Client Data. Contractor may access Client Data only to respond to AMI services or technical problems or at the Client's request, and for the purposes of hosting such Client Data in connection with the provision of the AMI Services to the Client. Without limiting the generality of the foregoing, Contractor agrees that information and data on how the AMI Services are used by Client (such as, but not limited to, benchmarking data, usage patterns and roles) constitute Client Confidential Information and may only be used by Contractor to improve the delivery of AMI Services for Client, and may not be used for other purposes, and may not be distributed, transferred in detail or summary form to any third party without the express written consent of Client.

7. CONFIDENTIAL INFORMATION.

- 7.1. Each party shall hold the other party's Confidential Information in confidence and shall not disclose such Confidential Information to third parties other than to consultants or contractors, subject to similar terms of confidentiality, when disclosure is necessary for the purposes set forth herein, nor use the other party's Confidential Information for any purpose other than the purposes set forth under this Agreement. The foregoing restrictions on disclosure shall not apply to information which is: (i) already known by the recipient, (ii) becomes, through no act or fault of the recipient, publicly known, (iii) received by recipient from a third party without a restriction on disclosure or use, (iv) independently developed by recipient without reference to the other party's Confidential Information, or (v) is a public record under applicable laws, which shall control, subject to the terms of this Section. Subject to the California Public Records Act, the Client will maintain the confidentiality of all Contractor Confidential Information, and Contractor will maintain the confidentiality of all Client Confidential Information, with each party taking all reasonable precautions to protect the same, at a minimum taking those precautions used to protect its own Confidential Information from unauthorized use or disclosure. All Client Data shall be



deemed Client Confidential Information for purposes of this Agreement and the protections and requirements set forth herein.

- 7.2. The Client acknowledges that Contractor may use products, materials, or methodologies proprietary to Contractor. The Client agrees that Contractor's provision of services under this Agreement shall not be grounds for the Client to have or obtain any rights in such proprietary products, materials, or methodologies unless the parties have executed a separate written agreement with respect thereto. Contractor, for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by the Client as confidential and shall not disclose any such information to a third party without the prior written approval of the Client. Subcontractors and affiliates of Contractor who need to know the Confidential Information to perform the Services shall not be considered third party for purposes of this Section.
- 7.3. Unauthorized Access. Contractor shall store and maintain Client Information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt Client Information in any way. Contractor shall notify the Client immediately if the security or integrity of any Client information has been compromised or is believed to have been compromised, in which event, Contractor shall, in good faith, use all commercially reasonable efforts to cooperate with the Client in identifying what information has been accessed by unauthorized means and shall fully cooperate with the Client to protect such information from further unauthorized disclosure.

## 8. COMPLIANCE WITH LAWS

- 8.1. Contractor Compliance with Laws. Contractor will perform its obligations under this Agreement in a manner that complies with all Laws: (i) applicable to Contractor and Contractor's business, activities, Contractor's facilities and the provision of Services hereunder, including Laws of any country or jurisdiction from which or through which Contractor provides the Services or obtains resources or personnel to do so; and (ii) applicable to Client and Client's affiliates. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound, including the Laws of each and every jurisdiction applicable to Client, Contractor, this Agreement and the performance of the Services.
- 8.2. Client Compliance with Laws. Client will perform its obligations under this Agreement in a manner that complies with all Laws applicable to Client's business, activities, and facilities. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound.

## 9. LIMITED WARRANTIES, REPRESENTATIONS AND COVENANTS

- 9.1. Contractor represents, warrants and covenants as follows:
- a. Contractor has the right to enter into this Agreement and perform in accordance with the terms of this Agreement, and such actions do not violate any third-party agreement or other obligation by which Contractor is bound.
  - b. Contractor is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Agreement, except where the failure to be so qualified, in the aggregate, would not reasonably be expected to adversely affect its ability to perform its obligations under this Agreement;
  - c. Contractor has the full right, corporate power and authority to enter into this Agreement, to grant the rights and licenses granted under this Agreement and to perform its obligations under this Agreement;
  - d. The execution of this Agreement by Contractor's representative herein has been duly authorized by all necessary corporate action of Contractor.

## 10. DISCLAIMER OF WARRANTIES.

- 10.1. **DISCLAIMER.** EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SERVICES AND SOFTWARE ARE PROVIDED BY CONTRACTOR ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; provided; however any such warranties received by Contractor from its suppliers shall be passed on to Client.
- 10.2. **Limitations.** Unless otherwise expressly provided herein, neither Contractor nor any of its service providers, licensors, employees or agents warrant that the operation of the Services will be uninterrupted or error free. Contractor will not be responsible for any damages that Client may suffer arising out of use, or inability to use, the Services to the extent Contractor is reasonably unable to control.

## 11. LIMITATIONS AND DISCLAIMERS OF LIABILITY.

- 11.1. **DISCLAIMER OF CERTAIN DAMAGES.** IN NO EVENT SHALL ANY PARTY HAVE ANY LIABILITY TO THE ANOTHER PARTY HERETO FOR ANY LOST PROFITS (WHETHER DIRECT OR INDIRECT), LOSS OF USE, COSTS OF COVER, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT, WARRANTY OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

## 12. INDEMNIFICATION.

- 12.1. **Contractor’s Obligation.** Contractor shall defend, indemnify and hold each Client Indemnitee (as defined below) harmless from any and all losses, costs, fines, penalties, damages and other amounts (including reasonable attorney fees) incurred by, assessed against or imposed on a Client Indemnitee arising from or in connection with any and all third party suits, claims, actions or demands (a “Claim”): (i) alleging any Product, Software or any Service infringes any valid and issued patent, copyright, or trademark or similar property right of a third party, (ii) for personal injuries, death or damage to tangible personal and real property caused by the gross negligence or willful misconduct of Contractor, its employees, contractors or agents; (iii) relating to or arising out of Contractor’s failure to comply with applicable law; and (iv) relating to or arising out of Contractor’s breach of its confidentiality obligations hereunder. “Client Indemnitee” shall mean Client, and its respective officers, directors, employees, agents, successors and assigns.
- 12.2. **Client Obligation.** To the extent allowed by the laws of the State of California, Client shall defend, indemnify and hold Contractor harmless from any and all losses, costs, fines, penalties, damages and other amounts (including reasonable attorney fees) incurred by, assessed against or imposed on Contractor arising from or in connection with any and all third party suits, claims, actions or demands (a “Claim”): (i) for personal injuries, death or damage to tangible personal and real property caused by the gross negligence or willful misconduct of Client, its employees, contractors or agents other than Contractor; (ii) relating to or arising out of Client’s failure to comply with applicable law; and (iii) relating to or arising out of Client’s breach of its confidentiality obligations hereunder.

## 13. TERMINATION.

- 13.1. **Default.** In the event a Party hereto breaches this Agreement and such breach is not cured during the Cure Period (defined below), if applicable, the non-breaching Party may terminate this by providing no less than one hundred twenty (120) business days’ prior written notice of termination (the “Termination Period”) to the other Party.
- 13.2. **Breach.** Either party may terminate this Agreement for breach of duty, obligation or warranty upon exhaustion of all remedies herein.
- 13.3. **Duties and Obligations of the Parties.** In the event that this Agreement is terminated prior to the Expiration Date, the Client shall pay Contractor for services actually rendered up to the effective date of termination



and Contractor shall continue to provide the Client with services requested by the Client and in accordance with this Agreement up to the effective date of termination. Upon termination of this Agreement for any reason, Contractor shall provide the Client with copies of all completed or partially completed documents prepared under this Agreement contemporaneously with the Client making a final payment to Contractor in the amount consistent with services rendered as of the date of termination, including such subscription services the Contractor has contracted for in fulfillment of the terms of this Agreement. In the event Contractor has received access to Client information or data as a requirement to perform services hereunder, Contractor shall return all Client provided data to the Client in a machine-readable format or other format deemed acceptable to the Client, in the Client's reasonable discretion.

- 13.4. **Cure Period.** As used in this Agreement, "Cure Period" means a period of thirty (30) days after receipt by a breaching Party of written notice from the non-breaching Party that this Agreement has been breached.
14. **INFORMAL DISPUTE RESOLUTION.** Except in the event of termination pursuant to Section 17, if either Contractor or Client has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the Parties shall first attempt to resolve the matter through this dispute resolution process. The disputing Party shall notify the other Party in writing as soon as practicable after discovering the claim, dispute, or breach. The notice shall state the nature of the dispute and list the Party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both Parties shall commence the resolution process and make a good faith effort, either through email, mail, phone conference, in person meetings, or other reasonable means to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with this Agreement. If the Parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, they may seek any other available relief. Notwithstanding the fact that the Parties may be attempting to resolve a dispute in accordance with this informal dispute resolution process, the Parties agree to continue without delay all of their respective duties and obligations under this Agreement not affected by the dispute. Either Party may, before or during the exercise of the informal dispute resolution process set forth herein, apply to a court having jurisdiction for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests.
15. **ENTIRE AGREEMENT.** All other terms and conditions that are part of this Agreement shall be as set forth in this Agreement and all Order Forms completed and approved pursuant to this Agreement, constitute the complete and exclusive terms of the agreement between the parties regarding the subject matter and supersedes all other prior and contemporaneous agreements or communications with respect to the subject matter hereof. This Agreement represents the entire agreement between the parties; no additional verbal or written agreement exists affecting or amending its terms.
16. **NONWAIVER.** Any failure or delay by either party to exercise or partially exercise any right, power or privilege hereunder shall not be deemed a waiver of any of the rights, powers or privileges under this Agreement. The waiver by either party of a breach of any term, condition or provision of this Agreement shall not operate as, or be construed as, a waiver of any subsequent breach thereof.
17. **NOTICES.** Except as otherwise provided in the Agreement, all notices or other communications hereunder shall be deemed to have been duly given when made in writing and delivered in person or mailed, postage prepaid, by first class, certified or registered mail, by messenger or courier, and addressed as provided below. The address to which the notice(s) or communications may be given by either party may be changed by notice given by such party to the other pursuant to this Section or by other form of notice agreed to by the parties. All notices permitted or required to be given by either party under this Agreement to the other shall be in writing through each party's authorized representative(s) as follows:

**If to Contractor:**

Thirkettle Corporation  
DBA Aqua-Metric Sales Company  
Attn: Christopher Newville  
16914 Alamo Parkway, Building 2  
Selma, TX 78115  
Email: [chris.newville@aqua-metric.com](mailto:chris.newville@aqua-metric.com)

**If to Client:**

City of Santa Ana  
Attn: Clerk of the City Council  
20 Civic Center Plaza (M30)  
P.O. Box 1988  
Santa Ana, CA 92702-1988  
Fax: (714) 647-6956

with copy to: Executive Director, Public Works Agency  
(at same address)

18. **REMEDIES.** Except for remedies specifically designated as exclusive, no remedy conferred by the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law, in equity, by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.
19. **SEVERABILITY.** If any term, provision or part of the Agreement is to any extent held invalid, void or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be impaired or affected thereby, and each term, provision, and part shall continue in full force and effect, and shall be valid and enforceable to the fullest extent permitted by law.
20. **SUCCESSORS.** This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns (if such assignment was properly made pursuant to this Agreement).
21. **AUTHORIZED REPRESENTATIVE.** Each party represents to the other party that: (i) it has the power and authority to execute and deliver this Agreement and perform its obligations hereunder; (ii) the execution, delivery, and performance of this Agreement has been duly approved and authorized by it; and (iii) the execution and delivery of, and performance by, such party of this Agreement does not and will not, directly or indirectly, (a) require the consent, approval, or action of, or any filing or notice to (collectively, "Consents"), any corporation, firm, person or other entity or any public, governmental or judicial authority, which Consents have not already been obtained, (b) violate the terms of any instrument, document or agreement to which it is a party, or by which it is bound, or be in conflict with, result in a breach of or constitute (upon the giving of notice or lapse of time or both) a default under any such instrument, document or agreement, or (c) violate any order, writ, injunction, decree, judgment, ruling, law rule or regulation of any federal, state, county, municipal, or foreign court or governmental authority applicable to it.
22. **FORCE MAJEURE.** Neither party shall be held liable for delay in fulfilling or failure to fulfill its obligations under this Agreement, if such delay or failure is caused by events beyond the reasonable control of such party, including, without limitation, natural calamity, acts of God, terrorist events, or delays in product shipment caused by any of the preceding events, provided payment obligations shall not be so excused. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this Agreement.
23. **ENTIRETY OF AGREEMENT.** This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the Client and Contractor, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.
24. **ASSIGNMENT.** Contractor may not assign any of their respective rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party, including any assignment or transfer in connection with a merger, reorganization, or sale of all or substantially all of the assets or equity of such party. Any attempted assignment in breach of this Section shall be void and Client shall have the right to terminate this Agreement as set forth herein. This Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.



## 25. DEFINITIONS.

- a. "Confidential Information" means documents, data, work product and any other sources of information designated as confidential in writing by Client or Contractor, as applicable, and any other information that a party should reasonably know is confidential in light of the circumstances surrounding its disclosure.
- b. "Client Data" means any or all of the following, and all copies thereof, regardless of the form or media in which such items are held: (i) Confidential Information of Client, including, but not limited to, Personally Identifiable Information; (ii) data and/or information provided or submitted by or on behalf of Client or any Client Affiliate to Contractor regardless of whether considered Confidential Information; and (iii) data and/or information stored, recorded, processed, created, derived or generated by Contractor as a result of and/or as part of the Services, regardless of whether considered Confidential Information.
- c. "Documentation" means all publications and documentation relating to the use or operation of the Products, Software and Services provided hereunder, such as reference, user, installation, systems administration and technical guides.
- d. "Fees" mean the Product Costs, Service Fees and the Subscription Fees.
- e. "Service Fees" means the fees for Services performed by Contractor, as described in Exhibit A.
- f. "Services" mean the work performed by and/or available from Contractor, including the Installation Services, Subscription Services, Support Services and Training as may be more fully described in Contractor Agreement.
- g. "Software" means the computer software described as such in the Sensus Inc. Agreement, in machine-readable form only, as well as any Updates which may be provided pursuant to the terms of this Agreement.
- h. "Subscription Services" mean the hosting and processing Services performed by Sensus Inc. and Contractor, as described in the Sensus Contractor Agreement.
- i. "Subscription Services Fees" means the fees for Client's use of the Subscription Services, as described in Contractor Agreement.
- j. "Support Services" means the annual maintenance and support services provided by Contractor and Sensus Inc.
- k. "Support Services Fees" means the fees for Client's use of the Support Services, as described in Contractor Agreement.
- l. "Training" means the instructional training provided by Contractor to Client regarding access to and proper use and operation of the Software and Services.
- m. "Updates" means minor enhancements, improvements, patches or modifications released to improve performance or fix errors in previous versions of software applications developed by Sensus Inc. or third-party developers.
- n. "Upgrade" means a release of the software or a change to the existing software and/or hardware containing major new features, functionality and/or performance improvements that would enable the existing software and/or hardware configuration to perform to the level of the next version of the software and/or hardware configuration and is designed to replace the older software and/or hardware version of the same product and/or extend the useful life of that product.

26. COUNTERPARTS AND ELECTRONIC SIGNATURE. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original agreement and both of which shall constitute one and the same agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

27. JURISDICTION AND VENUE. This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

[Signature Page on following page.]




Client signatory represents and warrants that the signatory has all necessary authorization to purchase and pay for the Services indicated herein.

THE TERMS AND CONDITIONS SET FORTH HEREIN SHALL NOT BE BINDING UNTIL FULLY EXECUTED BY AN AUTHORIZED SIGNATORY FOR BOTH CLIENT AND CONTRACTOR (OR ITS APPLICABLE AFFILIATE).

IN WITNESS WHEREOF, this Agreement is hereby executed on behalf of each of the parties hereto as of the date signed by both parties below.

THIRKETTLE CORPORATION  
DBA AQUA-METRIC SALES COMPANY  
4050 Flat Rock Drive  
Riverside, CA 92505

CITY OF SANTA ANA  
20 Civic Center Plaza (M30)  
P.O. Box 1988  
Santa Ana, CA 92702-1988

  
\_\_\_\_\_  
Signature

Tommy Thirkettle  
\_\_\_\_\_  
Name (Printed or Typed)

President  
\_\_\_\_\_  
Title

10/21/2020  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Kristine Ridge  
\_\_\_\_\_  
Name (Printed or Typed)

City Manager  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Daisy Gomez  
Clerk of the Council

**APPROVED AS TO FORM:**

SONIA R. CARVALHO  
City Attorney

By:   
\_\_\_\_\_  
John M. Funk, Assistant City Attorney

**RECOMMENDED FOR APPROVAL:**

\_\_\_\_\_  
Nabil Saba, PE  
Executive Director  
Public Works Agency

**EXHIBIT A  
ANNUAL SERVICES PRICING**

Item	Description	Quantity	Unit Price	Line Total
1	Hosted RNI Software-as-a-Service, Water Only	1	\$37,968.71	\$37,968.71
2	Aqua-Metric Support	1	\$10,309.28	\$10,309.28
3	Basestation Extended Warranty	4	\$1,659.15	\$6,636.60
4	CMEP Fee for Third-Party GIS	1	\$515.46	\$515.46
5	CMEP Fee for Third-Party EnQuesta Customer Portal	1	\$515.46	\$515.46
6	Sensus Analytics Service Management Application (SMA) & Sensus Pressure Profile Application (PPA)	1	\$21,907.22	\$21,907.22

Total \$77,852.73



## EXHIBIT B SUPPORT STANDARDS

1. Contractor Obligations. Contractor shall provide the following additional Support Services to Client:
  - 1.1. Telephone Hotline/Help Desk. Contractor shall continuously provide a telephone number for Client personnel to call for all purposes regarding Support Services. Client's help desk shall be monitored by members of the Contractor support team.
  - 1.2. Support and Maintenance History and Tracking System. Contractor shall maintain a current record of Client's Support Services history. Upon Client's request, Contractor shall provide a detailed history of all Support Services performed by Contractor. Client shall own all such records.
  - 1.3. Enhancements and New Features. Contractor shall provide or ensure Sensus provides all enhancements to the Subscription Services.
  - 1.4. Documentation. Contractor shall provide any and all updated Documentation, as applicable, for the Services, Products, and any enhancements provided to Client as such Documentation are generally released, or more frequently if significant errors and/or discrepancies are discovered in such Documentation.
2. Client Responsibilities. Client shall cooperate with Contractor in the performance of Contractor's obligations by performing the tasks set forth below. Provided however, that in no event shall any failure by Client to act as described below shall not be interpreted as or result in a breach of this Agreement:
  - 2.1. Assist Contractor in the development of support procedures.
  - 2.2. Ensure end users follow established support procedures.
  - 2.3. End users will employ reasonable efforts to solve problems/address requests before calling the help desk.
  - 2.4. Maintain local network and devices.
3. Resolution of Defects.
  - 3.1. Defect Levels. Client shall classify, or reclassify, as applicable, all Defects as Critical, Impactful, Routine, and Application Question pursuant to the definitions set forth below in Section 4.
  - 3.2. Reporting of Defects. Reports of Defects (an "Incident Report") will be made through Contractor's support center via email or telephone at numbers to be provided by Contractor to Client. Contractor shall provide coverage and respond to incidents and defects according to Section 4 below.
4. Service Level Agreement.
  - 4.1. Critical. Critical issues are problems with the Services or Products which delay or preclude completion of Client's billing cycle or cycles. Critical issues include but are not limited to major communications issues, software component failures or software interaction failures, or failures of the Client's non-individual customer hardware which interfere with communications, post-processing or significant transfers of data. The Client may elevate any non-Critical issue to a Critical status when Contractor cannot develop a work-around or fix a non-Critical issue in a timely manner or when a non-Critical issue severely impacts Client resources. The Client may demote a Critical issue to a non-Critical status upon notice to Contractor.
  - 4.2. Impactful. Impactful issues are problems with the Services or Products that are less severe than Critical issues but delay completion of Client's billing cycle or cycles or interfere with the intended use of the overall metering infrastructure. While Contractor may be able to provide a work around on an individual customer basis for Impactful issues, due to the number of customers affected Impactful issues severely impact Client resources to affect the work-around. The Client may elevate or demote non-Impactful issues to Impactful status upon notice to Contractor.
  - 4.3. Routine. Routine issues are problems with the Services or Products which affect a small number of customers, and which do not imperil the completion of a billing cycle, and which may be worked around without significant impact to Client resources. Routine issues will typically comprise requests for guidance

on best practices for use of the overall system, Service or Product usage, assistance with specific metering or post-processing adjustments or modifications, or other issues which can be readily resolved. The Client may elevate or demote non-Routine issues to Routine status upon notice to Contractor.

- 4.4. **Application Questions.** Application Questions are problems, clarifications, or explanations related to the Services or Products which are intended to assist Client in making the best use of the overall metering infrastructure system. Application Questions may be in the form of “how-to” questions or instructions designed to facilitate interaction with the metering infrastructure system and will typically require “look-up” responses instead of active troubleshooting. The Client may elevate or demote non-Application Questions to Application Question upon notice to Contractor.
- 4.5. **Business Hours.** Business hours shall be considered to be 8:00 AM to 5:00 PM PST weekdays, excluding statutory holidays in the State of California. It is unlikely that issues would be discovered and support requested outside stated business hours. Provided, however, Contractor will provide non-Business Hours support to the Client for Critical and Impactful issues.
- 4.6. **Call-Back.** When support services are requested, Contractor shall make return contact with Client to: (1) confirm that the request for support has been received; (2) to receive Client troubleshooting processes and results, and to make a counter-request for any additional information if so needed; and (3) to mutually agree upon a support level pursuant to the above definitions.
- 4.7. **Troubleshooting.** Troubleshooting begins when Contractor support personnel actively begin researching, investigating, and or testing the cause of the reported issue. Typically, troubleshooting activities will be performed in conjunction with Client personnel. Troubleshooting resources shall be provided consistent with the criticality and anticipated time line of the supported issue.

		Critical Issue	Impactful Issue	Routine Issue	Application Question
Call Back	Normal Business Hours	½ Hour	1 Hour	2 Hours	1 Hour
	Outside Business Hours	2 Hours	1 Business Day	2 Business Days	1 Business Day
Troubleshooting	Normal Business Hours	2 Hour	½ Business Day	1 Business Day	N/A
	Outside Business Hours	8 Hours	1 Business Day	2 Business Days	N/A
Resolution	Normal Business Hours	3 Business Days	4 Business Days	6 Business Days	1 Business Day
	Outside Business Hours	3 Business Days	4 Business Days	6 Business Days	1 Business Days



**EXHIBIT C**  
**SUPPORT DATASHEET**



California | Nevada | Texas | Louisiana | Hawaii

In addition to the Sensus Software Maintenance Program, Aqua Metric's Value Added Services provide remote and on-site assistance with implementation, integration, maintenance, troubleshooting and diagnosis, software patches and updates. Your Utility will have peace of mind knowing that Aqua Metric and Sensus technical support professionals are available to help design, implement, maintain and support your automated technology throughout the systems life cycle.

### **Sensus Infrastructure Maintenance and Support**

#### **Sensus FlexNet™ Infrastructure Extended Warranty**

- Firmware Maintenance / Upgrades
- Remote Diagnostics of Operational Issues
- Repair or Replace Defective Parts or Units
- Discounted Field Installation Services

#### **Sensus FlexNet™ Software Maintenance**

#### **Licensed and Software-as-a-Service Models**

- FCC Spectrum License Renewals
- Telephone Support
- Remote Diagnostics of Software Problems
- Software Updates
- AutoRead Annual Support (If Applicable)
- Loaner Programming Equipment

#### **Software-as-a-Service Model Only**

- Daily Backup
- Data Replication to a Disaster Recovery Site
- Anti-Virus and Malware Subscription and Scanning
- Operating System Support, Troubleshooting, Security Patching and Upgrades
- Linux Red Hat, Microsoft Windows Server, Microsoft SQL Server and Oracle Ongoing Maintenance
- Hardware Maintenance or Refresh

### **Aqua Metric Value Added Services**

- On-Site and Remote Technology Support
- Remote Diagnostics of Software Problems
- Hardware and Software Troubleshooting and Diagnostics Assistance
- Technical Support for Field Troubleshooting
- Training and Support for Sensus Basestation Firmware Maintenance and Updates
- Training and Subject Matter Expertise for Basestation Backup/Restore Procedures
- Training and Ongoing Subject Matter Expertise for the Sensus RNI
- Training and Support for Broadcasting Meter Firmware Updates
- Assistance with Creating and Maintaining Meter Profiles within Sensus RNI
- Ongoing Subject Matter Expertise Related to Meter Installation and Configuration Processes
- Ongoing Subject Matter Expertise on Sensus Products and Tools
- Ongoing Subject Matter Expertise to Diagnose and Resolve AMI Network Issues
- Ongoing Subject Matter Expertise and Recommendations for Updates of FlexNet Systems and Interfaces
- Tracking of Meter Return Material Authorization (RMA) Process
- Tracking and Handling for New Meter Provisioning
- Periodic Sensus Basestation Health Check-Up