

**GENERAL SERVICES  
AGREEMENT BETWEEN  
ACLARA  
TECHNOLOGIES LLC  
AND THE CITY OF ANN  
ARBOR  
FOR ADVANCED METERING INFRASTRUCTURE  
UPGRADES AND WATER METER SUPPLY**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 E. Huron St. Ann Arbor, Michigan 48104 ("City"), and Aclara Technologies LLC ("Contractor"), a limited liability company doing business under the laws of the State of Ohio with its address at 77 West Port Plaza Drive, Suite 500, St. Louis, Missouri 63146, agree as follows:

The Contractor agrees to provide services to the City under the following terms and conditions:

**I. DEFINITIONS**

Administering Service Area/Unit means Public Services Area, Public Works Unit.

Contract Administrator means Public Works Unit Manager, acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for and delivered to City by Contractor under this Agreement.

Project means Advanced Metering Infrastructure Upgrades and Water Meter Supply.

**II. DURATION**

Contractor shall commence performance on June 17, 2019 ("Commencement Date"). This Agreement shall remain in effect until satisfactory completion of the Services specified Exhibit A, Scope of Services ("SOS") attached hereto unless terminated as provided for in Article XII. The terms and conditions of this Agreement shall apply to the earlier of the Effective Date or Commencement Date.

**III. SERVICES**

- A. The Contractor agrees to provide upgrades to the City of Ann Arbor Aclara advanced metering infrastructure and supply water meters ("Services") and to furnish all materials, equipment and labor necessary and to abide by all the duties and responsibilities applicable to it for the Project as set forth in the SOS and in accordance with the requirements and provisions of the following documents, including all written modifications incorporated into any of the documents, which are incorporated as part of this Agreement:

## Contract and Exhibits

Request for Proposals No. 18-27 and all Addendum thereto (if any)

Bid Proposal of Contractor, dated October 18, 2018, and restated, amended and attached as Exhibit A.

The contract documents are complementary and what is called for by any one shall be binding. The intention of the documents is to include all labor and materials, equipment and transportation necessary for the proper execution of the Project. Materials or work described in words that so applied have a well-known technical or trade meaning have the meaning of those recognized standards.

In case of a conflict among the contract documents listed above in any requirement(s), the requirement(s) of the document listed first shall prevail over any conflicting requirement(s) of a document listed later.

The City retains the right to request changes to the quantities of service within the general scope of the Agreement at any time by a written order signed by an authorized representative of both parties. If the changes add to or deduct from the extent of the services, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.

- B. Quality of Services under this Agreement shall be of the level of quality performed by persons regularly rendering this type of service. Determination of acceptable quality shall be as set forth in this Agreement, including the SOS.
- C. The Contractor shall perform its Services for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.
- D. The Contractor may rely upon the accuracy of reports and surveys provided to it by the City (if any) except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

## **IV. INDEPENDENT CONTRACTOR**

The Parties agree that at all times and for all purposes under the terms of this Agreement each Party's relationship to any other Party shall be that of an independent contractor. Each Party will be solely responsible for the acts of its own employees, agents, and servants. No liability, right, or benefit arising out of any employer/employee relationship, either express or implied, shall arise or accrue to any Party as a result of this Agreement.

Contractor does not have any authority to execute any contract or agreement on behalf of the City, and is not granted any authority to assume or create any obligation or liability on the City's behalf, or to bind the City in any way.

**V. COMPENSATION OF CONTRACTOR**

- A. The Contractor shall be paid on the basis of the bid price restated in Exhibit B The total fee to be paid the Contractor for the Services shall not exceed Five Million Two Hundred Four Thousand Four Hundred Eighteen and 00/100 (\$5,204,418.00). Contractor will invoice the City for Services, Software and Goods as follows: (1) For Goods. Contractor will invoice the City for the Goods purchased hereunder upon delivery. (2) For Software, Contractor will invoice the city for the Software license purchased hereunder upon contract; and (3) Unless governed by a separate written agreement executed by the parties, any professional services, support and/or maintenance services provided by Contractor will be invoiced as such Services are provided..
- B. The Contractor will be compensated for Services performed in addition to the Services described in Article III, only when the scope of and compensation for those additional Services have received prior written approval of the Contract Administrator.
- C. The Contractor shall keep complete records of work performed on a time and material basis (e.g. tasks performed/hours allocated) so that the City may verify invoices submitted by the Contractor. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

**VI. INSURANCE/INDEMNIFICATION**

- A. The Contractor shall procure and maintain from the Effective Date or Commencement Date of this Agreement (whichever is earlier) through the conclusion of this Agreement, such insurance policies, including those set forth in Exhibit C, as will protect itself and the City from all claims for bodily injuries, death, or property damage which may arise under this contract; whether the act(s) or omission(s) giving rise to the claim were made by the Contractor, any subcontractor, or anyone employed by them directly or indirectly. Prior to commencement of work under this Agreement, Contractor shall provide to the City documentation satisfactory to the City, through City-approved means (currently myCOI), demonstrating it has obtained the policies and endorsements required by Exhibit C. Contractor shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. When requested, Contractor shall provide the same documentation for its subcontractor(s) (if any).
- B. Any insurance provider of Contractor shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-admitted insurance companies are not acceptable unless approved in writing by the City.
- C. To the fullest extent permitted by law, Contractor shall indemnify, defend and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses, including attorney's fees, brought by a third party resulting or alleged to result, from any acts or omissions by Contractor or its employees and agents occurring in the performance or breach of this Agreement, except to the extent that any suit, claim, judgment or expense are determined to have resulted from the City's negligence or willful misconduct or its failure to comply with any of its material obligations set forth in this Agreement.

## **VII. WAGE REQUIREMENTS**

Under this Contract, the Contractor shall conform to Chapter 14 of Title I of the Code of the City of Ann Arbor as amended; which in part states "...that all craftsmen, mechanics and laborers employed directly on the site in connection with said improvements, including said employees of subcontractors, shall receive the prevailing wage for the corresponding classes of craftsmen, mechanics and laborers, as determined by statistics for the Ann Arbor area compiled by the United States Department of Labor. At the request of the City, any contractor or subcontractor shall provide satisfactory proof of compliance with the contract provisions required by the Section."

Where the Contract and the Ann Arbor City Ordinance are silent as to definitions of terms required in determining contract compliance with regard to prevailing wages, the definitions provided in the Davis-Bacon Act as amended (40 U.S.C. 278-a to 276-a-7) for the terms shall be used.

If the Contractor is a "covered employer" as defined in Chapter 23 of the Ann Arbor City Code, the Contractor agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Contractor agrees to pay those employees providing Services to the City under this Agreement a "living wage," as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

Contractor agrees that all subcontracts entered into by the Contractor shall contain similar wage provision covering subcontractor's employees who perform work on this contract.

## **VIII. NON-DISCRIMINATION**

The Contractor agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of MCL 37.2209. The Contractor further agrees to comply with the provisions of Section 9:158 of Chapter 112 of Title IX of the Ann Arbor City Code, and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.

## **IX. REPRESENTATIONS AND WARRANTIES BY THE CONTRACTOR**

- A. The Contractor warrants that the quality of its Services under this Agreement shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. The Contractor warrants that it has all the skills, experience and licenses (if applicable) necessary to perform the Services it is to provide pursuant to this Agreement.
- C. The Contractor warrants that it has available, or will engage, at its own expense, sufficient

trained employees to provide the Services it is to provide pursuant to this Agreement.

- D. The Contractor certifies that it has no personal or financial interest in the Project other than the fee it is to receive under this Agreement. The Contractor further certifies that it shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of the Services it is to provide pursuant to this Agreement. Further Contractor agrees and certifies that it does not and will not employ or engage any person with a personal or financial interest in this Agreement.
- E. The Contractor certifies that it is not, and shall not become overdue or in default to the City for any debt, or any other obligation to the City including real and personal property taxes. Further Contractor agrees that the City shall have the right to set off any such debt confirmed to be owed against compensation awarded for Services under this Agreement.
- F. The Contractor warrants that its bid was made in good faith, it arrived at the costs of its bid independently, without consultation, communication or agreement, for the purpose of restricting completion as to any matter relating to such fees with any competitor for these Services; and no attempt has been made or shall be made by the Contractor to induce any other perform or firm to submit or not to submit a bid for the purpose of restricting competition.

**X. OBLIGATIONS OF THE CITY**

- A. The City agrees to give the Contractor access to the Project area and other City- owned properties as required to perform the necessary Services under this Agreement.
- B. The City shall notify the Contractor in writing of any defects in the Services of which the Contract Administrator has actual notice.
- C. Notwithstanding any other provision, the City shall timely obtain, effectuate and maintain in force any required permit, license, exemption, filing, registration and other authorization, including, but not limited to, building and environmental permits, import licenses, environmental impact assessments, and foreign exchange authorizations, required for the lawful performance of Services at the Site or fulfillment of City's obligations, except that Contractor shall obtain any license or registration necessary for Contractor to generally conduct business and visas or work permits, if any, necessary for Contractor's personnel. The City shall provide reasonable assistance to Contractor in obtaining such visas and work permits

**XI. ASSIGNMENT**

- A. The Contractor shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Contractor shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.
- B. The Contractor shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

## **XII. TERMINATION OF AGREEMENT**

- A. If either party is in breach of this Agreement for a period of thirty (30) days following receipt of written notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice. The waiver of any breach by any party to this Agreement shall not waive any subsequent breach by any party.
- B. The City may terminate this Agreement, on at least thirty (30) days advance notice, for any reason, including convenience, without incurring any penalty, expense or liability to Contractor, except the obligation to pay for Services actually performed under the Agreement before the termination date and the reasonable cost of termination reasonably incurred by Contractor in accordance with the City's termination notice which costs shall include the reasonable cost incurred by Contractor in preparing any termination settlement proposal .
- C. Contractor acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for this Project. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The Contract Administrator shall give Contractor written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.
- D. The provisions of Articles VI and IX shall survive the expiration or earlier termination of this Agreement for any reason. The expiration or termination of this Agreement, for any reason, shall not release either party from any obligation or liability to the other party, including any payment obligation that has already accrued and Contractor's obligation to deliver all Deliverables due as of the date of termination of the Agreement.

## **XIII. REMEDIES**

- A. This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory and/or other legal right, privilege, power, obligation, duty or immunity of the Parties.
- B. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any agreement between the parties or otherwise.
- C. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently effect its right to require strict performance of this Agreement.

#### **XIV. NOTICE**

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated in this Agreement or such other address as either party may designate by prior written notice to the other.

Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur:

(1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to the CONTRACTOR, it shall be addressed and sent to: Legal Department  
77 West Port Plaza Drive Suite 500  
St. Louis, Missouri 63146

If Notice is sent to the CITY, it shall be addressed and sent to: City of Ann Arbor  
Craig Hupy  
Public Services Area Administrator 301 E. Huron St.  
Ann Arbor, Michigan 48104

With a copy to: The City of Ann Arbor ATTN: Office of the City Attorney  
301 East Huron Street, 3<sup>rd</sup> Floor Ann Arbor, Michigan 48104

#### **XV. CHOICE OF LAW AND FORUM**

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction, excepting the principles of conflicts of law. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

#### **XVI. OWNERSHIP OF DOCUMENTS**

Upon completion or termination of this Agreement, all documents (i.e., Deliverables) prepared specifically for the City by the Contractor under the terms of this Agreement shall be delivered to and become the property of the City.

#### **XVII. SEVERABILITY OF PROVISIONS**

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or

invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

#### **XVIII. EXTENT OF AGREEMENT**

This Agreement, together with any affixed exhibits, schedules or other documentation, constitutes the entire understanding between the City and the Contractor with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. No terms or conditions of either party's invoice, purchase order or other administrative document shall modify the terms and conditions of this Agreement, regardless of the other party's failure to object to such form. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be altered, amended or modified by written amendment signed by the Contractor and the City. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

#### **XIX. ELECTRONIC TRANSACTION**

The parties agree that signatures on this Agreement may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this Agreement.

#### **XX. EFFECTIVE DATE**

This Agreement will become effective when all parties have signed it. The Effective Date of this Agreement will be the date this Agreement is signed by the last party to sign it.

#### **XXI. MISCELLANEOUS**

- A. Tax Exemption: The City is tax exempt, ID# 38-6004534.
- B. Delivery of Goods: For goods sold under this Agreement, all prices must be F.O.B. Destination. Time is of the essence on this Agreement. If delivery dates cannot be met, Contractor shall advise the City, in writing of the earliest possible shipping date. The City reserves the right to cancel or purchase elsewhere.
- C. Compliance with Laws: Contractor certifies that it will comply with all applicable provisions of Federal, State and Local laws, regulations, rules and orders.
- D. Risk of Loss: Regardless of F.O.B. point, Contractor shall bear all risk of loss, injury, or



destruction of goods and materials ordered herein that may for any reason occur prior to receipt of the goods by the City at its designated shipping location.. No such loss, injury, or destruction shall release the Contractor from any obligations hereunder.

- E. Material Safety Data Sheets: Applicable Material Safety Data Sheets, in compliance with OSHA/MIOSHA hazard communication regulations/standards, shall be provided by the Contractor to the City at the time of delivery.
- F. Warranty: Contractor warrants to the City that all goods provided pursuant this Agreement comply with Exhibit D, Aclara Warranty document attached hereto.
- G. Inspection: Contractor shall properly package any goods and materials sold or delivered pursuant to this Agreement. The City has no obligation to accept damaged goods or materials and reserves the right to inspect the same at a reasonable time subsequent to delivery where circumstances or conditions impair their effective inspection at the time of delivery. All rejected goods shall be returned to the Vendor at no cost to the City, whether the damage is readily apparent at the time of delivery or later. The City's acceptance is conditioned on such inspection. If the goods delivered do not correspond in quantity, type or price to those itemized in the shipping invoice or documentation, the City shall so notify Vendor within ten (10) days after receipt.
- H. Patents and Copyrights: If an article or Service sold and delivered to the City hereunder shall be protected by any applicable patent or copyright, the Contractor shall indemnify and save harmless the City, from and against any and all suits, claims, judgments, and costs instituted or recovered against it by any person whomsoever on account of the use or sale of such articles or Services by the City in violation or right under such patent or copyright provided that (1) the City promptly, and in any event, within ten (10) days of becoming aware of the claims, notifies Vendor of such claims and (2) the City provides Vendor with full disclosure and cooperates with Vendor to any reasonable extent in assisting in the defense or settlement of such claims.

In addition, in the event that the goods sold or Services furnished hereunder are held in a suit to be infringing or misappropriating or their use by the City is enjoined or limited in any manner, or Contractor believes that such holding or enjoining is likely, Contractor shall at its sole option and expense: (1) procure for the City the right to continue use of such goods, or (2) replace or modify the same with an equivalent non-infringing product with functionality substantially similar to the product it is replacing, or (3) failing (1) or (2), take back infringing goods or Services and refund the price received by Contractor attributable to the infringing goods or Services. Notwithstanding the foregoing, Contractor shall not be liable for any claims based solely upon (a) the combination or use of the goods with any other equipment or software not supplied or authorized by Contractor, or (b) the City's possession or use of any altered version of the goods unless such alteration has been performed or expressly authorized by Contractor, or (c) failure of the City to implement any update provided by Contractor that would have prevented the claims, or (d) goods or Services made or performed to the City's specifications.

This Article states Contractor's exclusive liability for intellectual property infringement by goods and Services.

- I. **Limitation of Liability:** Notwithstanding anything contained herein to the contrary, the total aggregate liability of Vendor to the City for all liability arising out of or in connection with the performance by Vendor of its obligations under this Contract shall be limited to two times the most that Vendor may be paid under this Agreement. IN NO CASE SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, OR PUNITIVE DAMAGES OR FOR THE LOSS OF BENEFIT, PROFIT, REVENUE, OR DATA, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- J. **Conflict:** In the event of a conflict between this Agreement and any of the exhibits incorporated into or attached to it, the terms and meaning of this Agreement shall prevail.

**FOR CONTRACTOR**

By \_\_\_\_\_

Its \_\_\_\_\_

**FOR THE CITY OF ANN ARBOR**

By \_\_\_\_\_  
Christopher Taylor, Mayor

By \_\_\_\_\_  
Jacqueline Beaudry, City Clerk

**Approved as to substance**

By \_\_\_\_\_  
Craig Hupy  
Public Services Area Administrator

By \_\_\_\_\_  
Howard S. Lazarus, City Administrator

**Approved as to form and content**

By \_\_\_\_\_  
Stephen K. Postema, City Attorney

**EXHIBIT A  
SCOPE OF SERVICES**

**(Insert/Attach Scope of Work & Deliverables Schedule)**

**Project Name:** City of Ann Arbor, MI Aclara AMI System Upgrade (“Project”).

This Scope of Services (“SOS”) and the terms and conditions of the Agreement describes the Services to be provided to the City in support of the Project as authorized by the City signing this Statement of Work. This SOS is governed by the General Services Agreement (“Agreement”). By signing this SOS, the City represents and affirms that it has reviewed and agrees to the terms and conditions as set forth in the Agreement, its Attachments and Exhibits. Additional terms contained on any purchase order are hereby rejected unless specifically agreed to in writing by the City and Aclara.

## **Scope of Work**

The project scope for the City of Ann Arbor’s Aclara AMI System Upgrade project includes professional services (project management, coordination, AclaraONE implementation, DCU network renewal retrofit installations, and product training).

The upgraded solution will support various uses of the components and applications defined in Attachment 1, Section 1.1. More detailed requirements will be developed during the requirements task of the project, but will remain consistent with Attachment 1, unless mutually agreed by the City and Aclara.

This Statement of Work addresses the implementation services required by the Project. It is mutually understood that business requirements, resources and dates may change subject to the applicable terms of this SOS and that any such material change requested by the City or as a result of the City’s inability to provide agreed upon resources and perform its other responsibilities set forth herein or the result of City errors or omissions may result in a Change Order.

It is understood by Aclara and the City that any material changes to scope, will be addressed through a formal change order process (see Attachment 4). Material changes are those which specifically will impact budget, scope, timeline and/or resources. Both the City and Aclara must sign Attachment 4 prior to any Change Order work being started.

### **1. Project Approach**

The Aclara Services Team (“Aclara Team”) assigned to this project will complete the Aclara tasks described herein and will perform work for the City for the duration of the Project at designated City facilities and from remote locations.

The scope of the services engagement for this SOS is set forth in the attached Attachment 1, hereto. Attachment 1 also includes certain Responsibilities and Assumptions that are the responsibility of the City. In addition to the tasks specified in Attachment 1 hereto, the City will provide appropriate Project resources, including but not limited to data, information, and appropriate and cooperative personnel, to facilitate the performance of the Services. The City shall designate a Project Manager to work with the Aclara Team to facilitate the provision of the Services. Once this SOS is executed, Aclara and the City will assign resources to the Project. The Aclara Team will work on the Project and provide support as specified by the SOS.

### **2. Assumptions and Responsibilities**

Project Assumptions and Responsibilities are set forth in Attachment 1. Should the City fail to fulfill those that are applicable to the City, the estimated level of effort, timeline and scope may be subject to change which may result in a Change Order.

### **3. Scope Estimates**

Aclara will support the City by providing a team to complete the scope of work defined in Attachment 1.

Aclara’s estimate of the level of effort is based on the following:

- Information provided by the City to Aclara
- Aclara’s understanding of the project scope, based on City information

Should the information provided by the City be inaccurate or should Aclara gain additional information during the Project, the work required may be out of scope and the pricing and schedule may be impacted. If so, the additional work will be addressed as a change to the SOS (change order).

**4. Software Licenses**

The AclaraONE software components are licensed in accordance with the Software License Agreements (“Licenses”) executed between Aclara and the City. The Licenses cover the integration with the City’s single production environment and within the City’s current service territory.

**5. Changes**

Any change to this SOS shall be subject to mutual written agreement of the parties. Aclara shall not commence work on any such change unless and until the change has been agreed to in writing by both parties. Additional charges may apply based on Aclara’s level of effort to complete the requested change.

**SIGNATURES ON FOLLOWING PAGE**

**IN WITNESS WHEREOF**, the parties have so agreed as of the last date signed below.

Accepted By:

Accepted By:

**Aclara Technologies LLC  
(Aclara)**

**City of Ann Arbor, MI  
(City)**

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

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

**Print name:** \_\_\_\_\_

**Print name:** \_\_\_\_\_

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

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

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

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

**Attachment 1 = Project Definition - AMI System Upgrade Implementation**

**Attachment 2 = Rate Schedule**

**Attachment 3 = Milestones & Hardware Delivery Schedules**

**Attachment 4 = Change Order Procedure**

**Attachment 1**  
**To**  
**Scope of Services**

**Project Definition – Aclara AMI System Upgrade Project**

**1.0 Purpose**

The purpose of this document is to outline the tasks and deliverables of the Aclara Team and provide the City an overview of the responsibilities and time commitment that will be required of their staff for each aspect of this project. This project includes the implementation of an On-Premise AclaraONE Unified Head End (UHE) Servers and Software, the implementation of the Aclara Cloud-based AclaraONE MDM Software, and DCU Renewal Upgrades to Verizon LTE/Ethernet and T-Board DCUs.

**1.1 Project Scope**

The tasks listed below are those that are included in the Project Scope. This Statement of Work assumes all work described herein will be implemented during the project timeframe defined in the Project Plan. If the City chooses to delay implementation of some of the tasks, there may be an additional charge. Aclara will assist the City in the implementation of the Aclara AMI System Upgrade based on the quantities listed in accordance with Exhibit B. Aclara will work with the City in the field design, installation of needed hardware, software, maintenance, training and other related activities needed to complete the upgrade project successfully. All hardware quantities will be governed as specified per Exhibit B. The project scope includes:

**Upgrade to AclaraONE Unified Head End and MDM**

Implement On-Premise AclaraONE Unified Head End (UHE) Servers and Software

- Professional services (project management, configuration, testing) to complete the implementation of new on-premise AclaraONE unified head end software configuration

Implement Aclara Cloud-based AclaraONE Water MDM and Software

- Professional services (project management, configuration, testing) to complete the implementation of Aclara Cloud-based AclaraONE MDM and associated software configuration
- Verification of existing interface integration to new AclaraONE system
- Integration and update of MTU Star Programmer Software configuration

**DCU-II Renewal Upgrades to Verizon LTE/Ethernet and T-Board DCU (22)**

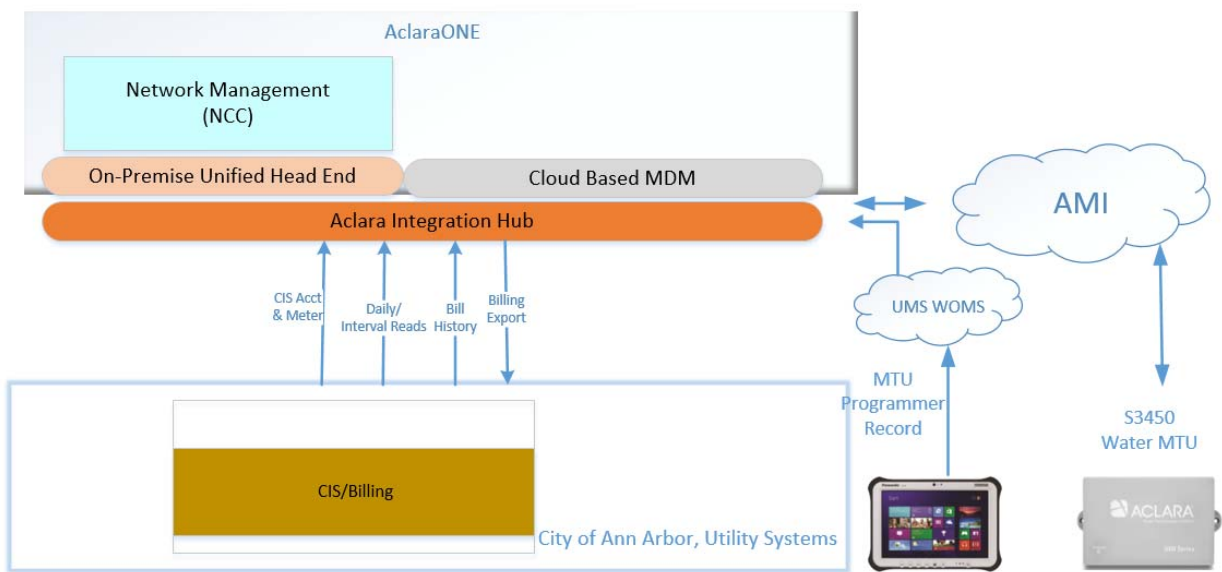
- DCU-II Renewal Upgrade Retrofit Kits (Verizon LTE/Ethernet and T-board), in accordance with Exhibit B
- Backhaul Preparation and Confirmation
  - Verification of full operation of the City-provided TELUS VPN and LTE Private APN
- Site Readiness and Preparation
  - Locations of (22) DCUs
  - Current installation mounting
  - Needed equipment for accessing DCUs
  - Needed contact information for scheduling site access

- Identification of cable lengths
- DCU-II Retrofit Kits installation, configuration, and connectivity to AclaraONE
- DCU-II Renewal Preventative Maintenance

**Delivery of Products and Training**

- Delivery of Series 3450 MTUs, in accordance with Exhibit B
- Delivery of Badger Water Meters, in accordance with Exhibit B
- MTU Installation and Programming, AclaraONE Basic Operation and Administration Product Training Session (2 days)

The schematic below details the components of the solution that are in scope for this project.



**Figure 1: City of Ann Arbor Solution Schematic**

**1.2 Project Approach**

The Aclara Project approach is described below. Each phase is described with an objective, team responsibilities and deliverables.



During the detailed planning stages of this project, Aclara’s project manager will work with the City and Aclara subject matter experts to develop a coordinated project plan for all three parts of this project. There are some dependencies between each project phase that require analysis to confirm the best approach to align

with the City's priorities and to minimize risks on this project. The order may change depending on several factors. Our initial recommendation is to begin work on implementation of the on-premise AclaraONE unified head end servers at the City as soon as resources are available and assigned. Once the City and Aclara have confirmed remote connectivity to the new AclaraONE UHE servers, Aclara will begin the implementation of the AclaraONE cloud-based MDM and initiating connectivity between the on-premise UHE and cloud-based MDM. DCU renewal upgrades can begin once the AclaraONE UHE has been confirmed to be online, connected, and operational.

## 01 Project Planning & Kick-Off

**Objective:** This phase includes project planning with the City's Project Manager, team introductions and timeline review and review of the City's goals and objectives. Aclara will jointly confirm the project scope, define the Project team organization and develop the communication plan.

The Aclara project team will begin the internal preparations for the official launch of the project. Aclara's project manager will work cooperatively with City's PM to provide necessary materials for the City kick-off meeting. During this kick-off phase, Aclara and City PM will define the project team organization and introduce the teams, review the project scope and proposed timeline, review the utility's goals and business objectives and develop the communication plan. Aclara will introduce a project manager and other leaders assigned to work with cooperatively City PM. Entry criteria for this phase to begin are defined as the signature of the contract, the assignment of a Aclara project manager and setting an agreed upon project kick-off start date. This phase will be complete once the project teams have been defined, the kick-off meeting has occurred, and the project plan has been reviewed.

### **Responsibilities:**

**Project Management:** The Aclara Team will be identified and will be led by a primary Project Manager but may also include additional management leads. The primary Project Manager is responsible for leading the implementation efforts. This includes managing timeline, cost and scope. The Project Manager is expected to maintain a detailed project plan and manage the deliverable responsibilities of the project staff. The Project Manager is also responsible for City satisfaction, minimizing project risk and ensuring on-time delivery. The Project Manager will review the project plan with the City, deliver the Communication Plan and coordinate and execute the Project Kickoff meeting.

**Deployment Team:** Aclara will be responsible for planning, coordinating and troubleshooting all field activity including DCUs and handhelds. This team will be identified and lead by a deployment lead. During this phase, the deployment team lead will participate in the Project Kickoff meeting to discuss deployment logistics.

**Software Team:** The software team will be responsible for configuring, installing and testing the AclaraONE software, associated interfaces and the STAR Programmer Software. This team will be identified and lead by a software lead. During this phase, the software team lead will participate in the Project Kickoff meeting to discuss the software implementation.

**City:** The City will be responsible for identifying a Project team and an appointed Project Manager. The City Project Manager will work with the Project Manager on a weekly basis to review the project plan and project status. In this phase, the City will assign their Project team, participate and assist with coordination of the Project



Kickoff meeting and attend Project planning discussions.

***Deliverables:***

1. Communication Plan – Includes Project contact list, escalation plan and Project meeting logistics
2. Project Plan - Lists the different phases and tasks, important milestones, approximate duration for each task, resource requirements and projected start/end dates
3. Project Kickoff Materials - Includes Project Kickoff meeting agenda and materials presented and discussed during the Project Kickoff meeting

## **02 Requirements Analysis & Design**

***Objective:*** The implementation process begins with the confirmation of functional, integration, and infrastructure requirements for the system. Aclara will meet with the key stakeholders to review the detailed requirements for the system. All product hardware and requirements will be finalized, and product orders submitted. Field installation plans will document the approach, logistics, timing and requirements for installations. Site surveys, propagation studies and spectrum analysis will be completed if needed in order to finalize the installation plan for all DCU's. If needed, the City will be responsible for securing Site Agreements for DCU locations. Requirements sessions will be held, and documents will be created and reviewed with the City regarding any software interfaces and STAR Programmer Software integration.

Aclara will meet with the key stakeholders to confirm the detailed functional, integration, and infrastructure requirements for the system upgrade. Aclara will finalize all product hardware and submit product orders as needed. Field installation plans document the approach, logistics, timing, and requirements for installations. If needed, site surveys, propagation studies and spectrum analysis will be completed to finalize the installation plan for the twenty-two (22) existing DCU's requiring renewal upgrade retrofits. Aclara will provide the City with a hardware delivery schedule. The City will work to complete the needed 4G LTE private APN and VPN with their selected Cellular Wireless Carrier. The City will determine the connectivity protocols, configure the City network & firewalls appropriately and provide Aclara with all connectivity information and timely IT support required to facilitate the DCU 4G LTE connections to the on-premise AclaraONE UHE. Aclara will provide the LTE SIM/IMEI pairings data file to the City to have activated with their selected Cellular Wireless Carrier on 4G LTE machine-to-machine data plans. Aclara will review the software architecture to confirm the integrations for the unified headend. This phase is complete once the City reviews and approves all associated deliverables.

***Responsibilities:***

**Project Management:** The Project Manager is responsible and accountable for the successful execution of the Requirements and Design Phase. The Project Manager will coordinate Project activities, deliver project status reports, coordinate phase deliverable and identify any requirement gaps. The Project Manager is responsible for understanding issues and risks and driving them to closure.

**Deployment Team:** Aclara will be responsible for creating DCU installation plans, ordering product, planning product delivery and installation logistics, conducting site surveys and reviewing the final propagation study.

**Software Team:** The software team will be responsible for conducting

requirements sessions for interfaces and the STAR Programmer Software, and documenting and reviewing those requirements with the City. The team will also be responsible for ensuring servers are ordered.

**City:** The City will be responsible for working with Aclara to provide input to deliverables and reviewing all deliverables. The City is responsible for providing Aclara-specification server(s) to be used as the AclaraONE UHE. The City will be responsible for providing site access to Aclara for site surveys and installation planning purposes along with any required permits. The City will be responsible for securing locations for DCU's and coordinating DCU Site Agreements with the appropriate parties.

***Deliverables:***

1. AclaraONE On-Premise UHE and Cloud-based MDM Conversion Plan – Outlines the schedule and resources needed to complete the on-premise UHE installation and the cloud-based MDM implementation
2. LTE IMEI/SIM Data File – Aclara will provide the LTE IMEI/SIM Data File to the City for providing to their chosen Cellular Wireless Carrier
3. 4G LTE private APN and VPN - The City will work to complete the needed 4G LTE private APN and VPN, and activate IMEI/SIM pairings to 4G LTE machine-to-machine data plans with their selected Cellular Wireless Carrier

### **03 Configuration & Network Deployment**

Objective: The Configuration and Network Deployment Project phase may overlap part of the Requirements and Design phase beginning with installation of the DCUs. The goal of this Project phase is to complete all tasks needed to support efficient field effort to upgrade the DCUs and to prepare the DCU network for the installation of Series 3400 MTUs.

In this phase, Aclara completes all tasks to support and complete the configuration of the on-premise AclaraONE, cloud-based AclaraONE MDM, and the DCU renewal upgrades. Aclara provisions and sets up the AclaraONE environment. All software is installed, configured and enabled for data loading and testing. In parallel, during this phase, Aclara and the City will work to complete needed details for configuring the Aclara site-to-site VPN needed to traverse the DCU data from the Verizon 4G LTE Network into the AclaraONE environment. Aclara's Deployment Team will perform the DCU renewal upgrades (tasks such as DCU upgrades in this phase may overlap with part of the System Requirements and Design phase). Aclara assumes that the existing interface integrations will remain. STAR Programmer Software integration and configuration will be completed. During this phase, the City will be required to deliver sample integration data from production systems to validate interface configuration. This phase is complete once Aclara installs the AclaraONE software and DCU Renewals are completed.

***Responsibilities:***

**Project Management:** The Project Manager is responsible and accountable for the successful execution of the Configuration and Network Deploy Phase. The Project Manager will ensure tasks are completed and the system will be ready to support the 4G LTE DCU Renewals and future s3400 MTU installations.

**Deployment Team:** Aclara will be responsible for DCU renewal installation and monitoring.

**Software Team:** This team will configure the AclaraONE environment. In addition, they will be responsible for configuring and unit testing all interfaces

with the AclarONE environment.

**City:** The City will be responsible for working with Aclara to provide access to DCU installation locations including any locked or secured areas, or the roofs of any buildings where a DCU is installed. The City will supply an escort to these locations should it be required. The City is responsible for preparing the DCU installation site in order to meet Aclara’s DCU installation standards (including pole installation, back haul connectivity and/or AC power requirements). Any charges related to DCU site preparation and back haul connectivity are the responsibility of the City.

***Deliverables:***

1. Installation of DCU 4G LTE/T-board Renewals – Physical installation as well as back haul connectivity
2. AclaraONE UHE and MDM Software Installation – AclaraONE Software to be installed and configured at the on-premise UHE and cloud-based MDM environments
3. Configuration of STAR Programmer Software – Configuration updates to the STAR Programmer Software including population of new meters and MTU types

**04 Testing & Training**

***Objective:*** The testing and training phase will validate the functionality of the system. Aclara will provide training as identified in the Exhibit B. If classroom training is included as part of this Project, it will be for a maximum of twelve (12) students and will cover MTU Installation and Programming, and AclaraONE Basic Operation and Administration, as indicated in Exhibit B.

Aclara will assist the City with Production Cutover testing and verification. The purpose of this testing is to validate successful completion and configuration of the DCUs after the Renewal kits have been installed, DCU connectivity to the new AclaraONE environment, as well as confirming the AclaraONE and associated interfaces are properly integrated. The City will sign the Certificate of Acceptance following completion of test case execution signifying acceptance of the product. The signed Certificate of Acceptance acknowledges that Aclara products function as expected and concludes Production Cutover Testing.

This phase would be completed once all test cases have been completed, all Severity 1 and Severity 2 issues have been resolved as defined herein, or a work-around identified, and the Certificate of Acceptance is signed. Aclara may defer implementation of the changes for Severity level 3 and 4 issues as defined herein to a later product release cycle. Severity levels have been defined below and apply to issue prioritization throughout the engagement. The definition of “severe” falls into the categories shown in Table 1: Issue Severities

**Table 1: Issue Severities**

Severity Level	Description*
1	requires immediate attention – Use of AMI system is lost or degraded for all users preventing operation of business
2	requires priority attention - Use of AMI system is lost or degraded for single or small number of users, affecting significant business functionality

3	requires attention – Users of AMI system can continue business operations, but a problem or issue has been identified that affects operation of business
4	there is a problem or issue that does not affect operation of business

\* For the purposes of this table, “users” is defined as Utility users of the AclaraONE interface.

Once product training and Production Cutover testing are complete, Aclara will compile all open issues and review the status of these issues with Aclara’s City Technical Support team and the City’s project team. Additionally, by this time the City is introduced to Aclara’s City Technical Support operations. All support operations will begin to be managed by this team. The City will be trained on Aclara’s Support processes which includes opening support tickets, managing and obtain status of these tickets. The City will also be introduced to AclaraConnect client portal.

***Responsibilities:***

**Project Management:** The Project Manager is responsible and accountable for the successful execution of training and Production Cutover Testing. The Project Manager will coordinate and schedule City training. The Project Manager will be responsible for maintaining status and managing issues through resolution. The Project Manager will monitor the progress of Production Cutover Testing and coordinate the signing of the Certificate of Acceptance with the City.

**Software Team:** This team may participate as subject matter experts in the AclaraONE Software and STAR Programmer Software City training. In addition, they will work with the deployment team to ensure all Production Cutover cases are satisfied.

**City:** The City will be responsible for verifying the interface integrations are producing the expected output files, format, and content.

***Deliverables:***

1. Training Materials and Session – The web-based training session will be delivered, and the associated training materials will be provided to all training attendees and for distribution post-training
2. Signed Certificate of Acceptance - Aclara will deliver the Certificate of Acceptance to the City after the completion of Production Cutover Testing. The certificate will be signed by the City to signify the acceptance of the system

**05 Transition to Support**

Upon successful completion of the Aclara internal system testing activity, an acceptance certificate will be provided to the City. Mass endpoint installation may commence by the City or its Aclara once the application cutover is complete. The Aclara Support Team will provide support to the City on production issues in accordance with the Aclara Maintenance Agreement executed between Aclara and the City. Aclara will transition all remaining open items to the Aclara Support Team.

***Responsibilities:***

**Project Management:** The Project Manager will coordinate the transition of the project to Aclara Support.

**Software Team:** The software team will assist the Aclara Support

Team with any production cutover issues.

**City:** The City will be responsible for ensuring the proper access is provided to Aclara in order to support the production system. The City is also responsible for following the Aclara support process for entering any post production issues into the Aclara help desk system.

**Deliverables:** None

### 1.2.1 Deliverables and Milestones by Step

The table below details the milestone deliverables for this project. Delivery dates for each milestone will be communicated at project launch.

Milestone	Deliverables	Payment Milestones Descriptions
1	Contract Execution	<ul style="list-style-type: none"> <li>Contract Execution – This milestone is complete after the contract documents are fully executed by both parties.</li> </ul>
2	Project Plan, Communication Plan, Project Kickoff Materials, Project Kickoff	<ul style="list-style-type: none"> <li>Project Kickoff Complete. Aclara will support a kickoff meeting to walkthrough the project schedule, introduce team members and roles, client responsibility, upcoming tasks. Additionally, during this meeting the project governance will be established. This includes communications plan, team meetings, status reporting, and issues management.</li> </ul>
3	AclaraONE UHE & MDM Installation and Configuration	<ul style="list-style-type: none"> <li>AclaraONE Software installed. This task is complete after the installation of the base software is completed and AclaraONE MDM connectivity to UHE is complete</li> </ul>
4	DCU Renewal Upgrades Complete	<ul style="list-style-type: none"> <li>DCUs upgraded. This task is complete after DCUs are upgraded and commissioned in the field.</li> </ul>
5	AclaraONE Interface Verification Complete	<ul style="list-style-type: none"> <li>Verification of existing interface integration to AclaraONE system</li> </ul>
6	Deliver Training and Training Materials	<ul style="list-style-type: none"> <li>Training complete – Aclara will provide training in accordance with Exhibit B for Aclara RF network system administrators, field personnel and customer service representatives, and City's Installation Contractor, if applicable.</li> </ul>
7	Signed Certificate of Acceptance	<ul style="list-style-type: none"> <li>System Acceptance Certificate Approved – upon successful completion, a certificate of acceptance will be provided to the utility for signature.</li> </ul>

### 1.3 Interface Scope

Aclara has assumed there are no changes to the current inbound or outbound integrations with the City's back office systems.

### 1.4 Preliminary Project Schedule

The preliminary high-level project schedule is provided below. This project schedule will be finalized as an artifact of the Project Kickoff Phase.

Ann Arbor, MI					
ID	Task Name	Duration	Start	Finish	Predecessors
1	<b>Ann Arbor, MI - Aclara Water AMI System Upgrade Implementation</b>	145 days	Fri 3/1/19	Thu 9/19/19	
2	<b>Contract Finalizations</b>	26 days	Fri 3/1/19	Fri 4/5/19	
3	Final Negotiations	21 days	Fri 3/1/19	Fri 3/29/19	
4	Expected City Council Authorization - Notice to Proceed	1 day	Mon 4/1/19	Mon 4/1/19	3
5	<b>Project Pre-Planning</b>	20 days	Mon 3/11/19	Fri 4/5/19	
8	<b>Project Kickoff &amp; Planning</b>	6 days	Mon 4/8/19	Mon 4/15/19	
9	<b>Project Kickoff</b>	5 days	Mon 4/8/19	Fri 4/12/19	
12	Milestone Payment: Project Kickoff Meeting Completion- 20% Services	1 day	Mon 4/15/19	Mon 4/15/19	10
13	<b>AMI Pilot Project Kickoff</b>	7 days	Mon 4/15/19	Tue 4/23/19	
14	<b>Start-up Workshops</b>	7 days	Mon 4/15/19	Tue 4/23/19	
24	<b>Order Product</b>	4 days	Thu 4/18/19	Tue 4/23/19	
28	<b>Software Requirements and Design</b>	56 days	Tue 4/23/19	Tue 7/9/19	
29	<b>Field Programmer Configuration and Test</b>	10 days	Tue 4/23/19	Mon 5/6/19	
33	<b>Headend &amp; MDM Setup and Configuration</b>	28 days	Tue 4/30/19	Thu 6/6/19	
44	Milestone Payment: AclaraONE Environment Ready - 20% Services	1 day	Fri 6/7/19	Fri 6/7/19	43
45	<b>Interfaces Confirmation</b>	55 days	Tue 4/23/19	Mon 7/8/19	
60	Milestone Payment: Interface Integration Verification Completion - 20% Services	1 day	Tue 7/9/19	Tue 7/9/19	59
61	<b>DCU Network Design and Build</b>	96 days	Thu 4/18/19	Thu 8/29/19	
62	<b>DCU Network Setup &amp; Deployment</b>	96 days	Thu 4/18/19	Thu 8/29/19	
63	<b>DCU Backhaul and Renewal Planning</b>	60 days	Thu 4/18/19	Wed 7/10/19	
71	<b>DCU Deployment</b>	91 days	Thu 4/25/19	Thu 8/29/19	
82	Milestone Payment: DCU Renewal Deployment Completion - 20% Services	1 day	Thu 8/29/19	Thu 8/29/19	80
83	<b>Full Deployment Preparation</b>	40 days	Mon 5/6/19	Fri 6/28/19	
84	<b>MTU and Meter Product Delivery</b>	40 days	Mon 5/6/19	Fri 6/28/19	
89	<b>Testing and Training</b>	40 days	Tue 7/9/19	Mon 9/2/19	
90	<b>AclaraONE Go-Live</b>	13 days	Tue 7/9/19	Thu 7/25/19	
97	<b>Product Training (City &amp; UMS)</b>	17 days	Thu 8/8/19	Fri 8/30/19	
100	Milestone Payment - Product Training Completion - 20% Services	1 day	Mon 9/2/19	Mon 9/2/19	99
101	<b>Production Go Live and Mass Deployment</b>	10 days	Mon 9/2/19	Fri 9/13/19	
102	<b>Mass Deployment</b>	10 days	Mon 9/2/19	Fri 9/13/19	
104	<b>Project Transition to Support</b>	4 days	Mon 9/16/19	Thu 9/19/19	

Assumptions:

- (22) 4G LTE Cellular DCUs. Assume City will use their existing Verizon 4G LTE-capable private APN to support 4G LTE devices. If one does not already exist, it can take up to 3 months for Verizon to build a private APN before any Cellular backhaul DCUs can be renewal upgraded, installed and commissioned.
- City will provide Aclara-specification servers to support On-Premise AclaraONE UHE.
- Existing integrations from NCC will not change.
- Aclara resources are available for the DCU renewal work to begin.
- Aclara assumes DCU sites will be City owned assets, and ready for installation, and that the existing location, power, and backhaul configuration will remain the same as currently built.
- Hardware delivery plan is not confirmed – dates are assumed.
- Aclara assumes project resources are available to kick off the project within one month of contract signature.
- City is responsible for actions, mobilization, and performance of City-subcontracted installation company, Utility Metering Solutions (UMS).

## 1.5 Accountability

The following shows the key that is used to identify accountability for each deliverable:

**[R] Responsibility**

*Indicates that the designated Party has responsibility and accountability to complete the applicable Deliverable or milestone.*

**[A] Approve**

*Indicates that the designated Party is responsible for approving the applicable Deliverable or milestone.*

**[S] Supports**

*Indicates that the designated Party is responsible for supporting the applicable Deliverable or milestone.*

**[C] Consulted**

*Indicates that the designated Party will need to provide feedback or contribute as the applicable Deliverable or milestone is completed.*

**[I] Informed**

*Indicates that the designated Party will be informed after completion of the applicable Deliverable or milestone.*

The acceptance procedure for all deliverables outlined in this SOS will be as follows:

- Aclara will work with City personnel to gather input and complete deliverables.
- When complete, final deliverables will be given to City. City should review and sign off by City utilizing a mutually agreed Certificate of Acceptance form.
- The Certificate of Acceptance should be physically signed (or electronically signed) indicating approval or disapproval within five (5) business days of receiving the deliverable.

Key Project Task/Activity	Accountability		
	Aclara		City
<b>Project Initiation &amp; Kick Off</b>			
Communication Plan	R		C
Change control procedures	R		I
Contact list – with roles and responsibilities	R		C
Detailed Project Plan	R		C
<b>Requirements Confirmation</b>			
Integration requirements sessions	R		S
Completed requirements document	R		A
Setup on-premise environment for the AclaraONE UHE	S		R
<b>Configuration and Unit Testing</b>			
Setup and provision environment for AclaraONE UHE and MDM	R		S
Install Base AclaraONE Software	R		A
Configure application - AclaraONE (network management)	R		I
Develop Production Cutover plan	R		A
Execute Production Cutover test scripts	R		S
Certificate of Acceptance	R		A
<b>Hardware Installations</b>			
DCU site surveys (if applicable)	R		S
DCU site acquisition (if applicable)	S		R
DCU site prep (AC power/Solar)	C		R
Renewal Upgrade of DCUs	R		S
Mass Deployment	S		R



## 1.6 Project Governance

### 1.6.1 Project Organization

The City agrees to provide appropriate Project resources including but not limited to, data, information, workspace and appropriate and cooperative personnel, all as necessary to facilitate Aclara's performance of the Services and the City's integration.

The City will allocate the following described personnel to the Project to provide appropriate knowledge of the indicated area and the skills to perform the City tasks, and any additional personnel that may be necessary for City to perform its obligations under the implementation work plan.

- Project Manager (PM) – Main point of contact for the Project. Is responsible for scheduling City resources, managing the scope and the City tasks of the Project schedule, facilitating document approvals, and escalating & resolving issues as required.
- Business Owner/SME(s) – Business users or analysts who are business owners of the load research and settlement processes and data and are familiar with meter data processes. These resources will provide input to requirements definition and business process, design validation and acceptance testing.
- Technical Owner/SME(s) – Responsible for architecture, design and development of interfaces on the City's external systems. Provides input for IT process flow, test data preparation, post-install troubleshooting and diagnostics.
- DBA – Will participate on an as-needed basis. Owns installation and administration of database software & infrastructure management. Post implementation this resource will perform database & network administration tasks and troubleshooting for AclaraONE.
- User Acceptance Testing Resources – End users of the system. UAT Resources will participate in training and execute the test cases defined by the Project team.
- Escalation Resources – Typically the Project sponsor. Will participate in monthly Project review sessions with Aclara Program Manager. Available to assist with any escalated issues.

Aclara will allocate the following described personnel to the Project to provide appropriate knowledge of the indicated area and the skills to perform the Aclara tasks, and any additional personnel that may be necessary for Aclara to perform its obligations under the implementation work plan.

- Project Manager - Oversees all deliverables and quality control, coordinates scheduling and work assignments, assists in requirements and detailed design, resolves issues and serves as daily interface with City's Project Manager.
- Business Systems Analyst - Gathers and documents requirements. Develops detailed configuration and interface specifications, performs system configuration, performs integration testing and training; supports data migration.
- Systems PM - Provides hardware and software planning; Completes unit of any configured core product components. Performs installation, testing, and troubleshooting; configures network and OS; provides support and maintenance planning. Develops interfaces and any custom components, performs unit testing.
- Executive Sponsor – Makes sure project stays on track and meets City objectives; escalation resource.

### 1.6.2 Problem Resolution and Exception Management

A defined and understood escalation process is a critical component of any project implementation. The Aclara project team is organized with multiple points of escalation that can be utilized as needed. Project Issues will be logged, tracked, and reviewed at least weekly. In addition, risks are identified in our status reports along with suggested mitigations. Once an issue has been identified, it will be added to the issues list and worked according to priority. Depending on the type and severity of the problem, the Aclara PM will escalate appropriately within the organization as well as within the City.

Project leads assigned to the project will communicate daily and will escalate risks and issues that could affect the project timeline or scope to the PM who will be providing active oversight and first-level escalation support to the engagement. The PM may continue to escalate the issue through the Aclara organization to the Program Manager and to the Vice President of Professional Services. Aclara escalation resources will work jointly with the City escalation resources to try to resolve the issue at each level and avoid all issues from escalating further.

In addition, Aclara will report progress as per communication plan developed by the City's PM at the start of the project. The communication plan is summarized below. Aclara's goal for the project is to provide the necessary information to the City to allow for accurate validation of schedule, scope, and deliverables. To accomplish this, Aclara proposes the following activities: status reporting (includes schedule, issue, and risk tracking), quality reviews, and incident reviews.

#### Communication Plan & Progress Reporting

The table below details the communication and progress reporting for the project.

Project Status Report	Report sent via email	Weekly	Aclara Project Team City Project Team PM
Project Team Meeting	Conference call	Weekly	Aclara Project Team City Project Team
Issues Meeting	Conference call, or on-site meeting	Weekly or as needed	Aclara Project Team City Project Team
Quarterly Project Review Meeting	On-site meeting	Quarterly	Aclara Program Manager Project Managers Key Project Sponsors Aclara Executives Sponsors

### 1.7

#### Modification

No modifications to the core software are planned for this project.

### 1.8 System Technical Support

Aclara will support the City regarding the AclaraONE Solution and field hardware, which operates all main facets of the proposed solution.

**Attachment 2  
to  
Scope of Services**

**Rates**

The following categories have been defined for the Aclara Professional Services Team in the event of a change order:

<b>Professional Services Staff</b>	<b>Hourly Rate</b>	<b>Off-hours hourly rate</b>	<b>On-call hourly rate</b>
Sr. Technical Advisor	\$250	\$375	\$120
Product Manager	\$200	\$300	\$120
Project Manager	\$195	\$290	\$120
Systems PM	\$165	\$240	\$120
Systems Analyst	\$165	\$240	\$120
Database Administrator	\$185	\$270	\$120
Field Supervisor	\$165	\$240	\$120

**Expenses: as incurred per visit Mileage: then current IRS mileage rate**

**Services will be charged at the applicable Rates as follows:**

- 1) Standard Hourly Rates will apply to all service hours expended that do not exceed eight (8) consecutive hours during Aclara's normal business hours of 6:30 a.m. - 6:00 p.m. Central Time, Monday through Friday, excluding Aclara Holidays.
  - 2) Off-Hours Hourly Rates will apply to all service-hours expended beyond eight (8) consecutive hours during Aclara's normal business hours of 6:30 a.m. – 6:00 p.m. Central Time, Monday through Friday excluding Aclara Holidays.
  - 3) On-Call service is a pre-arranged service by which the City places a request to have an Aclara staff member accessible for a specified time period. During the period for which an Aclara staff member is accessible, On-Call Rates will be charged. If an Aclara staff member must perform services during the On-Call period, the services will be billed at the appropriate Hourly Rate or Off-Hours Hourly Rate, instead of the On-Call rate. This service will be provided remotely via a telecommunications link.
  - 4) All expenses must be pre-approved by the City.
- A. If Aclara is requested to travel to the Customer's site to provide Services, the costs and expenses associated with such travel will be borne by Customer and invoiced as set forth below.

- 1) Travel Expenses: Unless otherwise mutually agreed, Aclara's travel expenses for On-Site Services shall include, but are not limited to transportation fares (air, auto, rail), lodging, meals, automobile rental, fuel, parking and local transportation, and will be charged to the City on an actual basis.
- B. Aclara reserves the right to change the above rates upon 30 days' notice. Changed rates shall not apply retroactively.

**Attachment 3  
to  
Scope of Services**

**Milestones and Hardware Delivery Schedules**

**1a – AMI Implementation**

**A. Project Milestones – Total Professional Services fees = \$25,000**

	<b>Milestone</b>	<b>Milestone %</b>	<b>Milestone Value</b>
1	Project Kickoff Meeting Complete	20%	\$5,000
2	Install AclaraONE Software	20%	\$5,000
3	DCUs Renewals Deployed	20%	\$5,000
4	Interface Integrations Installed/Verified	20%	\$5,000
5	Certificate of Acceptance Signed	20%	\$5,000
	Total Professional Services	\$25,000	

**B. Annual Costs of Maintenance or Service Contracts/Agreements**

**Fees associated with Annual Maintenance and Service Agreements (hardware / software / other) in accordance with the Maintenance Agreement dated January 1, 2012.**

**C. Hardware Delivery Schedules (Pending development of delivery Schedules)**

Hardware delivery is estimated to begin in June 2019 per the draft schedule detailed in Attachment 1, Section 1.4. An MTU, Meter, and DCU hardware delivery schedule will be a jointly developed and authorized project artifact by Aclara and the City to be included as part of the Project Kickoff Phase.

**Attachment 4**  
**to**  
**Scope of Services**  
**Change Order Procedure**

Any change to a Statement of Work must be agreed upon in writing by both parties. The following procedure (whether requested by the City or Aclara) will be used to control all changes. All Requests for Change ("RFC") to the applicable Statement of Work must be made in writing and shall be submitted by the appropriate Project Manager. Each request should contain the following information:

- The requested change;
- The impact, if any, on the existing work product;
- Estimated impact, if any, on Project schedule; and
- Estimated change, if any, in Services fee

The Project Manager shall review and accept or reject the RFC. If rejected, the RFC shall be returned to the submitting party with written reasons for rejection and, as appropriate, any alternatives. All approved RFC's will be incorporated into the Change Order to this Statement of Work. Aclara will not perform any Services outside of the Statement of Work until the RFC has been signed by both parties.

1. Describe the requested change: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Define the impact, if any, on existing work product: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Define additional work product required as a result of the requested change, if any: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Define the impact, if any, to the existing Project schedule. Provide an updated Project schedule, if appropriate.  
\_\_\_\_\_  
\_\_\_\_\_

5. Provide an updated work product and payment schedule, if appropriate. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Accepted By:**

**Aclara Technologies LLC (Aclara)**

By: SAMPLE

Print name: SAMPLE

Title: SAMPLE

Date: SAMPLE

**Accepted By:**

**City of Ann Arbor, MI (City)**

By: SAMPLE

Print name: SAMPLE

Title: SAMPLE

Date: SAMPLE

## **EXHIBIT B COMPENSATION**

### General

Contractor shall be paid for those Services performed pursuant to this Agreement inclusive of all reimbursable expenses (if applicable), in accordance with the terms and conditions herein. The Compensation Schedule below/attached states nature and amount of compensation the Contractor may charge the City:

(insert/Attach Negotiated Fee Arrangement)



Aclara Pricing for The City of Ann Arbor (MI)  
 Aclara RF Water System - Badger Water Meters, E Series, Engineered Polymer, Non-Hosted



Revision Date: 2/26/2019

Description	Part Number	Qty/Pricing			Notes
		Qty	Unit Price	Extended Price	
<b>1 NETWORK UPGRADES</b>					
1.1 DCU Renewal Package (Includes Labor, Replacement Battery, Preventative Maintenance and 1-year Extended Warranty)		22	\$ 4,030.00	\$ 88,660.00	
1.2 Professional Services		1	\$ 25,000.00	\$ 25,000.00	(6)
1.3 Training - Water 2-day MTU Installation and Programming		1	\$ 10,000.00	\$ 10,000.00	
				<b>Group 1: \$ 123,660.00</b>	
<b>2 ACLARA END-POINTS</b>					
2.1 Water Meter MTU - Encoder, Single Port, Extended Range, 3' Nicor Connector Cable	3451-103-DBW	26,650	\$ 80.00	\$ 2,132,000.00	(5)
				<b>Group 2: \$ 2,132,000.00</b>	
<b>3 SOFTWARE</b>					
3.1 AclaraONE Unified Headend Software		1	\$ 37,000.00	\$ 37,000.00	(7)
3.2 Aclara Server Load Fee		1	\$ 5,000.00	\$ 5,000.00	
				<b>Group 3: \$ 42,000.00</b>	
<b>4 ACLARA ANNUAL FEES</b>					
4.1 Hosted AclaraONE MDM Software License Fee	504-0204W	1	\$ 28,000.00	\$ 28,000.00	(7,9)
4.2 Aclara ONE Annual Software Support Maintenance		1	\$ 7,400.00	\$ 7,400.00	(8)
4.3 AclaraONE Annual Managed Service/System Monitoring Fee		1	\$ 24,000.00	\$ 24,000.00	(9)
				<b>Group 4: \$ 59,400.00</b>	
<b>5 WATER METERS</b>					
5.1 Badger Water Meter - E-Series Ultrasonic, Engineered Polymer, M25, 5/8"		2,400	\$ 87.37	\$ 209,688.00	
5.2 Badger Water Meter - E-Series Ultrasonic, Engineered Polymer, M25, 5/8" x 3/4"		19,200	\$ 87.37	\$ 1,677,504.00	
5.3 Badger Water Meter - E-Series Ultrasonic, Engineered Polymer, M35, 3/4", Short Meter		600	\$ 97.89	\$ 58,734.00	
5.4 Badger Water Meter - E-Series Ultrasonic, Engineered Polymer, M35, 3/4"		550	\$ 105.26	\$ 57,893.00	
5.5 Badger Water Meter - E-Series Ultrasonic, Engineered Polymer, M35, 3/4" x 1"		600	\$ 105.26	\$ 63,156.00	
5.6 Badger Water Meter - E-Series Ultrasonic, Engineered Polymer, M55, 1"		1,750	\$ 121.05	\$ 211,837.50	
5.7 Badger Water Meter - E-Series Ultrasonic, Stainless Steel, M120, 1 1/2"		900	\$ 357.89	\$ 322,101.00	
5.8 Badger Water Meter - E-Series Ultrasonic, Stainless Steel, M170, 2"		650	\$ 470.53	\$ 305,844.50	
				<b>Group 5: \$ 2,906,758.00</b>	

**Subtotal: \$ 5,263,818.00**  
**Material Handling & Freight: Included**  
**Grand Total: \$ 5,263,818.00 (1,2,3,4)**

**General Note:** This Proposal/Quotation is based upon the terms and conditions set forth in the Aclara Standard Terms and Conditions of Sales for Equipment and Certain Services that are available on Aclara's website at: <http://www.aclara.com/terms-and-conditions/>  
 Any conflicting or additional terms and conditions contained in any resulting purchase order are hereby rejected unless agreed to in writing by Aclara.

**GENERAL**

- 1 The itemized Pricing remains in effect for a period of 90-days from the revision date above.
- 2 Extremely competitive information, must be kept in strict confidence between Aclara and the Utility.
- 3 The itemized pricing shown is based on quantities and schedules proposed herein. Stand-alone pricing for each line item may be provided upon request.
- 4 Total extended price shown excludes any applicable Sales Tax.

**ENDPOINTS**

- 5 Does not include the water meter.

**PROFESSIONAL SERVICES**

- 6 Reasonable travel and expenses will be billed as incurred.

**SOFTWARE**

- 7 AclaraONE configuration based on total system size (number of MTUs and number of DCUs). Final AclaraONE configuration will be determined by working in conjunction with IT staff.

**ANNUAL FEES**

- 8 Annual fee includes base-level support and software license maintenance.
- 9 Subject to 5% annual escalation starting year 2.

Dan Hardin  
 Aclara Technologies LLC  
 719-627-1436  
[dhardin@aclara.com](mailto:dhardin@aclara.com)

**EXHIBIT C  
INSURANCE REQUIREMENTS**

From the earlier of the Effective Date or the Commencement Date of this Agreement, and continuing without interruption during the term of this Agreement, Contractor shall provide certificates of insurance to the City on behalf of itself, and when requested any subcontractor(s). The certificates of insurance and required endorsements shall meet the following minimum requirements.

- i. The Contractor shall have insurance that meets the following minimum requirements:
  - i. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:
    - Bodily Injury by Accident - \$500,000 each accident
    - Bodily Injury by Disease - \$500,000 each employee
    - Bodily Injury by Disease - \$500,000 each policy limit
  - ii. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements which diminish the City's protections as an additional insured under the policy. Further, the following minimum limits of liability are required:
    - \$1,000,000 Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined
    - \$2,000,000 Per Project General Aggregate
    - \$1,000,000 Personal and Advertising Injury
  - iii. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
- ii. Insurance required under A.2 and A.3 above shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City for any insurance listed herein.

- iii. . Contractor shall provide the City 20-day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s), email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts;; (c) that the policy conforms to the requirements specified. Contractor shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. If any of the above coverages expire by their terms during the term of this contract, the Contractor shall deliver proof of renewal.

**EXHIBIT D**  
**ACLARA WARRANTY DOCUMENT**

- STAR® MTU Warranty
- STAR® Utility DCU Warranty

# STAR® MTU Warranty

## Basic Warranty

Seller warrants to the original PURCHASER of a STAR® Utility Meter Transmission Unit (MTU) that the MTU shall perform in accordance with the specifications in effect at the time of original product shipment and shall be free from defects in material and workmanship for a period often (10) years from the date of original product shipment (the “full warranty period”).

Any STAR® Utility MTU manufactured by Seller that, within the full warranty period: (i) fails to perform in accordance with the specifications in effect at the time of original product shipment or (ii) fails as a result of a defect in material or workmanship, when returned to Seller freight prepaid, will be repaired or replaced at the option of Seller without charge to the PURCHASER. A STAR® Utility MTU which has been repaired or replaced by Seller will be returned to the PURCHASER by Seller, freight prepaid. All costs associated with the removal and/or reinstallation of a defective STAR® Utility MTU shall be the responsibility of the PURCHASER. Seller warrants replacement MTUs for the longer of (i) the remaining term of the full warranty period applicable to the STAR® Utility MTU repaired or replaced or (ii) one year from the date the repaired STAR® Utility MTU or its replacement is returned to PURCHASER. Seller reserves the right to supply factory refurbished equipment, new equipment, or a newer model that provides equivalent or better performance.

## Extended Warranty

Subject to the limitations set forth below, Seller, will replace any STAR® Utility MTU that, after expiration of the full warranty period but before the expiration of the twentieth (20<sup>th</sup>) full year after the date of original product shipment (the “extended warranty period”): (i) fails to perform in accordance with the specifications in effect at the time of original product shipment or (ii) fails as a result of a defect in material or workmanship. The cost of replacement will be prorated in accordance with the following table based on the number years of service before failure:

Years of Service	Replacement Cost Percentage
11	55%
12	60%
13	65%
14	70%
15	75%
16	80%
17	85%
18	90%
19	95%
20	100%

The cost of replacement will be calculated by multiplying the applicable replacement cost percentage by the STAR® Utility MTU price in effect at the time of replacement. The defective MTU must be returned to Seller by the PURCHASER, freight prepaid; Seller will pay the freight charges for the return of the replacement to the PURCHASER.

All costs associated with the removal and/or reinstallation of a defective STAR® Utility MTU shall be the responsibility of the PURCHASER. Seller warrants MTUs replaced pursuant to the Extended Warranty for ten (10) years (in accordance with the terms of the Basic Warranty) from the date the replacement is returned to the PURCHASER. Seller reserves the right to supply factory refurbished equipment, new equipment, or a newer model that provides equivalent or better performance.

The STAR® Utility MTU warranties do not cover repairs or replacements required as a result of: misuse, mishandling, improper storage, accident, modification, improper operation, installation errors, meter failures, theft, vandalism, repair by unauthorized personnel, or battery life for MTUs that are configured and operated for more than two (2) to four (4) transmissions per day.

Seller makes no warranty whatsoever with respect to the minimum communication distance or reliability of the radio

propagation path of STAR® Utility MTUs.

Each MTU includes software which is proprietary to Seller and which is protected by United States Copyright Laws with which the PURCHASER must comply. PURCHASER has the right to utilize the software in the MTU with the MTU, but PURCHASER may not disassemble, decompile, or modify the software. The software is confidential and the property of Seller and shall not be disclosed to others.

THE WARRANTIES CONTAINED HEREIN ARE IN LIEU OF ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES FOR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

THE LIABILITY OF SELLER SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF ANY DEFECTIVE PRODUCT. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, RESULTING FROM PRODUCT INSTALLATION, USE, REMOVAL OR REINSTALLATION. THE REMEDIES SET FORTH HEREIN ARE EXCLUSIVE, AND IN NO EVENT SHALL THE LIABILITY OF SELLER EXCEED THE PRICE OF THE PRODUCT ON WHICH SUCH LIABILITY IS BASED. THE LIMITATION OF REMEDIES SET FORTH HEREIN IS IN RECOGNITION OF THE DIFFICULTIES OF PROOF OF LOSS AND THE INCONVENIENCE AND NON-FEASIBILITY OF OTHERWISE MEASURING DAMAGES AND OBTAINING AN ADEQUATE REMEDY.

THE WARRANTIES CONTAINED HEREIN MAY NOT BE ALTERED, AMENDED, OR MODIFIED, EXCEPT BY A WRITTEN INSTRUMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER.

# STAR® Utility DCU Warranty

Seller warrants to the original PURCHASER of a STAR® Utility Data Collection Unit (DCU) that the DCU shall perform in accordance with the specifications in effect at the time of original product shipment and shall be free from defects in material and workmanship for a period of one (1) year from the date of original product installation.

Any STAR® Utility DCU manufactured by Seller that, within the warranty period: (i) fails to perform in accordance with the specifications in effect at the time of original product shipment or (ii) fails as a result of a defect in material or workmanship, will be repaired or replaced at the option of Seller without charge to the PURCHASER. PURCHASER may either;

- 1) Request return authorization from Seller and return defective DCU for repair. Seller will be responsible for lowest cost inbound and outbound freight when using shipping method of Seller's choice. Should PURCHASER request alternative shipping method, PURCHASER will be responsible for all excess freight charges. All costs associated with the removal and/or reinstallation of a defective STAR® Utility DCU shall be the responsibility of the PURCHASER, or
- 2) Request on site repair by Seller, provided PURCHASER pays all reasonable Seller travel expenses. PURCHASER must assure reasonable access to the equipment and shall be responsible for additional costs incurred should Seller be prevented access at the scheduled time.

Seller warrants replacement DCU's for the longer of (i) the remaining term of the full warranty period applicable to the STAR® Utility DCU repaired or replaced or (ii) six (6) months from the date the repaired STAR® Utility DCU or its replacement is returned to PURCHASER. Seller reserves the right to supply factory refurbished equipment, new equipment, or a newer model that provides equivalent or better performance.

The STAR® Utility DCU warranty does not cover repairs or replacements required as a result of: misuse, mishandling, improper storage, accident, modification, improper operation, installation errors, theft, vandalism, acts of god or repair by unauthorized personnel.

Seller makes no warranty whatsoever with respect to the minimum communication distance or reliability of the radio propagation path or required density of STAR® Utility DCUs.

Each DCU includes software which is proprietary to Seller and which is protected by United States Copyright Laws with which the PURCHASER must comply. PURCHASER has the right to utilize the software in the DCU with the DCU, but PURCHASER may not disassemble, decompile, or modify the software. The software is confidential and the property of Seller and shall not be disclosed to others.

THE WARRANTIES CONTAINED HEREIN ARE IN LIEU OF ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES FOR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

THE LIABILITY OF SELLER SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF ANY DEFECTIVE PRODUCT. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, RESULTING FROM PRODUCT INSTALLATION, USE, REMOVAL OR REINSTALLATION. THE REMEDIES SET FORTH HEREIN ARE EXCLUSIVE, AND IN NO EVENT SHALL THE LIABILITY OF SELLER EXCEED

THE PRICE OF THE PRODUCT ON WHICH SUCH LIABILITY IS BASED. THE LIMITATION OF REMEDIES SET FORTH HEREIN IS IN RECOGNITION OF THE DIFFICULTIES OF PROOF OF LOSS AND THE INCONVENIENCE AND NON-FEASIBILITY OF OTHERWISE MEASURING DAMAGES AND OBTAINING AN ADEQUATE REMEDY.

THE WARRANTIES CONTAINED HEREIN MAY NOT BE ALTERED, AMENDED, OR MODIFIED, EXCEPT BY A WRITTEN INSTRUMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER.