

MAINTENANCE AGREEMENT FOR HOSTED SOLUTION

This Agreement is made and entered into as of June 17, 2019 (the “Effective Date”) by and between:

Aclara Technologies LLC, an Ohio Limited Liability Company
77 West Port Plaza
Suite 500
St. Louis, Missouri 63146-3126
(Referred to herein as “Aclara”)

And City of Ann Arbor
301 E. Huron Street
P.O. Box 8647
Ann Arbor, Michigan 48104
(Referred to herein as “Customer”)

Individually, Aclara® and Customer may be referred to as “Party” and collectively as “Parties”.

Whereas, the Parties have entered into a Software License Agreement of even date under which Customer has agreed to license from Aclara, and Aclara has agreed to license to Customer certain computer software; and

Whereas, pursuant to such Software License Agreement, Customer has agreed to obtain from Aclara, and Aclara has agreed to provide to Customer associated maintenance and hosted services for the Customer’s Aclara Technology System, as more fully described below.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and intending to be legally bound, the Parties agree as follows:

1. Definitions. For the purposes of this Agreement, the following definitions shall apply:
 - A. “Aclara Holidays” means New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, the day after Thanksgiving, Christmas Eve, Christmas Day and New Year’s Eve.
 - B. “Aclara Technology System” (or “System”) means the system comprised of, in part 1) the Hardware purchased from Aclara by Customer, and 2) the Software licensed by Aclara to Customer under the terms of the Software License Agreement.
 - C. “Additional Services” means services offered by Aclara for improvements and/or enhancements to the Customer’s System that are not covered by this Agreement, but may be offered and provided at the rates set forth on Schedule B hereto.
 - D. “Classroom Training” means training offered by Aclara at its facility.
 - E. “Customer Portal” means an electronic gateway to a secure entry point via Aclara’s website at www.Aclara.com that allows Aclara customers to log in to an area where they can view and download information or request assistance regarding Issues with the System.
 - F. “On-Site Maintenance Services” means Aclara providing Maintenance Services at the Customer’s facility at the then current rates stated in Schedule B, Time and Material Rates, attached hereto.

- G. “Custom Enhancement” means any improvement, modification or addition that, when made or added to the Software or Third Party Licensed Software, changes its utility, efficiency, functional capability or application. Custom Enhancements are not included as part of this Agreement.
- H. “Customer Site Training” means Aclara providing its training at the Customer’s facility at the then current terms and pricing published on the Aclara Customer Portal. The training may be customized to meet the Customer’s needs.
- I. “Documentation” means the user manuals and supporting documentation in electronic form containing copyrighted material and other proprietary material and information of Aclara provided with the Software under this Agreement.
- J. “Error” means any failure of Software to conform in all material respects to the requirements of this Agreement or Aclara’s published specifications. Any nonconformity resulting from Customer’s misuse, improper use, alteration or damage of the Software, the combination of the Software with any hardware or software not supplied by or authorized by Aclara, or any other condition beyond the control of Aclara, shall not be considered an Error.
- K. “Error Correction” means either a modification or addition that, when made or added to the Software, brings the Software into material conformity with the published specifications, or a procedure or routine that, when observed in the regular operation of the Software, avoids the practical adverse effect of such nonconformity
- L. “E-Learning” means on-line training offered by Aclara via the Internet.
- M. “Hardware” means the Aclara Equipment and Third Party Equipment identified on Exhibit B which may include, but is not limited to Substation Communication Equipment (SCE), Remote Communications Equipment (RCE), Test Equipment, Meter Transmission Unit (MTU), Data Collection Unit (DCU), or Utility MTU Programmer.
- N. “Hosted Aclara Software as a Service”, “Hosted SAAS”, or “Hosted Solution” means Software and database storage capacity installed, hosted and maintained on application and database servers or other equipment controlled by Aclara and made accessible to Customer through the Internet via one or more Customer Portals.
- O. “Issue” means a problem with the Hosted Solution identified by the Customer, which requires a response by Aclara to resolve.
- P. “Maintenance Services” means activities to investigate, resolve Issues and correct product bugs arising from the use of the Software in a manner consistent with the published specifications and functional requirements defined during implementation of the Services.
- Q. “Patch” means a version of the Software that provides an Error Correction to address an urgent need that is outside the schedule of regularly released Software Revisions or Software Versions.
- R. “Renewal Period” means each of one or more consecutive twelve (12) month periods following the Initial twelve (12) month Term of this Agreement.
- S. “Severity Level” means a designation of the effect of an Issue on the

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Customer’s use of the System. The Severity of an Issue is initially defined by the Customer and confirmed by Aclara. Until the Issue has been resolved, the Severity Level may be raised or lowered based on Aclara analysis of impact to business. The four Severity Levels are:

Severity Level	Description
1	Requires immediate attention– Critical production functionality is not available or a large number of users cannot access the system. Causes a major business impact where service is lost or degraded and no workaround is available, therefore preventing operation of the business.
2	Requires priority attention - Some important production functionality is not available, or a small number of users cannot access the system. Causes significant business impact where service is lost or degraded and no workaround is available, however the business can continue to operate in a limited fashion.
3	Requires attention –There is a problem or inconvenience. Causes a business impact where there is minimal loss of service and a workaround is available such that the system can continue to operate fully and users are able to continue business operations.
4	There is a problem or issue with no loss of service and no business impact. Operational Incident which does not involve an equipment outage but may cause an inconvenience and does not impact business operations or functionality of the Hosted Solution . Should be resolved after more serious Incidents have been resolved.

- T. “Software” means the software and firmware provided by Aclara, and listed in the Software License Agreement. All Software, Software Revisions and Software Versions provided by Aclara shall be subject to the terms and conditions of the Software License Agreement entered into by and between Aclara and Customer, including any amendments thereto.
- U. “Software Version” means the base or core version of the Software that contains significant new features and significant fixes and is available to the Customer. Software Versions may occur as the Software architecture changes or as new technologies are developed. Software Versions are not provided or included as part of this Agreement.
- V. “Software Revision” means an update to the released version of the Software code which consists of minor enhancements to existing features and code corrections. Software Revisions are provided and included as a part of this Agreement, so that the software hosting service includes the provision of Software Revisions..
- W. “Supplemental Services” means the services set forth on Schedule C hereto, and offered at the prices set forth on Schedule C hereto.
- X. “Target Response” refers to the period of time between a Customer’s initial contact with Aclara to report an issue (by phone, email or through the Customer Portal, thereby creating a ticket which has been assigned a number for tracking purposes) and Aclara’s initial contact back to Customer to begin investigation of the reported Issue.

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- Y. “Third Party Licensed Software” means the software provided as part of the Aclara Hosted Service Solution, but not developed by Aclara.
 - Z. “Training Services” means all training provided by Aclara to the Customer, including but not limited to Classroom Training, E-Learning Training and Customer-Site Training.
2. Term of Agreement. Subject to the termination provisions set forth below, this Agreement shall become effective as of the Effective Date. Upon expiration of the Initial Term, this Agreement shall automatically renew for successive Renewal Periods, unless sooner terminated by either Aclara or Customer as provided for in this Agreement.
3. Scope
- A. Software Maintenance and Hosting.
 - A. The Software maintained under this Agreement shall be the Software set forth in Attachment A to the Software License Agreement. Any additional Software for which a license is obtained by the Customer from Aclara shall be automatically incorporated into this Agreement and the pricing for Maintenance Services adjusted accordingly.
 - B. Aclara will provide the Hosted Solution in a secure, 24/7 environment according to the terms established herein.
 - C. Aclara will use commercially reasonable efforts to provide a high level of site uptime. It is our goal to provide at least 98% overall software system uptime, at a primary hosting facility designed for 99.8% availability. This goal excludes scheduled maintenance and upgrades, failure caused by the Internet or Licensee software, events of force majeure, or downtime caused by any other factor beyond Aclara’s reasonable control.
 - D. Aclara will use commercially reasonable efforts to prevent more than 1 hour of continuous down time during business hours (defined as 6:30AM to 6:30 PM CST) every day; and to prevent more than 6 hours of continuous down time during non-business hours (defined as the hours between 6:31 PM to 6:29 AM (CST), with the same exclusions as noted above.
 - E. Generally, Aclara performs all scheduled system maintenance and upgrades during non-business hours. Aclara will provide Licensee with as much advanced notice of scheduled downtime as reasonably possible.
 - F. During any period of downtime of the Hosted Solution of more than one hour in duration, Aclara will provide notice to users by posting a web page that indicates that the site is temporarily unavailable due to routine maintenance and to please come back later.
 - G. Aclara will provide e-mail notice to appropriate Customer staff if there will be more than one hour of down time of the Hosted Solution. Notice will include at least a brief description of the reason for the down time and an estimate of the time when Customer can expect the site to be up and available.
 - H. Aclara agrees that it will protect the hosted data according to commercially acceptable standards and no less rigorously than it protects its own confidential information, but in no case less than reasonable care. Aclara shall develop, implement, maintain and use appropriate administrative, technical and physical security measures which may include but not be limited to encryption techniques, to preserve the confidentiality, integrity and availability of all such hosted data.
 - I. Aclara will use commercially reasonable efforts to ensure that all hardware (including servers, routers, and other related equipment) on which the

applications are deployed are attached to backup power systems sufficient to maintain the site's availability for so long as any power outage could reasonably be expected to occur, based on the experience of Aclara at its deployment location.

- J. Aclara will provide Customer access to a client portal that will be used to report issues and review maintenance and upgrade schedule. Customer agrees to make good faith efforts to notify Aclara in advance whenever unusually heavy traffic is expected because of promotions or other factors.

- B. Hardware Maintenance. Under this Agreement, Aclara provides assistance to Customer by remote diagnosis and troubleshooting of those items identified in Section 1.K. above, which have been purchased by Customer from Aclara. In addition, Supplemental Maintenance Services for such Hardware may be available when offered in Schedule C during the term of the Agreement.

- C. Maintenance Services Provided. Aclara shall provide Maintenance Services to Customer as designated in Schedule J, Maintenance Services Selected. The following are included as part of this Agreement:
 - A. Aclara Software Revisions and Patches. Aclara shall provide Software Revisions and Patches as they become available. In support of such Software Revisions and Patches, Aclara shall provide updated user technical documentation reflecting the Software Revisions and Patches as soon as reasonably practicable after the Software Revisions and Patches have been released. Updated user technical documentation that corrects Errors or other minor discrepancies will be provided to Customers when available.

 - B. Third Party Software Revisions. At the option of Aclara, periodic Software Revisions of the Third Party Licensed Software will be provided by Aclara without further charge provided the following conditions are met: (i) the Software Revision corrects a malfunction in the Third Party Software that affects the operation of the Software; and (ii) the Software Revision has, in the opinion of Aclara, corrected malfunctions identified in the Aclara Technology System and has not created any additional malfunctions; and (iii) the Software Revision is available to Aclara. Customer is responsible for obtaining and installing the Software Revision if the Third Party Software was not licensed to Customer by or through Aclara. Software Revisions to Third Party Licensed Software provided by Aclara are specifically limited to the Third Party Software identified and set forth in Attachment A to the Software License Agreement. Any associated Hardware or Hardware modifications required to support revisions of Third Party Software are not included under the terms of this Agreement.

- D. Response to Issues. Aclara will provide verbal or written responses to Issues identified by the Customer in an expeditious manner. Such responses shall be provided in accordance with the Target Response Times as defined in Schedule A, Maintenance Services.

- E. Service Limitations. The Maintenance Services defined in this Agreement are applicable only to the Aclara Technology System, excluding third party equipment, and Third Party Software identified in Attachment A to Software License Agreement. The following limitations apply to Maintenance Services under this Agreement.
 - 1) New Software Versions are not included as a part of this Maintenance Agreement. Such Software Versions will be offered to Customer for additional fees and costs.

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- 2) Maintenance services shall be limited to the latest Software Revision, and the two previous Software Revisions currently maintained by Aclara. All code changes, Enhancements or fixes will be incorporated into the latest Software Revision or a future Software Revision. Aclara has no obligation to make code changes, Enhancements or fixes to previous Software Revisions.
- 3) Maintenance Services do not include costs incurred by Aclara while investigating problems that are the result of Customer's negligence, misuse, or unauthorized application, alteration, or modification of the Software, Hardware, or interfaces to the equipment configuration, which shall be invoiced to Customer on a time-and-material basis at Aclara's then current published rates. The current rates are set forth on Schedule B hereto.
- 4) Services offered outside of Maintenance Services as noted in Schedule C, Supplemental Services attached hereto are not included in this Agreement. Such additional services are available and may be provided upon Customer's request at the fixed price established on Schedule C, and if no fixed price is established, in accordance with the terms and rates provided in Schedule B hereto.
- 5) During Renewal Periods, certain follow-up training is provided as outlined in Schedule A, Maintenance Services. Additional training is available and may be purchased. Please contact Aclara Customer Support at 1-800-892-9008 for training requirements and fees.
- 6) Aclara shall consider and evaluate the development of Custom Enhancements for the specific use of Customer and shall respond to Customer's requests for Custom Enhancements or other additional services pertaining to the Software. Such Custom Enhancements or additional services shall be subject to a separate charge in accordance with Aclara's then in effect rates. The current rates are listed on Schedule B hereto.
- 7) Maintenance Services do not include any problem arising from the use of components manufactured or authorized by anyone other than Aclara as an interface or peripheral to the Software.
- 8) Maintenance Services do not include any problem resulting from the combination of the Software with such other programming or equipment unless such combination has been approved by Aclara.
- 9) Maintenance Services do not include any problem caused by changes to other software (including releases and patches), interfaces or systems connected to the Software including but not limited to changes of operating systems database servers, web servers, and communications software.
- 10) Maintenance Services do not include changes in workflow, practices, procedures, or processes that differ from the Software approved specifications.
- 11) Customer specific testing and reimplementation of Custom Enhancements are not part of this Maintenance Agreement

Customer will be responsible to pay Aclara for time or other resources provided by Aclara to diagnose or attempt to correct any of the items set forth above in this Section 3.E., at Aclara's then current time and material rates. If Aclara incurs expense in servicing claims which are later shown to result from any of the above activities, Customer shall pay Aclara

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the costs associated with the performance of such service. Aclara's time and material rates are attached hereto as Schedule B. Aclara, in its sole discretion, may change these rates from time to time with thirty (30) days advance notice to Customer.

4. Customer Responsibilities

A. Notification of Issues

- 1) Customer shall provide Aclara with timely notification of any new System issues by one of three methods:
 - a. By entering the problem on the Aclara Customer Portal (See Note 1 below);
 - b. Contacting Aclara Customer Support at **1-800-892-9008**; or
 - c. Emailing the problem to support@aclara.com

Note 1: Customer's utilization of the Aclara Customer Portal is the preferred method for Issue notifications.

- 2) Aclara provides technical support for Severity 1 and 2 issues, 24 hours per day; seven (7) days per week; 365 days per year. All Severity 1 and 2 notifications submitted between the hours of 6:00 p.m. and 6:30 a.m. Central Time (Monday through Friday, Weekends and Aclara Holidays) must be submitted through the Aclara Customer Portal. If Customer cannot readily access the Aclara Customer Portal, Customer may contact Aclara at the "800" number listed above.

- B. Technical Staff. Customer shall be responsible for maintaining sufficient suitably trained technical staff to operate and maintain the System on a day-to-day basis. Aclara training for designated contacts shall be made available to Customer.
- C. Support for Problem Investigation. Customer shall support all reasonable requests by Aclara as may be required in problem investigation and resolution.
- D. Designation of Point of Contact. Customer shall assign an individual or individuals to serve as the designated contact(s) for all communication with Aclara during Issue investigation and resolution.
- E. Discovery of Errors. Upon discovery of an Error, Customer agrees, if requested by Aclara, to submit to Aclara a listing of output and any other data that Aclara may require in order to reproduce the Error and the operating conditions under which the Error occurred or was discovered.

5. Payment and Charges

- A. Billing Rate. The charge for the Hosted Solution to the Customer and defined herein shall be at the annual Fee as identified in Schedule J, Maintenance Services Selected hereof during the Initial Term of this Agreement. Thereafter, during any subsequent Renewal Period, the Fee shall be subject to adjustment not to exceed five percent (5%) at the commencement of each Renewal Period. Customer will receive a Renewal Letter in the form of Attachment 1, providing 30 days notice of the adjusted Fee as set forth above. Said Renewal Letter and the terms contained therein shall be made a part of this Agreement.

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- B. Currency and Taxes. Prices and charges stated herein are in U.S. dollars and are exclusive of Import Duties, Tariffs, Provincial, Federal, State, Municipal or other Government Excise, Sales, Use or like Taxes, all of which shall be Customer's responsibility.
- C. Suspension of Services due to Unpaid Invoices. In the event that any of the Charges remain unpaid for more than thirty (30) days after becoming due for payment, Aclara shall be entitled to withdraw the Maintenance Services.
- D. Billing Frequency. Charges for the services provided under this Agreement shall be invoiced annually in advance. Payment of all such invoices shall be due and payable within thirty (30) days of the date of invoice.
- E. Partial Services. Aclara reserves the right to invoice the Customer for any partial month services which may result from the Effective Date or date of termination of this Agreement, at a prorated charge.

6. Termination

- A. This Agreement may be terminated by either party at any time by not less than thirty (30) days prior written notice.
- B. Aclara shall have the right to terminate this Agreement at any time in the event of Customer's bankruptcy, insolvency, or any continuing non-payment for services in excess of thirty (30) days.
- C. If either party shall at any time commit any breach of any covenant or agreement herein contained, and shall fail to remedy any such breach within thirty (30) days after the other party provides written notice specifying in reasonable detail such breach, the other party may, at its option, terminate this Agreement by prior notice in writing to such effect.
- D. Aclara shall have the right to terminate or refuse Maintenance Services if, in Aclara's opinion, conditions at the equipment location represents a hazard to the safety or health of Aclara's personnel.

7. Warranties

- A. With respect to Services to be performed by Aclara under this Agreement, Aclara warrants that it will use reasonable care and skill in the provision of the Services. The Services shall be performed in a professional, competent and timely manner by Aclara Personnel appropriately qualified and trained to perform such Services. In the event of a breach of the foregoing warranty relating to Services occurs within twelve months from the date of the providing of such Services, Aclara shall, at its sole cost and expense, re-perform such Services. Re-performance of such Services shall be Aclara's sole liability and Customer's sole remedy for a breach of warranty.
- B. Except as expressly set out herein, all conditions and warranties, express or implied, statutory or otherwise (including but not limited to any concerning merchantability or fitness for a particular purpose) are hereby excluded to the extent permitted by law.

8. Limitation of Liability and Damages

The Parties have agreed to limit Aclara's total aggregate liability and exclude the recovery of certain types of damages. Notwithstanding anything contained herein to the contrary, the total aggregate liability of Aclara to the Customer for any and all liability arising out of or in connection with the performance of this Maintenance Agreement shall be limited to the then current annual

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Maintenance Services Fee paid by Customer to Aclara under this Agreement. IN NO CASE SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES, OR FOR THE LOSS OF BENEFIT, PROFIT, REVENUE OR DATA, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. This provision shall survive termination of this Agreement.

9. Excusable Delays.

Neither Party shall be liable to the other for failure or delay in performance of a required obligation if such failure or delay is caused by delays in shipment, delivery or taking receipt of any items sold hereunder, or loss or damage thereto, acts of God, acts of the other Party, acts of civil, regulatory or military authority, U.S. Governmental restrictions or embargoes, war, terrorism, riot, fires, strikes, flood, epidemics, quarantine, restrictions, default or delay by supplier, breakdown in manufacturing facilities, machinery or equipment, delays in transportation or difficulties in obtaining necessary materials, labor or manufacturing facilities due to such causes, or any other cause beyond a Party's reasonable control. In the event of such occurrence, performance shall be suspended to the extent made necessary by such forces, and the time for performance shall be extended by a period equal to the time of delay. Upon the occurrence of such an event the Party whose performance is adversely affected shall promptly notify the other Party of the nature and extent of the occurrence and the anticipated period of delay in performance. Any Party so adversely affected shall use all Commercially Reasonable Efforts to minimize the extent of the delay in performance. No event of Force Majeure shall apply to any obligation by either Party to pay money.

10. Assignment.

Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party, provided however, that Aclara may assign this Agreement to an Affiliate, or to an entity acquiring all or substantially all of the assets of Aclara if the acquiring entity is an Affiliate, or, by operation of law, to an entity into which Aclara is merged if the surviving entity is an Affiliate, in each such case without prior approval of the other Party. In any such event, Aclara shall provide the other Party with prompt written notice of such assignment. As used herein, "Affiliate" means a company which either owns or controls Aclara or which Aclara owns or controls directly or indirectly, or is under common control directly or indirectly with Aclara through a common parent company.

11. Waiver.

No waiver of any term of this Agreement by either party shall be deemed to be a further or continuing waiver of any other term of this Agreement.

12. Governing Law.

This Agreement shall be governed by the laws of the State of Michigan, U.S.A.

13. Severability.

In the event that any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable, in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

14. Notices.

Any notices required or permitted hereunder shall be in writing and shall be deemed to be given sent by Electronic Mail, United States registered or certified mail, postage prepaid, to the

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respective Parties at the addresses shown below. Notices so given shall be deemed received three business days from the date of deposit in the U.S. mails.

If to Aclara:

Aclara Technologies
LLC Attn: Legal
Department 77 West
Port Plaza
Suite 500
St. Louis, MO 63146-3126

If to Customer:

If to Licensee:
City of Ann Arbor Attn:
Craig Hupy
301 E. Huron Street
Ann Arbor, MI 48104

With copy to:

City of Ann Arbor
Attn: Office of City Attorney
301 E. Huron Street
3rd Floor
Ann Arbor, MI 48104

15. Confidentiality The Parties understand that they may exchange information which they deem to be confidential. To that end, the Mutual Non-Disclosure obligations of the Parties as set forth in Section 12 of the Software License Agreement are incorporated herein by reference.
16. Entire Agreement.

This Agreement, including Attachment 1 and Schedules A, B, C, D, E, F, G, H, I, and J hereof, contains the entire agreement between the parties hereto relating to the subject matter hereof and may not be changed or modified in any manner, orally or otherwise, except by a written amendment signed by a duly authorized officer of each of the parties hereto.


SIGNATURES ON THE FOLLOWING PAGE

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the respective dates set forth below.

Aclara Technologies LLC

FOR THE CITY OF ANN ARBOR

By: 
Erik Christian, CFO

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

**SCHEDULE A
MAINTENANCE SERVICES
HOSTED SOFTWARE**

	Hosted Maintenance
<p>24x7 Technical Support: <i>Technical Support is available between the business hours of 6:30am to 6pm US Central Time by accessing the Aclara Customer Portal (or Toll-free at 800-892-9008, or by emailing support@aclara.com if access to the Customer Portal is not readily available to Customer). On-call technical support is available after 6pm and before 6:30am Central Time 24-hours a day/7 days a week/365 days a year, including Aclara Holidays and weekends by accessing the Aclara Customer Portal or calling Aclara’s Toll –free number 800-892-9008. Such after hours support is provided for Severity 1 and 2 issues only. Non Severity 1 or 2 items will be addressed during the standard business hours of 6:30am-6:00pm US Central Time.</i></p>	X
<p>Target Response Time – Severity 1: <i>Requires immediate attention– Critical production functionality is not available or a large number of users cannot access the system. Causes a major business impact where service is lost or degraded and no workaround is available, therefore preventing operation of the business.</i></p>	<2 hours
<p>Target Response Time – Severity 2: <i>Requires priority attention - Some important production functionality is not available, or a small number of users cannot access the system. Causes significant business impact where service is lost or degraded and no workaround is available, however the business can continue to operate in a limited fashion.</i></p>	<4 hours
<p>Target Response Time – Severity 3: <i>Requires attention –There is a problem or inconvenience. Causes a business impact where there is minimal loss of service and a workaround is available such that the system can continue to operate fully and users are able to continue business operations.</i></p>	<6 hours
<p>Target Response Time – Severity 4: <i>There is a problem or issue with no loss of service and no business impact.</i></p>	<1 business day
<p>Access to Aclara Customer Portal (www.aclara.com): <i>Customer will receive individual user names/passwords to the Aclara Customer Portal, as well as have access to Issue Management Reports for each case generated by Customer.</i></p>	X
<p>Follow-up Aclara Classroom Training. <i>Training is available at Aclara’s facilities as listed on the Aclara Customer Portal. The maximum number of Customer’s employees attending any Classroom Training session is three (3).</i></p>	No Maximum Number of Classes
<p>Aclara Web based E-Learning classes. <i>Certain E-Learning classes are available as listed on the Aclara Customer Portal to an unlimited number of Customer employees per course at the prices listed on the Aclara Customer Portal.</i></p>	No Cost

**LEVELS OF MAINTENANCE SERVICES
NON-HOSTED SOFTWARE**

	Base	Premier
Technical Support: <i>Technical Support is available during the hours of 6:30am-6:00pm Monday-Friday US Central Time, excluding Aclara Holidays and weekends, toll-free at 800-892-9008.</i>	X	
24x7 Technical Support: <i>Technical Support is available between the business hours of 6:30am to 6pm US Central Time by accessing the Aclara Customer Portal (or Toll-free at 800-892-9008, if access to the Customer Portal is not readily available to Customer). On-call technical support is available after 6pm and before 6:30am Central Time 24-hours a day/7 days a week/365 days a year, including Aclara Holidays and weekends. Such after hours support is provided for Severity 1 and 2 issues only. Non Severity 1 or 2 items will be addressed during the standard business hours of 6:30am-6:00pm US Central Time.</i>		X
Target Response Time – Severity 1: <i>Requires immediate attention– Critical production functionality is not available or a large number of users cannot access the system. Causes a major business impact where service is lost or degraded and no workaround is available, therefore preventing operation of the business.</i>	<4 hours	<2 hours
Target Response Time – Severity 2: <i>Requires priority attention - Some important production functionality is not available, or a small number of users cannot access the system. Causes significant business impact where service is lost or degraded and no workaround is available, however the business can continue to operate in a limited fashion.</i>	<1 day	<4 hours
Target Response Time – Severity 3: <i>Requires attention –There is a problem or inconvenience. Causes a business impact where there is minimal loss of service and a workaround is available such that the system can continue to operate fully and users are able to continue business operations.</i>	<2 days	<6 hours
Target Response Time – Severity 4: <i>There is a problem or issue with no loss of service and no business impact.</i>	<3 business days	<1 business day
Access to Aclara Customer Portal (www.aclara.com): <i>Customer will receive individual user names/passwords to the Aclara Customer Portal, as well as have access to Issue Management Reports for each case generated by Customer.</i>	X	X
Follow-up Aclara Classroom Training. <i>Training is available at Aclara’s facilities as listed on the Aclara Customer Portal. The maximum number of Customer’s employees attending any Classroom Training session is three (3).</i>	Aclara List Price	No Maximum Number of Classes
Aclara Web based E-Learning classes. <i>Certain E-Learning classes are available as listed on the Aclara Customer Portal to an unlimited number of Customer employees per course at the prices listed on the Aclara Customer Portal.</i>	Aclara List Price	No Cost

**SCHEDULE B
TIME AND MATERIAL RATES**

Additional Services may be provided at the Customer’s request in accordance with the following Time and Material Rates (hereinafter referred to as “Rates”¹).

Rates:

1. The following Rate categories have been defined for Aclara technical staff:

Aclara Technical Staff	Standard Hourly Rate	Off-Hours Hourly Rate	On-Call Hourly Rate
Sr. Technical Advisor	\$250	\$375	\$120
Product Manager	\$200	\$300	\$120
Project/Account Manager	\$195	\$290	\$120
Deployment Manager	\$195	\$290	\$120
Sr. Engineer	\$185	\$270	\$120
Sr. Business Analyst	\$185	\$270	\$120
DBA	\$185	\$270	\$120
Trainer	\$185	\$270	\$120
Engineer/Support Engineer	\$165	\$240	\$120
Business Analyst	\$165	\$240	\$120
Equipment Service/Installation	\$125	\$200	N/A
Administrative Support	\$125	N/A	N/A

1. Rate Adjustments.

The above hourly rates are in U.S. Dollars and are subject to adjustment upon thirty (30) days’ notice.

2. Service Charges.

A. 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.

B. 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 Maintenance Services shall include, but are not limited to airfare, lodging,

¹Rates exclude any applicable taxes and the like.

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meals, automobile rental, fuel, parking and associated administration fees, and will be charged to Customer on an actual basis.

- 2) Portal to Portal Invoices: Travel time for On-Site Maintenance Services will be invoiced to Customer on a portal-to-portal basis at Aclara's On-Call Hourly Rates.

3. On-Call Maintenance Service

On-Call Maintenance Service is a pre-arranged service by which Customer places a request to have Aclara technical staff accessible remotely for a specified time period. During the period for which Aclara technical staff is accessible, On-Call Hourly Rates will be charged. If Aclara technical staff must actually perform services during such period, the services will be billed at the appropriate Standard Hourly Rate or Off-Hours Hourly Rate, instead of the On-Call Hourly Rate. This service will be provided remotely via a telecommunications link.

4. Pre-Purchased Support Hours

- A. Pre-purchased software support hours are a block of hours intended to cover Software issues that are not covered under this Agreement, thereby allowing the Customer added flexibility to utilize Aclara's services without generating a Change Order. Should Customer request services which are not included in this Agreement and desire to utilize the pre-purchased hours, Aclara shall provide the Customer with an estimated number of hours required to resolve such request. The Customer may then advise Aclara either to stop working, sign and fund a Change Order, or use the pre-purchased support hours to resolve the request. Aclara reserves the right to decline the Customer's request, depending on the nature of the request.
- B. Pre-purchased support hours may be purchased at any time during the term of this Agreement. Pre-purchased support hours expire upon termination of this Agreement or within one year after purchase (regardless of use), whichever occurs first.
- C. Pre-purchased software support hours are offered in the following increments and volume discounts:

40 hours	Hourly Rates listed in Section 1 above.
80 hours	5% discount
120 hours	10% discount

**SCHEDULE C
SUPPLEMENTAL SERVICES OFFERED**

The following Supplemental Services are offered under the terms of this Maintenance Agreement:

1. **STAR®**

a. STAR System Monitoring Service

Tier 1 (Less than 1,000 endpoints)	\$ 2,000.00
Tier 2 (1,001 to 10,000 endpoints)	\$ 4,000.00
Tier 3 (10,001 to 25,000 endpoints)	\$ 6,000.00
Tier 4 (25,001 to 50,000 endpoints)	\$ 8,000.00
Tier 5 (50,001 to 100,000 endpoints)	\$10,000.00
Tier 6 (Greater than 100,000 endpoints)	Please contact Aclara for pricing

Aclara’s STAR System Monitoring service is designed to monitor end to end data transfer from meter/MTU’s to and from DCU’s to the NCC, and provide health status of your AMI system to minimize system downtime. Aclara will deliver a weekly diagnostic report that will identify issues which could affect the successful operation of the STAR system. The major components of the system that will be analyzed include:

- Network Control Computer
- Data Collector Units
- Meter Transmitting Units
- Handheld programmers.

Aclara’s proactive approach is to look for any condition out of the ordinary and will result in an immediate issue of a troubleshooting ticket and/or field work order based on the nature and severity of the condition. Example diagnostics include:

- Battery voltage loss
- Reading reception loss
- File processing errors

Customers will be notified about the issues found, the steps to be completed to solve the problem, and the escalation path. Aclara will provide:

- A snapshot of the STAR system’s health
- Generation of incident tickets, investigation and if needed, scheduling of work orders
- Notification that the issue has been resolved and confirmation that the STAR system is operating within established normal parameters.

The STAR System Monitoring Service requires that Aclara have reliable remote connectivity to Customer’s System.

b. STAR DCU Maintenance Service

Tier 1 (Less than 15 DCUs)	\$ 500.00 per DCU per year
Tier 2 (16 to 30 DCUs)	\$ 450.00 per DCU per year
Tier 3 (31 to 50 DCUs)	\$ 400.00 per DCU per year
Tier 4 (Greater than 50 DCUs)	Please contact Aclara for pricing

In addition to the above unit prices, Customer shall also be responsible for any associated rental equipment and delivery costs to access the DCU.

Aclara’s STAR DCU Maintenance service is designed to provide for the on-site repair of any DCU that fails under normal operation after expiration of the standard DCU Warranty.

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The Service covers all electronics, the Aclara provided WAN module and solar cell, but excludes the mounting frame, mounting hardware and battery.

The Service does **not** include maintenance or repairs attributable to the unauthorized attempt by Customer or any unauthorized person other than an authorized Aclara representative to repair or maintain a DCU. Maintenance or repairs resulting from casualty, catastrophe, extreme weather conditions or natural disaster (including lightning damage), accident, vandalism, civil unrest, war, misuse, neglect or negligence of Customer, or causes external to the DCU such as, but not limited to, failed or faulty electrical power, communication failure resulting from cell or other WAN network service interruption or any causes other than ordinary use. Maintenance or repairs to attachments or to any other devices not originally a part of the DCU and added without the prior written approval of Aclara. Repairs resulting from unauthorized changes, modifications or alterations of or to the DCU are not covered under this Agreement.

Upon notification from Customer of DCU failure, Aclara will diagnose the DCU. If a failure occurs to a DCU covered under the Agreement, the unit will be repaired or replaced, at Aclara's option, at no additional cost to Customer. If the Customer has entered into a System Monitoring agreement with Aclara, Aclara will normally identify the problem as part of its System Monitoring and will take the necessary actions to correct the problem. The Customer is responsible for arranging access to DCU sites before Aclara can take action.

Customer's electing the STAR® DCU Maintenance Service must purchase the service for all DCUs purchased by Customer; STAR® DCU Maintenance Service may not be purchased on an individual, case-by-case basis.

SCHEDULE D

HOSTED MAINTENANCE SERVICES

1. Hosting

- A. Aclara will host the **private label sites** in a secure, 24/7 environment according to the terms established below and the terms of the Maintenance Agreement to which this Schedule D is attached.
- B. Aclara will use commercially reasonable efforts to provide a high level of site uptime. It is our goal to provide at least 98% uptime. This means a total of no more than approximately 15 hours of unscheduled down time within a month. This goal excludes scheduled maintenance and upgrades, failure caused by the Internet or Licensee software, events of force majeure, or downtime caused by any other factor beyond Aclara’s reasonable control.
- C. Aclara will refund up to a percentage (see table below) of the total Hosting Fee for the month if up time performance, with the exclusions noted above, is not met based upon the following table. This table applies to the prime time period only. Downtime is defined as the site being unavailable for customer or staff use.

Average Uptime for the Month	Refund of monthly fee
97% or better	0%
95% – 96.99%	5%
Below 95%	10 %

- D. Aclara will use commercially reasonable efforts to prevent more than 1 hour of continuous down time during prime time (defined as 8AM to 12 AM EST) every day; and to prevent more than 6 hours of continuous down time during non-prime time (defined as the hours between 12:01 AM to 7:59 AM (EST), with the same exclusions as noted above.
- E. Generally, Aclara performs all scheduled system maintenance and upgrades during non-prime time or off-peak hours. Aclara will provide Licensee with as much advanced notice of scheduled downtime as reasonably possible.
- F. During any period of downtime of the Private Label Site(s) or any components of more than 30 minutes in duration, Aclara will provide notice to users by posting a web page that indicates that the site is temporarily unavailable due to routine maintenance and to please come back later.
- G. Aclara will provide e-mail notice to appropriate Licensee staff if there will be more than thirty (30) minutes down time of the Private Label Site(s) or any components. Notice will include at least a brief description of the reason for the down time and an estimate of the time when Licensee can expect the site to be up and available.
- H. Aclara will provide Licensee access to a client portal that will be used to report issues and review maintenance and upgrade schedule. Licensee agrees to make good faith efforts to notify Aclara in advance whenever unusually heavy traffic is expected because of promotions or other factors.
- I. Aclara will use commercially reasonable efforts to respond within thirty (30) minutes during prime time hours or within six (6) hours during non-prime time hours to any issue categorized as Severity 1 (as defined herein) that is posted by Licensee through the reporting tool.
- J. Aclara will store customer data on mirrored drives and arrange for daily backup daily all customer data, with backup tapes moved to offsite storage regularly.
- K. Aclara will use commercially reasonable efforts to ensure that all hardware (including servers, routers, and other related equipment) on which the applications are deployed are

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attached to backup power systems sufficient to maintain the site's availability for so long as any power outage could reasonably be expected to occur, based on the experience of Aclara at its deployment location.

- L. Aclara agrees to maintain firewall protection and redundant, high speed Internet connections for the Private Label Site(s).

2. Maintenance and Support

A. Standard Maintenance Services

Maintenance includes all new versions, error corrections, enhancements and improvements to the Program functionality licensed to Licensee, as the same are released to Aclara's Licensees generally. Aclara will provide updates to the application in accordance with the standard release cycle and will provide release notes to Licensees in advance of the release. At Licensee's request, Aclara will provide technical assistance in identifying and resolving issues with the Program's failure to conform to its specifications.

B. Ongoing Support Services

1) Rate Updates

- a. Licensee will provide rates to Aclara in the Aclara-provided template as soon as new rate information is available.
- b. Aclara will update rates once they are received and will move the changes to the production environment within one week.
- c. New rates and structural changes to rates required after the initial release will be setup at an additional cost

- 2) Aclara will provide up to 4 hours of configuration, content changes and/or reporting requests on a monthly basis at no additional charge. If the Licensee requires more than 4 hours in a given month, the additional changes can be completed on a time and materials basis. Hours will not roll over from month to month. Configuration and content changes are subject to the constraints and timing of the Aclara product release cycles. Off-cycle releases can be arranged at an additional cost.

- 3) In the event that the Licensee sends invalid data to Aclara in the data integration, Aclara will notify the Licensee and the Licensee will adjust their data transfer process to correct the issue.

- 4) Aclara will do updates to ZIP codes once per year.

5) Reporting

- a. Aclara will provide monthly usage statistics to the Licensee throughout the term of the agreement. Monthly usage statistics will be posted to the Aclara client portal for review by the Licensee.
- b. Aclara will provide monthly extracts of the profile data collected via the web site in a CSV format. Aclara will provide the data schema corresponding to this extract as part of the implementation. Data extracts will be posted to an Aclara-provided FTP site.
- c. More frequent reports and/or ad hoc reports can be provided at an additional cost.

6) Ongoing Release Testing

- a. Aclara Service Level Agreement (SLA) applies to the production environment only. SLA on the test environment can be provided at an additional cost.

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- b. Aclara provides Licensees access to one test site and one production site.
- c. Aclara supports links back to two Licensee-hosted environments. Once the Licensee is live, Aclara will link to the production site to the Licensee production environment. The Aclara test environment can continue to link back to one Licensee test environment. In the event that the Licensee needs to change the links on either of these environments, this can be done on a time and materials basis.

**SCHEDULE E
RESERVED**

SCHEDULE F

RESERVED

**SCHEDULE G
RESERVED**

**SCHEDULE H
RESERVED**

**SCHEDULE I
RESERVED**

**SCHEDULE J
MAINTENANCE SERVICES SELECTED**

Customer: City of Ann Arbor
Address: 301 E Huron St, Ann Arbor, MI 48104

1. Annual First Term Price shown. Billing frequency is annually in advance.
2. **If a Purchase Order number is required on Aclara annual invoices, please check here.**
3. AclaraONE Maintenance Annual Fee:

AclaraONE Year 1 \$ 35,400²
4. Supplemental Services
 AclaraONE Annual Managed Service/ System Monitoring \$ Request Quote
 DCU Maintenance \$ Request Quote
5. Customer Designated Contact Information:

Designated Renewal Contact Information:

Name _____
Title _____
Address _____
Address _____
Telephone _____
Fax _____
Cellular Phone _____
Email Address _____

Designated Contact Information

Name _____
Title _____
Address _____
Address _____
Telephone _____
Fax _____
Cellular Phone _____
Email Address _____

Designated Accounts Payable Contact Information:

Name _____
Title _____
Address _____
Address _____
Telephone _____
Fax _____
Cellular Phone _____
Email Address _____

Designated Contact Information

Name _____
Title _____
Address _____
Address _____
Telephone _____
Fax _____
Cellular Phone _____
Email Address _____

² Subject to 5% annual escalation starting in year two

**ATTACHMENT 1
RENEWAL LETTER**

DATE

Customer
Customer Address
City, State, Zip Code

Subject: 2019 Renewal of Aclara Hosted Solution Maintenance Agreement

Dear Contact Name,

Customer Company Name's Aclara Maintenance Agreement will automatically renew on [Date] for an additional twelve months through [Date] ("Renewal Period"). In accordance with Clause 5, of the agreement, the adjusted maintenance fee is \$. You will be invoiced for the new maintenance fee annually in advance and should receive the invoice within the first month of the Renewal Period.

If a purchase order (PO) number is required on the Aclara invoice, please provide the PO or PO number to AclaraOrders@aclara.com.

Aclara continues to offer Supplemental Services for Aclara technology systems that are identified on the attached Maintenance Agreement Schedule C, Supplemental Services Offered. Tier pricing has remained the same and the Tier pricing for your system is as follows:

- System Monitoring Tier _____ 2019 Pricing - \$
- Database Export Services Tier _____ 2019 Pricing - \$

If you selected one or both of the supplemental services previously, there is a check in the appropriate box. If selected, you will be invoiced for the supplemental services as separate line items along with the Maintenance Fee for the total amount of \$_____. If you wish to change your services for {CALENDAR YEAR, e.g. 2019}, please notify me within the next fifteen (15) business days by email.

This Renewal Letter is hereby incorporated into the Maintenance Agreement as set forth in Section 5(B) of the Maintenance Agreement. Except as noted above, the Aclara Maintenance Agreement and all of the terms, conditions and provisions thereof shall remain in full force and effect.

If you have any questions, please do not hesitate to contact me at {phone contact} or {email address}

Kind regards,

Sr. Contract Administrator
Enclosures: Schedules A and C
cc: Aclara Account Manager