



**MASTER AGREEMENT FOR THE SALE OF GOODS, SERVICES, AND SOFTWARE
BETWEEN CITY OF CHANDLER AND SCHNEIDER ELECTRIC SERVICES**

CITY OF CHANDLER AGREEMENT NO. 4521

THIS AGREEMENT (Agreement) is made and entered into by and between the City of Chandler, an Arizona municipal corporation (City), and Schneider Electric Systems USA, Inc., a Commonwealth of Massachusetts corporation (Contractor), (City and Contractor may individually be referred to as Party and collectively referred to as Parties) and made _____, 2023 (Effective Date).

RECITALS

A. City wishes to engage Contractor to provide SCADA electronic maintenance services at the Pecos Surface Water Treatment Plant and the City of Chandler Airport as more fully described in Exhibit A, which is attached to and made a part of this Agreement by this reference.

B. Contractor is ready, willing, and able to provide the services described in Exhibit A for the compensation and fees set forth in Exhibit B.

C. City desires to contract with the Contractor to provide these services under the terms and conditions set forth in this Agreement.

D. City and Contractor entered into a Continuation Agreement on or about June 24, 2022, see Exhibit F, to enable the Parties to continue provide and receive services during Contract negotiations. This Continuation Agreement shall be incorporated by reference.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements below, and intending to be legally bound, the Parties agree:

1.0 DEFINITIONS.

The following definitions apply to the parties' Services Agreement.

A.R.S. means Arizona Revised Statutes, as amended.

Access Information means any information relating to City, its contractors and/or End Users" use of the Services, including without limitation, (a) navigational information, including usage of hyperlinks within or available through the Services; (b) transactional or processing information, including billing information and method of payment; and/or (c) Internet or I/P addresses, demographic information

(like age, profession, or gender), domain names, computer type, browser types, and other anonymous statistical data arising from such use of the Services and access to the Facilities.

Agreement means this legal agreement executed between the City and the Contractor

Affiliate means with respect to any person or entity, any other person or entity that directly or indirectly controls, is controlled by, or is under common control with the specified person or entity, and for the purposes of this definition "control" of an entity means the ownership of 50% of the outstanding shares or other equity interests in such entity, or the right to elect or appoint a majority of the board of directors or governing body of such entity. Notwithstanding the definition of Affiliates, Contractor's Affiliates shall not include Aveva Group PLC. And all its subsidiaries.

City means the City of Chandler, Arizona.

City Confidential Information means: (a) all information related to the business of City and any of its City's and other third parties, to which Contractor has access, whether in oral, written, graphic or machine-readable form, in the course of or in connection with this Agreement; (b) all notes, analyses and studies prepared by Contractor or any of its Representatives, during the term of this Agreement or anytime thereafter, incorporating any of the information described in this Section 3; (c) the Access Information; and (d) the City Data.

City Data means all Confidential Information, all personal data and any other information relating to the employees, City or customers of City, or End Users or relating to the businesses of City or its Affiliates, including third party information, operations, facilities, products, services, and markets, all as and to the extent provided to or obtained by Contractor or its Representatives from City, contractors, or derived from any of the foregoing. Usage data of End Users who are customers of City shall be considered City Data. City Data includes any such information in any form (tangible or electronic), regardless of the form or method by which such information is created, stored, maintained, or communicated, and includes all data maintained by Contractor for City. Unless otherwise indicated, City Data includes all Access Information.

Contractor means the person or business organization named in the Agreement.

Crisis means an extraordinary event affecting Contractor that requires emergency response measures to be taken, including any event that may result in the Services, Software or Facilities becoming unavailable for a significant amount of time.

Confidential Information means City Confidential Information and/or Contractor Confidential Information, as the context may require.

Days means calendar days.

Documentation means the user, operations and training manuals, marketing materials, proposals, and responses to requests for information or proposals pertaining to the Services or the Software Programs, as well as any specifications reviewed by City, concerning the relevant Software licensed hereunder.

Facilities means the hardware, application software, operating system software, firmware, networks, communication devices and lines and all other equipment, software, devices, and related materials provided by or used by Contractor to host the Software Programs and provide the Services. Unless otherwise indicated, the Facilities shall be construed to include the Software Programs.

Goods means all products, equipment, materials, spare parts, hardware, supplies, and accessories to be supplied under a Purchase Order.

Implementation Date means the implementation date set forth in an applicable Schedule for the respective Services.

Intellectual Property Rights means any patent, trademark, service marks, copyrights, trade secrets, ideas, concepts, know-how, techniques, or other proprietary right.

May or Should means something that is not mandatory but is permissible.

On Premises Equipment means Facilities provided by Contractor to City for receiving, managing, maintaining, or using the Services.

Contractor Confidential Information means Contractor nonpublic financial information.

Purchase Order means any purchase order, either paper or electronic, with related attachments and changes thereto, agreed upon by the Parties pursuant to this Agreement, which shall describe the specific Goods, Software or Services to be supplied by Contractor to the City and the detailed Specifications for such. Purchase Orders agreed upon from time to time between Contractor and City and/or their respective Affiliates shall constitute separate contracts, which incorporate this Agreement by reference.

Representatives means each party's officers, directors, employees, consultants, attorneys, accountants, agents, and independent subcontractors (and their employees) and other representatives.

Shall, Will, or Must means a mandatory requirement.

Services means the services described in Exhibit A including, but not limited to, testing, assessment, per-diem or specific time-limited engineering services, installation, start-up, configuration and any development of application programs, customization, implementation, training, and any other services agreed upon between the Parties in Purchase Orders hereunder.

Software means computer software programs, in object code form including firmware and custom software, and instructions manuals, specifications and related documentation in written or electronic form, their related instructions manuals and documentation.

Specifications means the Contractor's standard specifications applicable to the Goods and/or Software at the time of execution of the Agreement or a Purchase Order hereunder or the specific requirements mutually agreed upon between the Parties in Purchase Orders hereunder in relation to the Goods,

Software and, with respect to Services, the agreed upon statement(s) of work containing a description of the Services to be rendered.

Third Party Products mean products and software of a third-party vendor.

Warranty Period means the applicable time during which Goods, Software and Services are respectively guaranteed by Contractor under the conditions set forth herein under the Warranty Article.

2.0 SERVICES.

2.1 Services under Schedules. Contractor will perform and deliver Services described in this Agreement and any Schedules hereto, in accordance with the milestones, delivery dates, specifications and requirements as set forth herein.

2.2 Grant of License, On Premises Equipment. In addition to the licenses granted by Contractor to City for Software as provided in this Agreement, Contractor hereby grants City a nonexclusive, paid-up, worldwide license to install, access and use the On Premises Equipment to receive, manage, maintain, and use the Services.

2.3 Reports. On a semi-annual basis, Contractor will provide to City a written report summarizing Contractor's performance of the Services with respect to all metrics and categories of description set forth in an applicable Schedule, and any other information reasonably requested by City.

2.4 Services Audit. City may on 90 days' notice conduct audits and reviews of the Facilities on Contractor's premises with respect to the Services.

2.5 Activation and Installation. Unless otherwise stated in the applicable Schedule, construction, maintenance and operation of the Facilities, and activation and performance of the Services are and shall be the responsibility of Contractor.

2.6 City Data. Notwithstanding any other provision in this Agreement or Schedules, Contractor shall make all City Data (complete and unaltered) available to City based on an acceptable request in writing within 120 days. As between the parties, City Data shall be and remain the property of City. Contractor shall use the City Data solely to perform Contractor's obligations under the Services Agreement and this Agreement. Except as expressly permitted in this Agreement, Contractor shall not sell, assign, lease, disseminate, or otherwise dispose of the City Data or any part thereof to any other person, nor shall Contractor commercially exploit any part of the City Data. Contractor shall not possess or assert any property interest in or any lien or other right against or to any City Data.

2.7 City Affiliates. City's rights under the Services Agreement and this Agreement may be exercised by and for the benefit of City.

2.8 Offshore Performance of Work Prohibited. Due to security and identification protection concerns, direct Services under this Agreement must be performed within the borders of the United States. Any Services that are described in the scope of work that directly serve the City and may involve access to secure or sensitive data or personal client data or development or modification of software

for the City must be performed within the borders of the United States. Notwithstanding anything to the contrary, and unless stated otherwise in the scope of work, this definition does not apply to indirect or overhead services, redundant back-up services, or services that are incidental to the performance of this Agreement.

2.9 Third Party Products. If Third Party Products are supplied by the Contractor under this Agreement, notwithstanding anything to the contrary, such supply is made on a “pass-through” basis only and is subject to the terms and conditions of the third-party vendor, including but not limited to warranties, licenses, indemnities, limitation of liability, prices, and changes thereto. For time and materials orders, Third Party Products are quoted subject to price changes imposed by third party vendors between the date of Purchase Order encompassing such Third-Party Products and the date of Contractor invoice related to that Third Party Product. Provided; however, Contractor must obtain any required legal permissions and licenses from such Third Parties as necessary to perform and provide all Services to City under this Agreement and to enable the City to receive the full benefit of the Services under this Agreement.

3. CONTRACTOR SOFTWARE LICENSE.

3.1 Software License. The Software License herein shall apply to generally to Contractor’s Software, which includes Triconex, Foxboro, I/A, SIS, and Modicon Software. Third Party Product Software Licenses are separate end user license agreements (“EULA”) and not issued pursuant to the following sub-article.

3.2 Software License Terms and Conditions.

(a) In consideration of the receipt of full payment of the Software license fee applicable as part of the price under a purchase order, and subject to City’s compliance with its obligations under this Agreement and/or the purchase order, Contractor will provide to City a personal, non-transferable, non-exclusive limited license to use the Software described in this Agreement and the relevant purchase order and the Contractor Information incorporated into any deliverables, if any, for purpose of City’s ordinary business as defined in a statement of work and in the particular location(s) and/or on the particular systems for which City licensed such Software, as those locations and/or systems are identified in the purchase order.

(b) Contractor’s Software licensed to City may contain components that are owned by Third Parties. The Third-Party owner shall retain exclusive right to its firmware and software. Use of such Third-Party components may be subject to restrictions contained in the Third Party’s end-user license agreement in addition to the conditions set forth herein. Contractor will provide and assist the City with obtaining any applicable Third Party’s end-user license agreement. Copyright and other proprietary rights notices of Contractor and Third Parties are contained in the Software and City will not modify, delete, or obfuscate such notices.

(c) City may not without Contractor’s prior written express consent (i) copy, modify, sublicense, loan, or transfer in any manner the Software licensed herein; (ii) create derivative works based on the Software licensed herein; (iii) translate, decompile, disassemble, reverse assemble, reverse engineer, emulate or perform any other operation on the Software, unless the operation is specifically

authorized by law. If Contractor is providing a validation of City's own programming to determine its conformance with the specific Contractor supplied Software, Contractor only provides advice or review of the actual programming and does not provide any opinion or advice on the use or applicability of City's programming. The Logic Validator software product does not replace a formalized test program developed by experienced TÜV, or otherwise proper SIL program by safety instrumented system (SIS) certified engineers. City will hold the Software licensed herein in strict confidence and will not allow third parties, other than its employees with a need to use the Software and who have agreed to comply with the terms of this Software License article, to access or use the Software without Contractor's prior written consent.

(d) Notwithstanding the foregoing restrictions but subject to all restrictions applicable to Third Party Products as set forth herein City shall be entitled to make one (1) copy of the Software for backup or archival purposes and may make a limited reasonable number of copies of the instruction manuals and documentation related to the Software for purpose of their use by City in connection with the authorized use of the Software. All titles, trademarks and copyrights and restricted rights notices shall be reproduced in such copies.

(e) City will maintain and document the location and use of the licensed Software in City's possession. No later than thirty (30) days upon receipt of Contractor's written request, City will provide Contractor with a signed certification of compliance with the Software licensing conditions. Contractor has the right to conduct an audit of City's use of the Software upon 90 days prior written notice to City. Any such audit will be conducted during regular business hours at City's facilities. If an audit reveals any underpayment of license fees, City will be invoiced for additional license fees consistent with Contractor's then current price list for the Software, without any discount being applicable in that instance. City will pay the underpaid amount within 30 days of City's receipt of Contractor's invoice ("Due Date") together with interest at a rate of one and one-half percent (1.5%) per month that begins to accrue on Due Date and continues to accrue until paid.

(f) City may not transfer its license to use the Software and related documentation and written materials to a third party without the Contractor's prior written consent. In case of Contractor's approval of such transfer, City will be responsible to ensure that the recipient agrees to the terms of this Software License article.

(g) If the Software is licensed for use in the performance of a U.S. Government prime contract or subcontract, City agrees which, consistent with FAR 12.211 and 12.212, commercial computer Software, computer Software documentation and technical data for commercial items are licensed under Contractor's standard commercial license.

4. NON-DISCLOSURE.

4.1 Restrictions. Each party, as recipient of the other party's Confidential Information, will receive, hold and protect in confidence the Confidential Information of the other party. The receiving party may disclose the Confidential Information of the disclosing party to its Representatives who have a need to know such Confidential Information solely in connection with this Agreement. The receiving party will cause such Representatives to comply with this Agreement and will assume full responsibility for any breach of this Agreement by any such Representatives. The receiving party will not transfer or disclose

any Confidential Information of the disclosing party to any third party without the disclosing party's prior written permission and without such third party having a contractual obligation (consistent with this Section 4 ("Non-Disclosure")) to keep such Confidential Information confidential. The receiving party will not use any Confidential Information of the disclosing party for any purpose other than in connection with this Agreement. Notwithstanding any confidentiality restrictions set forth herein, City may disclose Contractor Confidential Information to third parties in connection with such third party's provision of software or services to City. Such disclosures will be made under an obligation of confidentiality limiting the use of such Confidential Information by such third parties to the provision of services to City.

4.2 Exclusions. Confidential Information will not include information that: (i) is in the public domain at the time of disclosure; (ii) was in the possession of or demonstrably known by the receiving party prior to its receipt from the disclosing party without restriction on its use or disclosure; (iii) is independently developed by the receiving party without use of or reference to or reliance on the disclosing party's Confidential Information; (iv) becomes known by the receiving party from an unaffiliated source other than the disclosing party without breach of this Agreement and is not subject to an obligation of confidentiality; or (v) is approved in advance for release by written authorization of an officer of the disclosing party. Notwithstanding anything to the contrary, City may disclose Contractor Confidential Information as required to satisfy any request by any governmental or regulatory body.

4.3 Legal Requirements. If the receiving party is requested or required to disclose any of the disclosing party's Confidential Information under a subpoena, court order, statute, law, rule, regulation or other similar requirement (a "Legal Requirement"), the receiving party will, to the extent not precluded by law, provide prompt notice of such Legal Requirement to the disclosing party so the disclosing party may seek an appropriate protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. If the disclosing party is not successful in obtaining a protective order or other appropriate remedy and the receiving party is, in the reasonable opinion of its counsel, legally compelled to disclose such Confidential Information, or if the disclosing party waives compliance with the provisions of this Agreement in writing, the receiving party may disclose, without liability hereunder, such Confidential Information in accordance with, but solely to the extent necessary, in the reasonable opinion of its counsel, to comply with the Legal Requirement.

4.4 Disposition of Confidential Information on Termination or Expiration. Upon termination or expiration of the Services Agreement and this Agreement or upon the disclosing party's written request and where practicable, the receiving party will return to the disclosing party all copies of Confidential Information already in the receiving party's possession or within its control. Following its return, and upon notice from the disclosing party, and unless otherwise required by law, the receiving party must destroy such Confidential Information using means to protect against unauthorized access to or use of the information, including, where appropriate, burning, shredding, or pulverizing such information, or by taking such other means as to assure that such information will not be recoverable following its disposal. In such case an officer of the receiving party will certify in writing to the disclosing party that all such Confidential Information has been so destroyed. Notwithstanding the foregoing, the receiving party may retain copies of such Confidential Information as required by applicable law, and, to the extent such copies are electronically stored in accordance with the receiving party's retention or back-up policies or procedures (including, without limitation, those regarding electronic communication), so long as such Confidential Information is kept confidential as required under this Agreement.

4.5 Privacy. For all City Information collected, stored, or processed by Contractor, Contractor shall: (a) maintain safeguards against destruction, loss, alteration of or unauthorized access to such City Information; and (b) not, without City's prior approval, modify or discontinue any such safeguards without comparable or better replacement safeguards. Contractor acknowledges the sensitivity and confidentiality of personally identified information which may be contained in the City Information and the applicability of the Gramm-Leach-Bliley Act and/or other applicable privacy laws, regulations, and guidelines ("Privacy Laws"). Contractor agrees to comply with all applicable legal and contractual requirements relating to the privacy and confidentiality of personally identified information applicable to Contractor in the performance of its obligations under this Agreement.

5. SECURITY.

5.1 Security. Contractor represents and warrants that it shall always adhere to and comply with, in all material respects, the minimum-security standards to ensure that there is no unauthorized access to or use of City information described in this Section, which security standards may be mutually amended by the parties from time to time (the "Security Standards").

5.2 Security Standards. Contractor will use reasonable efforts to prevent unauthorized access to restricted areas of its servers and any databases or other material generated from or used in conjunction with the Service. Contractor will respond immediately to remedy any known security incidents or breaches.

(a) External Segment Security. Contractor's external connections to the Internet will have appropriate security measures and controls applied to its systems and will include an Intrusion Detection System (IDS) that will monitor all inbound and outbound communications and information. The IDS is intended to detect, record, alert, and terminate unauthorized activity.

(b) Web Site Segment Security. All Internet accessible systems will reside behind Firewalls. The Firewalls will enforce secure access between all Web servers and the Internet. The Firewalls will allow only specific types of data to pass from the Internet to the systems on the Web Segment. An IDS device is used to scan all data that passes within the Web Server segment and will detect, report, and terminate any unauthorized activity prior to it reaching the Web Servers.

(c) Internal Network Segment Security. All data entering the Service's internal data network from any external source (Web Segment and Internet) must pass through Firewalls. The Firewalls will enforce secure connections between internal and external systems and will only allow specific types of data to pass through. Access to customer data by Contractor employees will be limited to authorized personnel only. All Contractor employees will follow the security policies regarding access and use of internal systems.

(d) Physical Site Security. All systems containing customer or company related data will be contained in locked data cabinets and will reside in a secure Data Center. Only authorized personnel will have access to the Data Center and/or Operations area via an internal security system. The entire physical facility, internal and external, will be monitored 24/7/365.

(e) General Data Security and Network Monitoring. All printed documents containing customer, confidential, financial, or sensitive information that is no longer needed will be shredded. Any printed material of this nature that is retained will be secured in cabinets. All data backups will be locked and secure both on-site and off-site as documented in the Security Policy Document and the Backup/Disaster Recovery Guide. Contractor will actively monitor the IDS systems, Local Area Network/Wide Area Network, (LAN/WAN) equipment and all critical servers. Encryption techniques will be used for data transmissions where applicable.

(f) Assessments. City reserves the right to conduct risk assessments, vulnerability assessments, black box

penetration tests or hire a third party to conduct risk assessments, vulnerability assessments, and black-box penetration tests of the Contractor's environment. Contractor will be alerted in advance and arrangements made for an agreeable time. Contractor shall respond to all Critical, High, and Medium severity vulnerabilities discovered by providing an acceptable timeframe to resolve the issue and/or implement compensating control(s).

5.3 Updates to Security Standards. If a change or addition to the Security Standards is required by law, rule, regulation, order, judgment or decree, Contractor shall comply with such amended Security Standards as soon as possible but in no event later than the time for compliance indicated in such law, rule, regulation, order, judgment, or decree. If the event Contractor adopts changes to the Security Standards, Contractor will provide the Services in accordance with such new Security Standards; provided that if such new Security Standards are of a level which is less than the level of the Security Standards previously required by this Agreement, and if City does not agree with such new Security Standards, City may terminate and this Agreement upon written notice to Contractor. If City accepts such new security standards, such new security standards shall be deemed to be "Security Standards" for purposes of this Agreement.

5.4 Security and Supervision. Contractor's personnel, when on City's premises or accessing City's networks or providing maintenance services hereunder, will comply with all of City's security, supervision, and other standard procedures applicable to such personnel, including, if applicable, City's Internet and Electronic Communications Usage Policy.

5.5 Audit. City reserves the right to conduct, either itself or through a third-party independent contractor selected by City at City's expense, an on-site audit and review of Contractor's architecture, systems and procedures used in connection with the Services and the Software Programs. Such audit and review shall be conducted upon City's reasonable request no more than once every 12 months, and with thirty-day written notice. After conducting an audit, City shall be entitled to notify Contractor of the way Contractor does not comply with any of the security, confidentiality, or privacy obligations herein, if applicable. Upon such notice, Contractor shall use commercially reasonable efforts to make any necessary changes to ensure compliance with such obligations. If Contractor is unable to remedy the defects or deficiencies causing its noncompliance with any obligation, City may terminate this Agreement upon written notice to Contractor. Any audits described in this Section shall be conducted during reasonable times and upon reasonable advance notice to Contractor and shall be of reasonable duration and shall not unreasonably interfere with Contractor's day-to-day operations. Further, City shall not conduct an audit more than twice per year unless City determines in its reasonable discretion that additional audits are necessary. If City conducts an audit through a third-party independent

contractor, such independent contractor shall be required to enter into a non-disclosure agreement containing confidentiality provisions substantially like those set forth herein to protect Contractor's proprietary information. In addition to and not in lieu of City's rights to conduct an audit as described in this Section, once per year during the term of this Agreement, Contractor will provide City with a written certification that Contractor has tested its architecture, systems, and procedures and that it is in full compliance with the security, confidentiality, and privacy obligations herein. Such certification shall be signed by an officer of Contractor.

5.6 Information Security Incident Management. Contractor must adhere to a formally documented incident management process, must cooperate with City personnel in the diagnosis, investigation and response of any security incidents or faults that impact City data. Contractor must notify the City within 48 hours of suspicion, detection or confirmation of a breach or unauthorized access to City information that is hosted, stored, processed, or transmitted by the Contractor. Notification will be made using City provided email and phone as identified in the Notices section of this contract.

5.7 Business Continuity and Disaster Recovery Management. Contractor must have business continuity and disaster recovery plans and processes in place to ensure the service for the City is adequately maintained in the event of any negative impact on the Contractor's service as set forth in Section 17. Contractor will regularly backup City data and retain such City backup data copies according to City data retention requirements or otherwise provide backup data to the City.

5.8 Applicable Laws and Regulations. Contractor will comply, and assist City to comply with, all applicable standards, State and Federal laws and regulations including, but not limited to:

- National Institute of Standards and Technology (NIST) Special Publication (SP) 800-82 revision 2 (or most recent published revision)
- International Society of Automation ISA/IEC 62443
- ANSI American Water Works Association G430-14
- America's Water Infrastructure Act of 2018

6. FEES AND OTHER PAYMENTS.

6.1 Fees. Notwithstanding anything to the contrary in any schedule or exhibit, no Fees will be due or owed, with respect to any Services unless and until: (i) the parties agree to a Schedule covering such Services as listed in Exhibit B, and (ii) City receives an invoice for the relevant Fees.

6.2 Taxes. Contractor shall be responsible for the payment of all sales, use or similar taxes applicable to the purchase by Contractor of any materials and components used in the manufacture or assembly of any Products. City, the contractors or End Users, as applicable, shall be responsible for the payment of all sales or use taxes imposed by any jurisdiction in the United States applicable to the sale of any Products under this Agreement, or to the extent applicable will provide appropriate sales tax exemption certificates.

6.3 Invoices. Contractor will provide City with an itemized invoice for all Fees that become due hereunder. Each valid and undisputed invoice will be due and payable within thirty (30) days after City's receipt of such invoice. Should City dispute any invoice, City will notify Contractor of the nature of the dispute in writing within fifteen (15) days of the invoice date. City will have the right to withhold payment of the portion of the payment in question until the dispute is resolved ("Disputed Invoice"). If City does

not notify Contractor of any dispute within fifteen (15) calendar days of the invoice date, then the invoice is deemed to have been accepted and invoice payment is required to be made on the payment due date per contract terms.

6.4 Delinquent Payment. If City fails to make timely payment Contractor will send City a notice of default and provide the City with ten (10) day to cure the delinquent payment. If the City fail to cure the default, City will be held in breach and Contractor may demand immediate payment and at Contractor's option (i) suspend all further deliveries or performance to be made under the Agreement or any further performance under any other contract with City, in which event City will not be released in any respect from its obligations to Contractor under the Agreement or the other contract; (ii) recover all costs of collection including but not limited to reasonable attorneys' fees; (iii) repossess the Goods and Software for which payment has not been made; (iv) retain any equipment supplied by City to Contractor in relation to Contractor's provision of Services; (v) charge interest at the rate of 1.0% per month on the past due amount, not to exceed the interest percentage allowed by law; and (vi) reassess the credit worthiness of City. Upon City's breach of this Agreement, any discount from Contractor's rates, if any, will cease to apply to the delinquent invoice

7.0 DELIVERY, TITLE, AND RISK OF LOSS. Unless otherwise agreed upon in a Purchase Order, title to all Goods sold hereunder, except for Software whose title always remains with Contractor, will pass to City upon full payment of the Purchase Order. Upon delivery, risk of loss or damage will pass to City, unless delivery has been delayed because of City in which event risk of loss will pass to City upon the originally scheduled delivery date and City will be responsible for all costs and expenses including storage and insurance. Delivery, unless otherwise agreed upon in a Purchase Order, will be Ex-works (Incoterms 2010), Contractor's facility. If, as part of a Purchase Order, Contractor is responsible for packing any Goods for shipment, Contractor will pack, mark, and label such Goods in accordance with its usual packing procedures.

8.0 RECEIVING, INSPECTION AND ACCEPTANCE. City will be responsible for receiving, installing, starting up and maintaining all Goods, unless otherwise agreed in the Specifications. If City fails to notify Contractor of any material non-conformities with the Specifications within thirty (30) days, or is using those Goods, Software, or Services in a production environment or for the regular conduct of its business, the Goods, Software or Services will be deemed accepted, without prejudice to the warranty provisions hereunder. City will have the right to reject any Goods, Software, or Services that are delivered to City not in accordance with the Specifications in the Purchase Order. Contractor will have a reasonable opportunity to correct non-conformities, replace non-conforming Goods and/or Software or correct or re-perform the Services at its option, in accordance with Warranty Article. Should Contractor fail to use reasonable efforts to correct non-conformities, replace the non-conforming Goods and/or Software or re-perform or correct non-conforming Services within a reasonable period of time, City may terminate the Purchase Order or portion thereof and is not obligated to pay any invoice for the purchase order as provided in Section 6.3 Contractor's maximum liability under this Article shall be to refund the fees and expenses paid by City for the City's damages arising out of relating to the portion of the Goods, Software or Services that is non-conforming.

Unless other acceptance criteria are agreed upon in the Specifications, Contractor's standard testing procedures, including factory acceptance test and site acceptance test where applicable, will apply to Goods, Software, and Services provided. Contractor must provide City a minimum of seven (7) days

prior written notice of any testing of Goods, Software, or Services provided by Contractor under this Agreement. If City's representative is unable to attend any of these tests having received such notice, City will be deemed to have waived its entitlement to attend such tests. To the extent that any Goods, Software or Services have been, or can be deemed approved in writing by City pursuant to the terms of this Agreement or the applicable Purchase Order at any stage of Contractor's performance, Contractor will be entitled to rely on such approval for purposes of all subsequent stages of its performance hereunder.

9. REPRESENTATIONS, WARRANTIES, COVENANTS, AND LIMITATION OF LIABILITY.

9.1 Compliance with Laws. Contractor must and must use its reasonable commercial efforts to cause its suppliers to comply with all applicable United States, federal, state, and local laws, rules, and regulations, with respect to the performance of the Services.

9.2 No Infringement. Contractor represents and warrants that the Services, Facilities and Software to be performed, operated, or used under this Agreement do not and will not, infringe any third-party patent, trade secret, copyright, trademark or other intellectual property rights in the United States or any other country or jurisdiction to which Contractor provides the Services for use by City, the contractor,

9.3 Encryption. Contractor will identify in the applicable Schedule any encryption used in the Services and Software and the Commodity Classification, Export License or License Exceptions, and Import License granted with respect thereto. Contractor represents that it has complied with, and will continue to comply with, all applicable laws, rules and regulations of the United States or any foreign country with respect to the export or importation of the Services and Software, any modifications, enhancements, or updates thereto, and any technical data derived therefrom.

9.4 Warranties for Goods, Software and Services.

9.4.1 Warranty Period: means the applicable time period during which Goods, Software and Services are respectively guaranteed by Contractor under the conditions set forth herein as follows:

(a) Field Devices: are warranted for a period of twenty-four (24) months following the date of shipment, except for Series pressure products which are guaranteed for five (5) years following date of shipment.

(b) Triconex and DCS Control Systems: such as Tricon, EcoStruxure Foxboro DCS, Hybrid DCS, Modicon PLC and PAC and EcoStruxure Power SCADA Server are warranted for a period of twelve (12) months following installation or eighteen (18) months following the date of shipment, whichever occurs first.

(c) Telemetry and Remote SCADA Systems including Trio Licensed Radios Products: are warranted for a period of thirty-six (36) months from shipment.

(d) Consumable Products: Products normally consumed in operation or which have an inherently short normal use period, including but not limited to consumables such as flashtubes, lamps, batteries,

storage capacitors, are guaranteed for a period of ninety (90) days from date of delivery by Contractor, except for disposable PH/ORP sensors, replacement PH, ORP and reference electrodes and dissolved oxygen membranes which are guaranteed for a period of one (1) year from the date of shipment or until they are installed, whichever occurs first.

(e) Spare Parts: for the above are guaranteed for three (3) months from shipment, unless used for repair and replacement during the Warranty Period, in which case, the spare parts will be guaranteed for three (3) months or until the end of the initial Warranty Period, whichever comes last.

(f) Cybersecurity services: are warranted as addressed in the Contractor's proposal.

(g) Services: are warranted for a period of thirty (30) days following their performance.

(h) Customer First Support Program ("CFA"): are warranted for a period of Ninety (90) days from the date of Service. Contractor warrants that any parts, for Goods which are supplied while performing Services under the Agreement, will be free from material defects for a period of 90 days following delivery of such parts. Additionally, Contractor warrants that any Software upgrades, patches, service packs, quick fix, quick custom, or corrective fixes which are supplied while performing Services under the Agreement, will be free from material defects for a period of 90 days following delivery of such Software upgrades, patches, service packs, quick fix, quick custom, or corrective fixes. For any breach of these warranties, a City's exclusive remedy, and Contractor's entire liability, will be the reperformance of the Services or repair or replacement of such parts, Software upgrades, patches, service packs, quick fix, or quick custom.

(i) Repaired or replaced Goods and Software: must be warranted by Contractor for the remainder of the original Warranty Period or for three (3) months, whichever is longer, free of charge and return-shipped to City with transportation prepaid by Contractor. City will not be responsible for any offshore transport. All Services corrected or re-performed must be warranted only for the unexpired portion of the original Warranty Period applicable to Services.

9.4.2 Exclusive Warranty Remedies: In the event of any warranty covered defects or deficiencies in Goods in subsections above, or Services in subs. (b) above, the sole and exclusive obligation of Contractor is to re-perform the Services, or repair or replace the defective Goods or part of the Goods at Contractor's sole cost. Such warranty coverage is contingent on City providing written notice to Contractor within seven days from the date the City is reasonable aware of such defect or deficiency.

9.4.3 Exclusions & Limitations: This warranty will not apply (a) to Goods not manufactured by Contractor, (b) Services not provided directly by Contractor, (c) to Goods or Services that have been repaired or altered by anyone other than Contractor so as, in Contractor's judgment, which Contractor must not unreasonably withhold, affects the same adversely, (d) Contractor's conformance with City's design of the Goods or Software; or (e) to Goods or Services that appear to be subjected to negligence, accident, damage by circumstances beyond Contractor's control, or improper operation, maintenance, or storage beyond Contractor's control, or to other than normal use or service. The foregoing warranties do not cover reimbursement for labor, transportation, removal, installation, temporary power, or any other expenses that may be incurred in connection with repair or replacement.

Repaired or replaced Goods and Software must be warranted by Contractor for the remainder of the original Warranty Period or for three (3) months, whichever is longer, free of charge and return-shipped to City with transportation prepaid by Contractor. City will not be responsible for any offshore transport. All Services corrected or re-performed must be warranted only for the unexpired portion of the original Warranty Period applicable to Services. With respect to Goods not manufactured by Contractor, or Services provided by non-Contractor providers, the warranty obligations of Contractor must in all respects conform and be limited to the warranty extended to Contractor by such non-Contractor supplier.

EXCEPT AS SET FORTH HEREIN OR IN THE WARRANTIES PROVISIONS CONTAINED IN SEPARATE SOFTWARE END USE LICENSE AGREEMENTS, THESE WARRANTIES, CONDITIONS, AND EXCLUSIONS ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES, CONDITIONS, REPRESENTATIONS AND GUARANTEES (EXCEPT WARRANTIES OF TITLE), EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED, TO IMPLIED WARRANTIES OF MERCHANTABILITY, MERCHANTABLE QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS MAY BE PROVIDED IN WRITING BY CONTRACTORCONTRACTOR, CONTRACTORCONTRACTOR SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES WHATSOEVER THAN AS STATED ABOVE WITH REGARD TO PRODUCTS AND SERVICES SOLD BY CONTRACTORCONTRACTOR TO CITYCITY.

ALL WARRANTIES PROVIDED HEREIN ARE PERSONAL TO, AND INTENDED SOLELY FOR THE BENEFIT OF, CITYCITY AND DO NOT EXTEND TO ANY THIRD PARTY, EXCEPT IN CASE OF TRANSFER OF THE SOFTWARE IN ACCORDANCE WITH APPLICABLE SOFTWARE LICENSE OR THE ASSIGNMENT ARTICLE.

9.5 Viruses. Contractor represents, warrants, and covenants that the Software does not and will not contain any computer code designed to disrupt, disable, harm, or otherwise impede in any manner, including aesthetic disruptions or distortions, the operation of the Software or any System (referred to as "viruses" or "worms").

9.6 Other Code. Contractor represents, warrants, and covenants that the Software Programs, if and when released to City or deposited in escrow pursuant to Section 3.3, does not and will not contain any computer code that: (a) would disable the Software or any System or impair in any way their operation based on the elapsing of a period of time, the exceeding of an authorized number of copies or scope of use, or the advancement to a particular date or other numeral (referred to as "time bombs," "time locks," "license keys," or "drop dead" devices); (b) would permit Contractor or any third party to access the Software or any System (referred to as "traps," "access codes," or "trap door" devices); or (c) would permit Contractor or any third party to track, monitor or otherwise report the operation and use of the Software by City or any of its customers or clients.

9.7 Documentation. Contractor represents, warrants and covenants that the Documentation: (a) does and will accurately and completely describe the relevant Software Programs; (b) is and will be complete, free of errors and sufficiently detailed to allow City's personnel to operate and use such Software Programs; and (c) will be updated as and when any Upgrade is provided for such Software Programs and such updated Documentation will be delivered by Contractor to City promptly upon any such update.

9.8 Open Source. Contractor warrants that, except as approved by City, and for so long as the Services are to be provided by Contractor, (a) the Licensed Materials, including any Custom Programs, do not and will not include "open source software" or any derivative work thereof, and (b) Contractor shall not include in any deliverables or other work product created by Contractor for delivery to City any "open source" software or any derivative work thereof; provided, however, that Contractor may use or distribute "open source" software if such software is not included in the Software Products and is not installed and used by Contractor at City's premises (as in the case of software used only by Contractor in Contractor's own internal systems), or if such software as used by Contractor is not combined, incorporated, merged, or dynamically linked with any proprietary software owned or used by City (as in the case of development tools or devices that include "open source software" but do not introduce any part of such software into any deliverables, work product, or other City software). For purposes of this Supplement, "open source" software means any software that is licensed or provided, in whole or in part, pursuant to a license or terms of use that allows users to run, copy, distribute, study, change and improve the software without any obligation of the user to pay fees or royalties, and which contains one or more of the following restrictions: (i) the user may not sublicense, resell or distribute the same software or any derivative work thereof under different terms of use, (ii) the user may not charge license fees for the sublicense, resale or distribution thereof, (iii) the user must release source code to any third party to whom such software or any derivative work thereof is distributed, (iv) the user may not claim copyright or other intellectual property rights in any derivative work thereof, or (v) the user is prohibited from discriminating by restricting the persons or purposes for which the software is used. Excluded from the definition of "open-source software" is software that is readily available in source code form but is not subject to any restriction on the further use or distribution thereof or any derivative work thereof, including "academic licenses" such as the MIT (aka XII) License, the Berkeley Software Distribution (BSD) license, and the Mozilla license. Contractor shall apply Contractor's business continuity and disaster recovery plans as set forth in Exhibit D hereto in conjunction with the Services.

9.9 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR ANY SCHEDULE, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY OF THE FOLLOWING: LOST PROFITS, LOST REVENUE, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, NO LIMITATION OR EXCLUSION OF CONTRACTOR'S LIABILITY WILL APPLY WITH RESPECT TO ANY CLAIMS ARISING OUT OF OR RELATING TO 8 ("INTELLECTUAL PROPERTY INDEMNIFICATION") OF THIS AGREEMENT, OR ITS WILLFUL MISCONDUCT OR NEGLIGENCE, OR ANY CLAIMS FOR PERSONAL INJURY. For the avoidance of doubt, any fines or penalties assessed on a party under applicable law arising out of the other party's breach of this Agreement are direct damages. NOTWITHSTANDING ANY OTHER PROVISION OF THESE CONDITIONS OF SALE OR ANY OTHER CONTRACT DOCUMENT TO THE CONTRARY, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE MAXIMUM AGGREGATE LIABILITY OF CONTRACTOR FOR DIRECT DAMAGES HEREUNDER SHALL NOT EXCEED TWO TIMES THE AMOUNTS ACTUALLY PAID BY THE CITY TO CONTRACTOR FOR THE WORK GIVING RISE TO A CLAIM. EXCEPT FOR THE TRANSFER OF SOFTWARE LICENSE IN ACCORDANCE WITH APPLICABLE LICENSE, THE TERMS OF THIS AGREEMENT SHALL NOT BENEFIT OR CREATE ANY RIGHT OR CAUSE OF ACTION IN OR ON BEHALF OF ANY PERSON OR ENTITY OTHER THAN CITY AND CONTRACTOR. ANY ACTION AGAINST THE OTHER MUST BE BROUGHT WITHIN THIRTY-SIX (36) MONTHS AFTER THE EVENTS GIVING RISE TO THE CAUSE OF ACTION EXCEPT THAT AN ACTION FOR NON-PAYMENT MAY BE BROUGHT BY A PARTY NOT LATER THAN ONE YEAR FOLLOWING THE DATE OF THE LAST PAYMENT DUE TO SUCH PARTY HEREUNDER. TO THE EXTENT PERMITTED BY LAW, THE PROVISIONS OF THIS ARTICLE

SHALL APPLY REGARDLESS OF THE FORM OF ACTION, DAMAGE, CLAIM, LIABILITY, COST, EXPENSE, OR LOSS, WHETHER IN CONTRACT, STATUTE, TORT OR OTHERWISE.

10. INDEMNIFICATION.

10.1 Indemnification. Contractor must indemnify, defend, and hold City harmless against claims (including without limitation, the Parties' employees) for personal injury, death, or loss of any kind, or damage to property directly caused by or directly arising out of to and to the extent of Contractor's negligent acts, negligent errors or omissions, willful misconduct, or intentional acts in the performance of its obligations hereunder, provided: (i) Contractor is entitled to exclusively control the defense against the claim; (ii) Contractor is notified by City within 10 days of City's receipt of such claim and (iii) City provides reasonable assistance in the defense of the claim and does not enter into any settlement or make any concession without the Contractor's prior written approval, which Contractor may not unreasonably withhold.

10.2 Intellectual Property Indemnification by Contractor. Unless otherwise set forth in the applicable Contractor's License Agreement, Contractor shall defend, indemnify, and save harmless City from and against any third party claims, suits, judgments, court costs, reasonable attorney's fees and other liabilities, demands or losses (altogether "Liabilities") to the extent such Liabilities result from an infringement due to the Services and/or Goods, Software's design or construction, of a patent or copyright owned by a third party in the country of manufacture of such Goods and/or Software or in the country of performance of the Services at the time of execution of the relevant Purchase Order under which the alleged infringement has occurred, provided that: (i) Contractor will be notified by City within ten (10) days of City's receipt of said suits; (ii) Contractor will be given the sole control of the defense and but Contractor must obtain City's written consent to any related settlement negotiations, which the City will not unreasonably withhold, that may affect the City's use of the Services, Goods or Software; (iii) City agrees to reasonably assist Contractor in the defense of the claim and (iv) City will cooperate with Contractor to cease any use of the Goods or Software that may constitute an infringement. Contractor will not be responsible for any settlement made without its consent. The foregoing obligations do not apply when the claim of infringement results from or is related to: (i) Goods and/or Software provided pursuant to City's designs, drawings or specifications; (ii) Goods and/or Software stored, used or maintained otherwise than in accordance with Contractor's instructions or recommendations or other than for the City's internal business purpose; (iii) claims of infringements resulting from combining Goods or Software provided hereunder with any other item not furnished by Contractor; (iv) modifications to the Goods or Software without prior written consent of Contractor; (v) parts supplied or designed by City or third parties; and (vi) City's failure to use corrections or enhancements made available by Contractor. Contractor may cease to deliver any Goods, Software or Services, which it reasonably believes may infringe third party's rights. In case said results of Services, Software or Goods, or any part thereof, is in such suit held to constitute infringement and/or its use is enjoined, the Contractor shall, at its own expense and option either: (i) procure for the City a royalty-free license to continue using such Software, results of Services or Goods, or (ii), replace same with substantially equal but non-infringing equipment or modify it so it becomes non-infringing, provided that no such replacement or modification will in any way amend or relieve Contractor of its warranties and guarantees set forth in this Agreement. In the event Contractor is unable to do either of the foregoing, the allegedly infringing item will be returned to Contractor.

11. SERVICE LEVELS; SUPPORT SERVICES.

11.1 Service Levels. Contractor shall provide the Services in accordance with the Service Levels set forth in Exhibit C hereto.

11.2 Support Services. Contractor shall provide the Support Services set forth in Exhibit D hereto.

12. TERM.

12.1 Agreement Term. This Agreement is effective as of the Effective Date and will continue for a period of one (1) year(s) or until the Agreement is terminated as provided for herein. The City and the Contractor may mutually agree to extend the Agreement for up to two (2) additional terms of one (1) year(s) each, or portions thereof in writing not less than sixty (60) days prior to the end of the then-current term.

12.2 Exhibit Term. Each exhibit will commence on the date first set forth in such exhibit and will continue until the terms of such exhibit or this Agreement expire or are terminated in accordance with Section 13.

13. TERMINATION.

13.1 Termination for Breach.

(a) If Contractor materially breaches this Agreement or any exhibit, and such breach is incapable of cure, or such breach is capable of cure, but Contractor does not cure such breach within thirty (30) days after written notice of default, City may terminate this Agreement or the relevant exhibit upon written notice to Contractor. To the extent that Contractor commits a material breach of a nature which goes beyond the relevant exhibit, City may in its sole discretion terminate: (a) this Agreement (in which event all the other exhibits will terminate concurrently therewith); or (b) all affected exhibits. Termination of an exhibit or this Agreement will be without prejudice to any other rights and remedies that the non-defaulting party may have under this Agreement or at law or in equity.

(b) Contractor may terminate this Agreement if City materially breaches the payment or license terms of this Agreement and (i) such breach is incapable of cure, or (ii) such breach is capable of cure, or (iii) Contractor has provided City with a written notice of default and City has not cured such default within thirty (30) days of receipt of such notice.

13.2 Termination for Convenience.

Contractor's performance of work under this Agreement or a Purchase Order may be terminated by the City in accordance with this article in whole or in part whenever the City may elect, with minimum prior written notice ("Notice of Termination") of at least thirty (30) days. Any such termination will take place by delivery to Contractor of a Notice of Termination specifying the extent to which performance of work under the Agreement or Purchase Order is terminated, and the date upon which termination becomes effective. Upon receipt of any such notice, Contractor will, unless the notice requires otherwise discontinue work on the date and to the extent specified in the notice; and make every

reasonable effort to obtain cancellation of all orders to subcontractors. Upon Notice of Termination, City will: (i) pay all fees earned and expenses incurred by Contractor in connection with the performance of this Agreement or the Purchase Order until the effective date of such termination ("Fees and Expenses"). In the event of partial execution of the Agreement or when termination occurs between two invoicing milestones, a prorated share of the Fees and Expenses will be added based upon the portion of Purchase Order completed through the termination date. Notwithstanding the foregoing, with respect to off-the-shelf Goods, City may only terminate a Purchase Order without cause before shipment.

14. SUSPENSION.

Suspension by City. Contractor's performance of work under this Agreement or a Purchase Order may be suspended by the City in whole or in part whenever the City may elect, with minimum prior written notice ("Notice of Suspension") of at least thirty (30) days. Upon Notice of Suspension, Contractor will: (i) discontinue work on the date and to the extent specified in the notice; and (ii) make every reasonable effort to stop orders for materials and equipment and reassign personnel. Upon Notice of Suspension, City will pay all Fees and Expenses including all reasonable costs directly related to City's suspension pursuant to this provision, including costs associated with restocking charges and storage costs, if any. In addition to the above, in the event of a suspension, City acknowledges: (i) milestones or delivery dates that have been agreed to by the Parties may be postponed and such milestones or delivery dates will be mutually agreed to upon the lifting of the suspension, and (ii) if the suspension continues for more than thirty (30) days the Contractor's personnel assigned to the Agreement or Purchase Order may not be available. When the performance is re-commenced, the suspended agreement and/or Purchase Order will recommence upon the date mutually agreed to between the Parties. If the suspension continues for greater than ninety (90) days, City, at its sole option, may terminate this Agreement or a purchase order, and the suspension will be treated as a Termination for Convenience as provided in this Agreement.

14.2 Suspension by Contractor. If the City materially breaches its contractual obligations, including but not limited to its payment obligations, Contractor may suspend the performance of a Purchase Order or this Agreement. Notwithstanding the foregoing, with respect to off-the-shelf products, If the suspension continues for greater than ninety (90) days, Contractor, at its sole option, may terminate the Purchase Order or this Agreement, and such suspension will be treated as a Termination for Convenience as provided in this Agreement.

15. CHANGES. Either Party may request changes that affect the scope, duration, delivery schedule or price of a purchase order, including changes in the Specifications and Goods, Software or Services to be delivered or licensed. If either Party requests any such change, the Parties will negotiate in good faith a reasonable and equitable adjustment to the Purchase Order. Neither Party will be bound by any change requested by the other until an amendment to the Purchase Order in the form of a change order has been accepted in writing by both Parties. Pricing of changes will be based on the then current Contractor's prices. Any alteration, deletion or addition to the Work ordered in the Purchase Order, a change in any provision of the Purchase Order, or a change in law after the date of the Purchase Order, will be effective only if made in a change order that is executed by City and Contractor. A change order, however, will not modify any provisions of this Agreement unless the Parties agree in writing to do so.

16. INSURANCE.

16.1 Insurance Coverage. Contractor will, during the term of this Agreement, at its sole cost and expense, obtain and maintain in full force and effect, the insurance coverage in the amounts and on the terms set forth in Exhibit E hereto or such other amounts as may be set forth in a Schedule.

16.2 Insurance Certificates. Contractor will provide City with a copy of all relevant certificates of insurance upon City's request including those evidencing that City has been added as an additional insured. Certificates are to be delivered to City at the address set forth in the applicable Schedule prior to delivery of any Software, Goods or Services hereunder, and annually thereafter, and at least thirty (30) days prior to any expiration of each insurance policy.

16.3 No Limitation. Nothing in this Section will be construed as limiting Contractor's (or any subcontractor's or agent's) liability to City or any third party. The mere purchase and existence of insurance does not reduce or release Contractor from liability incurred or assumed within the scope of this Agreement. Contractor's failure to maintain insurance will not relieve it of liability under this Agreement.

16.4 Claims. Contractor will promptly make a full written report to City as to all accidents or claims for damage arising from or in connection with: (i) this Agreement; (ii) the discharge of Contractor's duties under this Agreement or any Schedule; or (iii) the presence of Contractor or Contractor's Representatives on City's premises. Contractor will cooperate fully with City and with any insurance carrier in the investigation and defense of all such accidents and claims, such obligation to survive the termination or expiration of this Agreement.

18.0 CONTRACTOR'S DISCLAIMER.

CONTRACTOR MAKES NO WARRANTY THAT THE CITY'S USE OF SELLER'S GOODS, SOFTWARE, OR SERVICES WILL BE UNINTERRUPTED, SECURE AND/OR ERROR-FREE. CONTRACTOR DOES NOT REPRESENT OR GUARANTEE THAT ANY GOODS AND/OR SOFTWARE WILL BE FREE FROM VULNERABILITIES, ATTACK, VIRUSES, INTERFERENCE, HACKING, OR OTHER SECURITY INTRUSIONS, AND CONTRACTOR DISCLAIMS ANY LIABILITY IN RELATION THERETO.

SOFTWARE AND SERVICES SOLD BY CONTRACTOR TO CITY. BY USING THE PRODUCTS, SOFTWARE OR SERVICES, CITY UNDERSTANDS THESE LIMITATIONS AND AGREES THAT CITY ACCESSES AND USES THE PRODUCTS, SOFTWARE AND SERVICES AT CITY'S OWN DISCRETION AND RISK AND THAT CITY WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO CITY'S SYSTEMS OR ASSETS OR LOSSES THAT RESULT FROM SUCH ACCESS OR USE.

EXCEPT AS SET FORTH HEREIN OR IN THE WARRANTIES PROVISIONS CONTAINED IN SEPARATE SOFTWARE END USE LICENSE AGREEMENTS, THESE WARRANTIES, CONDITIONS, AND EXCLUSIONS ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES, CONDITIONS, REPRESENTATIONS AND GUARANTEES (EXCEPT WARRANTIES OF TITLE), EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED, TO IMPLIED WARRANTIES OF MERCHANTABILITY, MERCHANTABILITY

QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS MAY BE PROVIDED IN WRITING BY SELLER, CONTRACTOR SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES WHATSOEVER THAN AS STATED ABOVE WITH REGARD TO GOODS, SOFTWARE AND SERVICES SOLD BY CONTRACTOR TO CITY.

18.3 City's Use of the Products, Software, and Services. Contractor may release Updates and Patches for its Products, Software, and Services from time to time. City will ensure any Updates and Patches for such Products, Software, are installed in accordance with Contractor's installation instructions and using the latest version of the Products or Software, where applicable. An "Update" means any software that contains a correction of errors in a Product, Software, or Service and/or minor enhancements or improvements for a Product, Software, or Service, but does not contain significant new features. A "Patch" is an Update that fixes a vulnerability in a Product, Software, or Service. City understands that failing to install Updates or Patches for the Products, Software, or Services may result in the Products, Software, or Services or City's Systems becoming vulnerable to certain Cyber Threats or result in impaired functionality, and Contractor will not be liable or responsible for the City's losses or damages that directly result from City's failure to install any such Product Updates or Patches.

18.4 Identification of Cyber Threats. If Contractor identifies or otherwise becomes aware of any vulnerabilities or other cyber threats relating to the services provided to the City, Contractor will promptly notify City of such vulnerabilities or other cyber threats. If City identifies or otherwise becomes aware of any vulnerabilities or other Cyber Threats relating to the Products, Software, or Services for which Contractor has not released a Patch, City will promptly notify Contractor of such vulnerability or other Cyber Threat(s) via the Contractor Report a Vulnerability [page \(https://www.se.com/ww/en/work/support/cybersecurity/report-a-vulnerability.jsp#Customers\)](https://www.se.com/ww/en/work/support/cybersecurity/report-a-vulnerability.jsp#Customers) and further provide Contractor with any reasonably requested information relating to such vulnerability (collectively, "Feedback"). Contractor will have a non-exclusive right to use, display, reproduce, modify, and distribute the Feedback (including any confidential information or intellectual property contained therein) in whole or part, including to analyze and fix the vulnerability, to create Patches or Updates for its customers, and to otherwise modify its Products, Software, or Services, in any manner without restrictions, and without any obligation of attribution or compensation to City; provided, however, Contractor must not publicly disclose City's name in connection with such use or the Feedback (unless City consents in writing otherwise).

19. GENERAL.

19.1 Force Majeure.

(a) For purposes of this Agreement "*Force Majeure*" means an event that is outside the reasonable control of a Party, or that with the exercise of due diligence or reasonable business practices could not reasonably have been prevented, avoided or removed by that Party, and that prevents that Party from performing its obligations under this Agreement and does not result from such Party's negligence or the negligence of its agents, employees or subcontractors, including unforeseeable events such as acts of God, pandemics, earthquakes, storms, floods, natural events, wars, court order, rebellions, riots, strikes, civil disturbances, acts of foreign and/or domestic governmental authorities, labor strikes and lockouts, but excluding any failure by a third party to supply any materials or components to Contractor unless such failure is itself the result of Force Majeure affecting such third party.

(b) Upon the occurrence of an event of Force Majeure with respect to a Party, its obligations under this Agreement will, to the extent that they are affected by the event of Force Majeure, be suspended. Contractor's disaster recovery obligations under section 17 will not be affected. Any Party affected by an event of Force Majeure will provide written notice to the other Party within thirty (30) days of the event giving rise to the Force Majeure. Such Party's obligations under this Agreement will be excused only for the period of delay that begins on the date of notice. Such party must use commercially reasonable efforts to fulfill its obligations under this Agreement and to remove or avoid any disability and mitigate any damages caused by such event of Force Majeure at the earliest practicable time and to the greatest extent possible.

(c) The City acknowledges that the products or part thereof are produced in, or otherwise sourced from, or will be installed areas already affected by, or that may be affected in the future by, the prevailing epidemics or pandemic and that the situation may trigger stoppage, hindrance or delays in Contractor (or its subcontractors) capacity to produce, deliver, install or service the products, irrespective of whether such stoppage, hindrance or delays are due to measures imposed by authorities or deliberately implemented by the Contractor (or its subcontractors) as preventive or curative measures to avoid harmful contamination exposure of Contractor's (or its subcontractors') employees. Subject to the notice requirements in subsection 18(b), such circumstances may be considered as a cause for excusable delay.

(d) All such Force Majeure conditions preventing performance shall entitle the Party hindered in the performance of its obligations hereunder to pricing adjustments and/or an extension of the date of delivery of the Goods and Software or completion of the Services by a period equal to the period of delay incurred because of the Force Majeure or to any other period as the Parties may agree in writing.

19.2 UCITA Not Applicable. This Agreement and the transactions contemplated herein are not and will never be subject to the Uniform Computer Information Transactions Act (prepared by the National Conference of Commissioners on Uniform State Laws) as currently enacted by any jurisdiction or as may be codified or amended from time to time by any jurisdiction.

19.3 Contractor Financial Assurances. Upon City's request (to be made not more than once per year) Contractor will provide City with financial information of Contractor, which will allow City to adequately assess Contractor's creditworthiness. Contractor will not provide City with any nonpublic financial information unless it is requested by the City Manager or City Manager's designee in writing under this Section.

19.4 Assignment. Neither party will assign its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably delayed or withheld, and any purported assignment without required consent will be void; provided, that: (a) either Party may collaterally assign this Agreement in connection with any financing or an acquisition of all or substantially all of such Party's assets and business, and (b) either Party may assign this Agreement to one or more Affiliates without prior consent. Subject to the foregoing limitations, this Agreement will be binding upon the Parties and their respective legal successors and permitted assigns.

19.5 Notices. Unless otherwise provided, notice under this Agreement must be in writing and will be deemed to have been duly given and received either (a) on the date of service if personally

served on the Party to whom notice is to be given, or (b) on the date notice is sent if by electronic mail, or (c) on the third day after the date of the postmark of deposit by first class United States mail, registered or certified, postage prepaid and properly addressed as follows:

For the City

Name: Christina Pryor, CPPO
 Title: Procurement and Supply Senior Manager
 Address: 175 S. Arizona Ave., 3rd Floor
 Chandler, AZ 85225
 Phone: 480-782-2403
 Email: christina.pryor@chandleraz.gov

For the Contractor

Name: Schneider Electric Systems
 ATTN: General Counsel, North America
 Address: 70 Mechanic Street
 Foxboro, MA 02035
 Phone: 303-570-9081
 Email: Kathryn.huseman@se.com

19.6 Remedies. Each Party acknowledges that a breach of certain of its obligations under this Agreement other than any payment obligations hereunder, may result in irreparable and continuing damage to the other Party for which monetary damages may not be sufficient, and agrees that the other Party may be entitled to seek, in addition to its other rights and remedies hereunder or at law, injunctive or all other equitable relief, and such further relief as may be proper from a court of competent jurisdiction.

19.7 Interpretation. The terms and conditions of this Agreement are the result of negotiations between the Parties. The Parties intend that this Agreement should not be construed in favor of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation or drafting of the Agreement. Unless the context of this Agreement otherwise indicates when used in a series of items the word "or" will be construed such that the series may include any of the items, all the items, or any combination of the items.

19.8 Entire Agreement. This Agreement and all exhibits and schedules attached constitute the complete agreement and understanding between the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings between the Parties.

19.9 Time of Importance. Contractor acknowledges that time is of importance with respect to Contractor's obligations hereunder and that performance of all such obligations will be in accordance with the mutually agreed upon terms, including all timetables, milestones and other requirements in this Agreement and any schedule or exhibit.

19.10 No Waiver by Conduct. No waiver of any of the terms of this Agreement or any schedule or exhibit will be valid unless in writing and designated as such. Any forbearance or delay on the part of either Party in enforcing any of its rights under this Agreement will not be construed as a waiver of such right to enforce the same for such occurrence or any other occurrence.

19.11 Independent Contractor. Contractor acknowledges that it is acting as an independent contractor, that Contractor is solely responsible for its actions or inactions, and that nothing in this Agreement will be construed to create an agency or employment relationship between City and Contractor or its Representatives. Contractor is not authorized to enter into contracts or agreements on behalf of City or to otherwise create obligations of City to third parties. Neither Contractor nor any of its Representatives are City employees for any purpose, including for: (i) federal, state, or local tax,

employment, withholding or reporting purposes; or (ii) eligibility or entitlement to any benefit under any of the City's employee benefit plans (including those that are subject to the Employee Retirement Income Security Act of 1974, as amended), incentive, compensation or other employee programs or policies (collectively, "Benefit Plans"). Contractor agrees that all such Representatives will be informed that they are employees solely of Contractor, or its agent or subcontractor if applicable, and not eligible to participate in any Benefit Plan. Contractor agrees that Contractor is solely responsible for payment of all applicable workers' compensation, disability benefits and unemployment insurance, and for withholding and paying such employment taxes and income withholding taxes as required.

19.12 Non-exclusivity. Contractor acknowledges that City may from time to time enter other transactions with companies that may be competitors, suppliers, or customers of Contractor. No such activities will be affected by City's agreement to enter into this Agreement.

19.13 No Publicity. Contractor agrees not to disclose the identity of City or its End Users or any of their directors, officers, managers, employees, consultants, or agents as a customer or prospective customer of Contractor or the existence or nature of this Agreement without the City's prior written consent. Without limiting the generality of the foregoing, Contractor will not use, in advertising, publicity, or otherwise, the name of City or its End Users or any of their directors, officers, managers, employees, consultants, or agents or any trade name, trademark, service mark, logo, or symbol of City or its End Users.

19.14 Severability. If any one or more of the provisions of this Agreement are for any reason held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement will be unimpaired and will remain in full force and effect, and the invalid, illegal or unenforceable provision will be replaced by a valid, legal, and enforceable provision that comes closest to the intent of the Parties underlying the invalid, illegal, or unenforceable provision.

19.15 Survival. Any provision of this Agreement which, by its nature, would survive termination or expiration of this Agreement will survive any such termination or expiration of this Agreement, including Sections 2 ("Grant of License"), 3 ("Contractor Software License"), 4 ("Non-Disclosure"), 9 ("Representations, Warranties, Covenants and Limitation of Liability"), 10 ("Intellectual Property Indemnification"), 13 ("Termination"), 19 ("General") and corresponding exhibits and schedules.

19.16 Governing Law. This Agreement will be governed by, and construed in accordance with, the internal laws of the State of Arizona, without regard to its choice of laws principles. Notwithstanding the fact that some of the Products may be manufactured outside the United States, the Parties hereby expressly disclaim the application of the United Nations Convention on the Sale of Goods.

19.17 Counterparts; Method of Amendment. This Agreement, each schedule and exhibit and any amendments thereto may be executed in counterparts and will not be effective or enforceable unless and until it is executed with the handwritten signature of an authorized representative of each of the relevant entities. Without limiting the foregoing, none of the following will amend or modify this Agreement or result in the execution of a schedule or exhibit: (i) terms and conditions which are displayed or conveyed electronically or are associated with, or are responded to by the operation of a mouse or other pointing device, typing on a keyboard, "virtual" actions, an automated computer program, the removal of shrinkwrap, the opening of a package, the loading or use of software or other

goods or services, or any other action other than such a handwritten signature as described in the previous sentence; or (ii) payment by City of any License Fees, Maintenance Fees or other consideration to Contractor or use of or any other action with respect to the Software Programs or Maintenance Services.

19.18 Disputes. In any dispute arising out of an interpretation of this Agreement or the duties required not disposed of by agreement between Contractor and City, the final determination at the administrative level will be made by the City Purchasing and Materials Manager.

19.19 City's Right of Cancellation. The Parties acknowledge that this Agreement is subject to cancellation by City under the provisions of A.R.S. § 38-511.

19.20 No Israel Boycott. By entering into this Agreement, Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of the Services Agreement and this Agreement, not to engage in a boycott of Israel as defined by state statute.

19.21 Legal Worker Requirements. A.R.S. § 41-4401 prohibits the City from awarding a contract to any contractor (as defined under A.R.S.) who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A. A breach of this warranty will be deemed a material breach of the parties' agreement and may be subject to penalties up to and including termination of the parties' agreement. City retains the legal right to inspect the papers of any Contractor's or subcontractor's employee who provides services under this Agreement to ensure that the Contractor and subcontractors comply with the warranty under this provision.

19.22 Lawful Presence Requirement. A.R.S. §§ 1-501 and 1-502 prohibit the City from awarding a contract to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. This requirement does not apply to business organizations such as corporations, partnerships, or limited liability companies.

19.23 Covenant Against Contingent Fees. Contractor warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that no member of the Chandler City Council, or any City employee has any interest, financially, or otherwise, in Contractor's firm. For breach or violation of this warrant, City may annul this Agreement without liability or, at its discretion, to deduct from the Services Agreement price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

19.24 Non-Waiver Provision. The failure of either party to enforce any of the provisions of this Agreement or to require performance of the other party of any of the provisions hereof must not be construed to be a waiver of such provisions, nor must it affect the validity of this Agreement or any part thereof, or the right of either Party to thereafter enforce each provision.

19.25 Jurisdiction and Venue. Any action to enforce any provision of this Agreement or to obtain any remedy with respect hereto must be brought in the courts located in Maricopa County, Arizona, and for this purpose, each party hereby expressly and irrevocably consents to the jurisdiction and venue of such court.

19.26 Budget Approval Into Next Fiscal Year. This Agreement will commence on the Effective Date and continue in full force and effect until it is terminated or expires in accordance with the provisions of this Agreement. The parties recognize that the continuation of this Agreement after the close of the City's fiscal year, which ends on June 30 of each year, is subject to the City Council's approval of a budget that includes an appropriation for this item as an expenditure. The City does not represent that this budget item will be adopted. This determination is solely made by the City Council at the time Council adopts the budget.

19.27 Cooperative Use of Agreement. In addition to the City of Chandler and with approval of the Contractor, this Agreement may be extended for use by other municipalities, school districts and government agencies of the State. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity. Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The City will not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.

19.28 Exhibits, Precedence of Documents. The following exhibits are made a part of this Agreement and are incorporated by reference:

- Exhibit A – Scope of Services
- Sub - Exhibit A -1 - Customer First Support and Services Proposal: Premium Level dated February 24, 2023
- Exhibit B – Fee Schedule
- Exhibit C – Service Level Requirements
- Exhibit D – Support Services Requirements
- Exhibit E – Insurance Requirements
- Exhibit F – Continuation Agreement dated June 24, 2022.

If there is a conflict or legal ambiguity between any Purchase Order and this Agreement, this Agreement prevails and controls and governs any Purchase Order. In the event of a conflict in the terms and conditions or a legal ambiguity arises among this Agreement and the attached exhibits, the documents in the following order prevail and control: (1) this Agreement; (2) Exhibit A – Scope of Services; (3) Exhibit B – Fee Schedule; (4) Exhibit C – Service Level Requirements; (5) Exhibit D – Support Services Requirements; (6) Exhibit E – Insurance Requirements; (7) Exhibit F – Continuation Agreement dated June 24, 2022; (8) Sub-Exhibit A-1 - Customer First Support and Services Proposal: Premium Level dated February 24, 2023.

19.29 Greenline. In the event City has concerns related to ethics, compliance, or Contractor's Principles of Responsibility, and/or any potential violations of these policies, City is welcome, but not required, to make use Contractor's GreenLine. The GreenLine is Contractor's global helpline for external

stakeholders. It is a confidential channel through which City can ask questions and raise concerns. Reports can be made using the link below:
<https://secure.ethicspoint.eu/domain/media/en/gui/104677/index.html>

19.30 Forced Labor of Ethnic Uyghurs Prohibited. By entering into this Agreement, Contractor certifies and agrees Contractor does not currently use and will not use for the term of this Agreement: (i) the forced labor of ethnic Uyghurs in the People's Republic of China; or (ii) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (iii) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives. This Agreement shall be in full force and effect only when it has been approved and executed by the duly authorized City officials.

FOR THE CITY

By: _____

Its: Mayor

FOR THE CONTRACTOR

By: Brett Richardson

Its: SENIOR FINANCE DIRECTOR

APPROVED AS TO FORM:

By: _____
City Attorney *JMB*

ATTEST:

By: _____
City Clerk

EXHIBIT A SCOPE OF SERVICES

The Contractor will provide the City with its Premium level of the Customer FIRST Support and Services, a comprehensive support and services package that includes expert technical support from skilled Contractor resources, 24/7 emergency support, and priority enroute response commitment for on-site corrective assistance.

Summary of Included Services

Core Support and Services	
Technical Support Access	24/7, Included
Global Customer Support Website Access	Included
EcoStruxure™ Facility Expert Mobile App	Included
Preventive Maintenance Site Visits	2 Per Year, Included
Enroute Response Commitment for Billable Onsite Corrective Assistance	24 hours, Included
Software Maintenance Releases, Service Packs, Patches and Updates	Included
Lifecycle Assessment and Upgrade Planning Roadmap	Included
Support Usage and Summary Report	Included
Module Exchange Program	Included
Software Version Upgrades and Revisions	Included
System Asset Viewer	Included
Customer FIRST Program Review	1 Per Year, Included

Services and Material Discount

Services and Materials	Current List Price Discount
Advantage Discount Program	50%
Site Support Services	10%
Digital Learning Services	15%
Classic Learning Services	12%
MEP Parts	43%
Consulting Services	10%
Spares	10%
Test and Offline Development System Licenses	50%

Optional Services

Premium	
Advantage Upgrade – Labor Services Funds	\$10,000 Per Year

Technical Support Access

The Contractor will provide expert technical assistance and application support during normal business hours via regional support centers and locally based service engineers. Each request is processed through a defined multi-level response model that assures skilled and timely attention appropriate to the urgency

and complexity of the reported situation. Reported situations are assessed by support analysts according to the impact on the customer's production, safety, or environment.

The Contractor will provide emergency technical support outside of normal business hours for situations that involve loss or potential loss of an essential function, such as a production line, system, or plant down situation.

Technical support access will be available 24 hours per day, 7 days per week.

Global Customer Support Website Access

The Contractor will provide its extensive knowledgebase of technical user documentation, issue solutions, and software via the Customer Support website. The registration profile allows the website user to refine their access to only the product content of interest.

The web tools will provide online support case management through which City personnel may submit service requests. A tracking number will be issued to the submitter, who may review case status and upload additional information as appropriate.

In addition, website registrants will receive pro-actively issued communications of three types:

- Advisories that describe identified technical product problems and provide a solution
- Notifications pertaining to lifecycle management topics such as hardware and software release notifications, and service program changes
- New product announcements

EcoStruxure™ Facility Expert Mobile App

The Contractor will provide its EcoStruxure™ Facility Expert Digital Logbook app to the City with digital access to reports and maintenance plan, which includes:

- Accurate planning of preventive maintenance schedule.
- Greater visibility of the onsite work done.
- Details of activities undertaken during a given period.
- Access to all your reports and documentations pertaining to the CFA:
 - CFA Contract Agreement
 - Contract Management Review Reports Filed Services Reports (FSR)
 - Preventative maintenance (PM)
 - RoadMap Reports

Preventive Maintenance Site Visits Per Year

The Contractor will provide two preventative maintenance visits per year. The general scope of work includes physical inspection of equipment, review of software maintenance releases and fixes, technical advisories, product alert notices and status of open cases. The service engineer will perform analysis of system conditions (counters, loading, etc.) to help ensure the system is operating within defined specifications. They will perform corrective actions that are within the scope of the PM visit, and schedule follow-up maintenance for additional issues if necessary. The City and the Contractor will determine the schedule, timing, and the appropriate length of the PM visit per site.

Once per year, or more frequently if EcoStruxure™ DCS Advisor Services V4.0 (or higher) is enabled, the Contractor will collect system configuration data via use of a tool known as FERRET. This data will be used for the following purposes:

- It will be analyzed as a proactive aid in helping to identify any potential need for corrective or preventive activity.
- It will be used to develop the annual Lifecycle Assessment Report and Upgrade Planning Roadmap.
- It is available for System Asset Viewer application use.

The data files will be stored in the Global Support Center's (GSC) Installed Base Repository.

The Preventive Maintenance Site Visit includes (if installed) DCS Advisor Server maintenance support.

The Preventive Maintenance Site Visit does not include:

- Installation of version licenses, revision releases and maintenance releases, or any startup activities.
- Activities associated with the optional DCS Advisor Services: Remote Backup Service, NetSight Console, DCS Advisor Server with Data Diode, Patch Deployment to DCS Advisor Server.

These activities, and others that fall outside of PM scope of work, require the scheduling of a separate site visit for which the labor terms of this agreement will apply.

Enroute Response Commitment for Onsite Corrective Assistance

The Contractor will provide technical support engineers/consultants via voice and electronic communication methods. If remote connection directly to the EcoStruxure Foxboro DCS is applicable, with proper approvals, this approach may be engaged to help facilitate matters.

If the Contractor is unable to resolve the support case via these methods, the Contractor will provide hands-on corrective assistance. These activities may include system troubleshooting, defective hardware replacement, and software restoration or correction due to data corruption or necessity.

Software restoration may be accomplished using install discs or via download. If the customer's data is corrupt, there may be no recourse, in some cases, to restore corrupted user data.

The Contractor will provide a 24-hour commitment for corrective assistance.

Activities that are not covered by Onsite Corrective Assistance include:

- Application work, block configuration, display creation, historian creation, software installation, manual installation activity associated with "Patch Deployment to EcoStruxure™ DCS Advisor Server", preventative maintenance work, startup support and upgrade labor.
- Labor and materials, travel and living expenses are billable unless otherwise defined in the Agreement terms. Billable labor hours include travel time, time spent obtaining plant access, time spent onsite and offsite performing evaluations and preparing documentation necessary for the assigned tasks.

Software Maintenance Releases, Service Packs, Patches and Updates

The Contractor will provide maintenance releases and fixes for covered software related to the City's application that is released during the contract period.

Maintenance releases provide corrections to software defects within a software revision level. Media will be made available upon release, in electronic or physical format as appropriate, during the program's coverage timeframe. The Contractor makes no guarantee that maintenance releases will become available during the agreement period.

Installation labor for version licenses, revision releases, maintenance releases, service packs, patches and updates, and startup activities is not included in this program feature. These activities require the scheduling of a separate site visit for which the labor terms of this Agreement apply.

Lifecycle Assessment and Upgrade Planning Roadmap

The Contractor will provide the Lifecycle Assessment and Upgrade Planning Roadmap report. The Contractor will collect system configuration data either remotely or during a site visit. The data files are stored in the Global Customer Support (GCS) Installed Base Repository and will be used to develop the Lifecycle Assessment and Upgrade Planning report. The report will be reviewed with the City during the annual Customer FIRST Program renewal process.

The components of the City's system and applications will be assessed, as appropriate, for potential upgrade to preferred (current) phase products.

The Lifecycle Assessment and Upgrade Roadmap will help facilitate effective; short and long-term upgrade planning decisions. It will be updated annually and may be used as the foundation for the optional Modernization and Migration Planning service.

Support Usage and Summary Report

The Contractor will provide a Support Usage and Summary Report that highlights all technical support case activity, labor-based site visits and material exchange activity logged by the Contractor's service management system.

Module Exchange Program (MEP)

The Contractor will make its Module Exchange Program available to the City to provide access to its materials inventory when rapid replacement of malfunctioning equipment is necessary.

Product provided under the Module Exchange Program is billable. Pricing for the replacement unit is contingent on receipt of the malfunctioning equipment at the Contractor's designated facility, and subsequent determination that the returned unit meets Module Exchange Program Policy qualifications.

Software Version Upgrades and Revisions

The Contractor will provide Software Version Upgrade and Revision releases.

Software Version entitlement is offered for the same product, excluding platform change. The Version release is the most significant software upgrade. It generally contains major new features and enhancements. The Revision release generally contains both software correction and minor enhancements.

License(s) and upgrade media will be made available upon release, in electronic or physical format as appropriate, during the program coverage timeframe. The Contractor makes no guarantee that version and revision releases will become available during the agreement period.

For Foxboro customers, Software Version entitlement is offered for the same product, excluding platform change. A platform change occurs when the underlying software framework and environment has been changed to a dissimilar offering permitting new application software to operate and run. (e.g., FoxView to Control HMI or Aim* Historian to the Wonderware Historian).

Version Upgrade Eligibility

- Installed Software must be at the current version (Preferred lifecycle phase) to be eligible for version entitlements. Software that was in the Preferred lifecycle phase when the agreement was executed is eligible for version entitlement. When these criteria have been met, entitlement to software versions of Foxboro software begins and will continue for as long as an active agreement (with Software Version and Revision entitlement) is maintained with no lapse in support coverage.
- The Components and Software List provided in this proposal will identify the Contractor software eligible for version upgrade.

Revision Upgrade Eligibility

- Under the agreement, eligibility for revision entitlement will continue for as long as an active Customer FIRST agreement (Standard, Premium or Elite levels) is maintained with no lapse in support coverage.

Installation labor for version licenses, revision releases, maintenance releases, service packs, patches and updates, and startup activities is not included.

Upgrades to third-party operating system (OS) software, application software, and anti-virus software may be required to support new Contractor system and application version and revision releases.

New hardware may be required to support new Foxboro systems and application version and revision releases. An incentive program may be offered as appropriate to support such requirements. (Refer to Modernization Program.)

System shutdown may be required to support hardware and software version and revision releases.

System Asset Viewer

The Contractor will provide its System Asset Viewer, a stand-alone application that accesses the system configuration data maintained by the Contractor in the Global Customer Support (GCS) Installed Base Repository.

If the System Asset Viewer application is installed on a personal computer or EcoStruxure™ DCS Advisor server on site, City staff can use it to access City system configuration data and lifecycle phase information on demand. System Asset Viewer can also be used by the Contractor's Field Service Representatives during site visits.

Customer FIRST Program Review

The Contractor will review the Customer FIRST Support and Services program performance periodically with the City on a schedule determined by the selected program level. Discussion may include technical support, labor, material and remote services usage as applicable to the products covered by this agreement, plus lifecycle management and technical topics of value to the City's site.

Included System Components: Airport Water Reclamation Facility

Item	Qty	Product	Short Description	Current Lifecycle Phase	Obsolete Date	Entitled to SW Version Upgrade
10.00	1	RH103BQ	H90 Style J, K; V91 Style B, C WS Server	Lifetime	8/1/2023	
20.00	2	RH103CY	H92 Workstation for Windows; Style L, M	Lifetime	2/1/2024	
40.00	4	RH102AN	x440G2-24fx-GE4 (24-Port Fiber managed switch)	Preferred		
50.00	8	P0926CP	ZCP270 Control Processor	Mature		
60.00	7	P0926GW	FBM232, 10/100 Mbps Ethernet, Single	Available		
70.00	42	P0972ZA	FCM100E, Field Comm Mod w/Fiber Optic	Mature		
80.00	38	P0914SQ	FBM201 Channel Isolated 8 Input 0-20 mA	Preferred		
90.00	87	P0914TD	FBM207 Channel Isolated 16 DIN Voltage Monitor	Preferred		
100.00	37	P0914TG	FBM241 Ch Isolated Vmon DI External Source DO	Preferred		
110.00	21	P0914TR	FBM217, Discrete Inputs, 32 Channels	Preferred		
120.00	24	P0914XS	FBM237 Channel Isolated 8 Output 0-20 mA	Preferred		
130.00	31	P0916TA	FBM242 Channel Isolated External Source DO	Preferred		
140.00	11	P0927AH	FBM214b, HART Inputs, 8 Channels	Preferred		
150.00	17	P0927AK	FBM244, HART 4 Input + 4 Output Channels	Preferred		
160.00	2	RH914TG	FBM241 Ch Isolated Vmon DI External Source DO	Preferred		
170.00	2	RH914TR	FBM217, Discrete Inputs, 32 Channels	Preferred		
180.00	1	RH927AH	FBM214b, HART Inputs, 8 Channels	Preferred		
190.00	1	S07A10101100	I/A Series VA.x FDT Component, Windows Based Wkstn	Mature		No
200.00	1	S07A10101100	I/A Series VA.x FDT Component, Windows Based Wkstn	Mature		No
210.00	1	S07A10101100	I/A Series VA.x FDT Component, Windows Based Wkstn	Mature		No
230.00	1	S10D00240010	Software Suite License for Foxboro DCS +I/A Series	Mature		Yes

240.00	1	S10B00240010	Software Suite License for Foxboro DCS +I/A Series	Mature		Yes
250.00	1	S10B00240010	Software Suite License for Foxboro DCS +I/A Series	Mature		Yes
260.00	1	S61C32B52000	I/A Series Function Block SW Lic (Certificate)	Mature		Yes
270.00	1	S61C32B52000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
280.00	1	S61C32B52000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
290.00	1	S61C32B52000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
300.00	1	S61C32B52000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
310.00	1	S61C32971000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
320.00	1	S61C32A31000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
330.00	1	S61C32B51000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
340.00	1	S61C31841000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
350.00	1	J0201LA	Foxboro DCS Control License, 100 Analog IO	Preferred		Yes
360.00	1	J0201LC	Foxboro DCS Control License, 100 Analog IO	Preferred		Yes

Included System Components: Pecos Surface Water Treatment Plant

Item	Qty	Product	Short Description	Current Lifecycle Phase	Obsolete Date	Entitled to SW Version Upgrade
380.00	1	RH103BQ	H90 Style J, K; V91 Style B, C WS Server	Lifetime	8/1/2023	
390.00	1	RH103CY	H92 Workstation for Windows; Style L, M	Lifetime	2/1/2024	
400.00	1	RH103DJ	H92 Workstation for Windows; Style N, P, and R	Mature		
420.00	2	RH102AN	x440G2-24fx-GE4 (24-Port Fiber managed switch)	Preferred		
430.00	8	P0926CP	ZCP270 Control Processor	Mature		
440.00	12	P0926GS	FCM100Et, Field Comm Mod w/Fiber Optic & TDR	Mature		
450.00	3	P0926GU	FBM230, Four Serial Ports, Single	Available		
460.00	3	P0926GW	FBM232, 10/100 Mbps Ethernet, Single	Available		
470.00	8	P0972ZA	FCM100E, Field Comm	Mature		

			Mod w/Fiber Optic			
480.00	27	P0914TD	FBM207 Channel Isolated 16 DIN Voltage Monitor	Preferred		
490.00	15	P0914TG	FBM241 Ch Isolated Vmon DI + External Source DO	Preferred		
500.00	4	P0914TR	FBM217, Discrete Inputs, 32 Channels	Preferred		
510.00	21	P0922VT	FBM214, HART Inputs, 8 Channels	Available		
520.00	11	P0922VU	FBM215, HART Output, 8 Channels	Preferred		
530.00	26	P0927AG	FBM239, Discrete I/O 32 Channels, 8 In-8 Out-8 In-	Preferred		
540.00	21	P0927AH	FBM214b, HART Inputs, 8 Channels	Preferred		
550.00	25	P0927AK	FBM244, HART 4 Input + 4 Output Channels	Preferred		
560.00	2	J0200NG	FoxPannels SW Lic For Windows	Available		Yes
570.00	1	S07A10101100	I/A Series VA.x FDT Component, Windows Based Wkstn	Mature		No
580.00	1	S07A10101100	I/A Series VA.x FDT Component, Windows Based Wkstn	Mature		No
590.00	1	S07A10101100	I/A Series VA.x FDT Component, Windows Based Wkstn	Mature		No
610.00	1	S10D45240010	Software Suite License for Foxboro DCS +I/A Series	Mature		Yes
620.00	1	S10B00240010	Software Suite License for Foxboro DCS +I/A Series	Mature		Yes
630.00	1	S10B00240010	Software Suite License for Foxboro DCS +I/A Series	Mature		Yes
640.00	1	S61C31721000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
650.00	1	S61C31721000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
660.00	1	S61C42871000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
670.00	1	S61C10001000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
680.00	1	S61C31722000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
690.00	1	S61C31722000	I/A Series Function Block SW Lic (Certificate)	Available		Yes
700.00	1	S61C10002000	I/A Series Function Block SW Lic (Certificate)	Available		Yes

Advantage Discount Program

The Contractor offers a significant incentive for modernizing system hardware and software to Preferred (current) lifecycle products, in exchange for the return of older equipment to the Contractor. The Advantage Discount Program is a global discount policy offering a 25% discount from global list price. The City will an additional 25% discount, bringing the total Advantage Discount Program discount to 50% off the global list price of eligible parts.

The Advantage Discount Program applies to the upgrading of equipment in the lifecycle categories of Available, Mature, Lifetime, and Obsolete with products in the Preferred product lifecycle. Discounts applies to Preferred lifecycle product purchases only.

In general, Advantage Discount Program applies to product manufactured by the Contractor's factories. Third party buyout equipment is generally not eligible for the Advantage Discount Program.

The returned equipment must be the functional equivalent of the equipment being modernized. Products returned must be in refurbishable condition. Contaminated, damaged, non-repairable or obviously broken material will not be accepted in trade. Additionally, equipment must be return to a Contractor-designated location within 3 months of shipment of the new equipment.

Site Support Services

A discount on the Contractor's current labor rate at time of service is provided on labor hours dedicated to Site Support Services.

Site Support Services utilize the talents of the Contractor's engineers to supplement the City's site resources with simple day to day activities or to help solve more complex engineering issues. If needed, the City and the Contractor will agree on a scope of work.

Classic Learning Services

Classic training or Classroom Instructor Led Training (CILT) is conducted in-person at Process Automation training centers worldwide or at the City's. Classic training is comprehensive and immersive training that is typically delivered in a traditional classroom setting and is recommended for advanced maintenance, troubleshooting, and configuration skills required by experienced technical staff. Expert-level Instructors conduct classroom training over 2 to 5 days, during which learners practice skills on physical hardware and virtual machines.

A discount on the current listed course prices is provided for standard courses attended at Process Automation training centers only. The list prices cover one participant attending one course as published in the Contractor's training calendars.

Digital Learning Services

Digital learning includes e-learning or Web Based Training (WBT), Virtual Instructor Led Training (VILT) and Virtual Coaching. All services are delivered at the learner's location.

E-learning or Web-Based Training (WBT) courses provide 30 to 90-minute interactive technology training specially designed for newly hired technical staff. Content covers conceptual and application training on process control and safety topics. Participants complete training at their own pace online. Pre-recorded

demonstrations and try-it simulations enable participants to practice the application of acquired knowledge as often as they need. Courses are modular and can be combined to create learning paths or grouped by topics (Collections) as required for individual development.

In VILT classes, a subject matter expert, the instructor, facilitates learning using interactive tools to engage learners, and transfer, reinforce, and retain knowledge and skills. Content covers focused tasks requiring application of specific process control skills and product knowledge. Modelled to blend work time with training time, courses are delivered in 1 to 4 sessions, 3 to 4 hours a day. Participants complete 1 to 3 hours of lab practice, outside of session times, using virtual machines on the Process Automation Learning Cloud. Courses are designed to instill key skills in a short amount of time. The Facilitator and peer participants share best practices during sessions.

To support learners beyond formal training, the Contractor offers Virtual coaching services. The coaching system and processes are designed to augment our blended learning programs and are a vital tool to support the continuous development of employees. Our Coaches deliver learning support virtually for the development of remotely located staff.

A discount on the current listed course prices is provided for registrations to scheduled VILT courses published on our training calendars or to any of the e-learning courses or Collections. The list prices cover one participant attending a single course. Similarly, a discount on the current Process Automation Virtual Coaching rates is applied on coaching hours delivered remotely.

Module Exchange Program (MEP) Parts

The price of unit supplied to the customer will qualify for a discount contingent on material returned to the Contractor Electric meeting Module Exchange Program qualifications. Not applicable to consumable products

Consulting Services

The Contractor offers Consulting Services to leverage skilled Contractor resources that can help optimize the performance of existing assets, conduct routine performance assessments and assist with new product deployment. If services are needed, the City and Contractor will agree to a scope of work.

Spares

The Contractor provides a discount on the purchase of new material that will be stored as spare inventory at the City's site.

Test and Offline Development System Licenses

If the City uses an offline system to mirror its online system for testing upgrades, development, etc., before moving those changes into production, a discount is applicable to all off-line test system, development or disaster recovery system licenses.

The City agrees that all software licenses in the Off-Line system will solely be used for non-production testing or simulation or emergency back-up purposes and for no other purposes whatsoever. Applicable system will be non-production off-line except for temporary periods during emergency back-up situations such as disaster recovery or failover. The off-line system licenses are to be identical to the on-line system licenses in product type but may be of lesser quantity or functional capacity (such as lower I/O count, lower

tag count, less equipment). Certain product exclusions may apply – ask your salesperson for further information.

Modernization Fund (Optional Service)

The Modernization Fund provides a mechanism to achieve the adoption of new technologies in manageable increments. Using the Lifecycle Assessment and Upgrade Planning Roadmap, developed at the beginning of the agreement, a Modernization Fund is established. Payments into the fund are accrued over the multi-year coverage period of the agreement. However, the benefits of technology upgrades can start upon accrual and payment of 50% of the value of the Modernization Fund.

The Modernization Fund Policy applies.

**EXHIBIT B
FEE SCHEDULE**

Pecos Surface Water Treatment Plant Fees

Premium Level Description	Year 1	Year 1	Year 3
Foxboro DCS System Included Services:	\$65,070	\$68,324	\$71,740
Optional Services: Advantage Upgrade and Labor Modernization Fund:	\$5,000	\$5,000	\$5,000
Total	\$70,070	\$73,324	\$76,740

Airport Water Reclamation Facility Fees

Premium Level Description	Year 1	Year 1	Year 3
Foxboro DCS System Included Services:	\$64,550	\$67,778	\$71,166
Optional Services: Advantage Upgrade and Labor Modernization Fund:	\$5,000	\$5,000	\$5,000
Total	\$69,550	\$72,778	\$76,166

EXHIBIT C
SERVICE LEVEL REQUIREMENTS

SERVICE LEVEL REQUIREMENTS will be as outlined and purchased through Customer First Agreement (Sub-Exhibit A-1) services.

EXHIBIT D
SUPPORT SERVICES REQUIREMENTS

1. SUPPORT SERVICES REQUIREMENTS will be as outlined and purchased through Customer First Agreement (Sub-Exhibit A-1) services

EXHIBIT E INSURANCE REQUIREMENTS

A. Minimum Scope and Limits of Insurance: Contractor must provide coverage with limits of liability as stated below.

1. Commercial General Liability – Occurrence Form

Said insurance must also include coverage for products completed operations, independent contractors, personal injury, property damage, and advertising injury.

Products – Completed Operations Aggregate	\$4,000,000
Each Occurrence	\$2,000,000

The policy must be endorsed to include the following additional insured language: "The City of Chandler, its agents, representatives, officers, directors, officials, employees, and volunteers shall be named as an additional insured with respect to liability arising out of the activities performed by Contractor." This endorsement may not contain an exclusion or limitation of completed operations coverage as regards the additional insured except with respect to the stated aggregate limits of liability.

The policy may not exclude the explosion/collapse/underground ("xcu") hazard.

2. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

Policy shall contain a waiver of subrogation against the City of Chandler.

3. Tech E&O and Network Security & Privacy Liability Insurance (Cyber)

In addition to the insurance requirements set forth in the Agreement, Contractor agrees to provide the following insurance coverage and limits of coverage as part of this Agreement.

Per Loss	\$5,000,000
Aggregate	\$5,000,000

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this Agreement. In the event that the professional liability insurance required by this Agreement is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained for an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed. If such insurance is maintained on an occurrence form basis, Contractor shall maintain such insurance for an additional period of one (1) year following termination of Agreement. If such insurance is maintained on a claims-made basis, Contractor shall maintain such insurance for an additional

period of three (3) years following termination of the Agreement. If Contractor contends that any of the insurance it maintains pursuant to other sections of this clause satisfies this requirement (or otherwise insures the risks described in this section), then Contractor shall provide proof of same. The insurance shall provide coverage for the following risks:

3.1 Liability arising from theft, dissemination and / or use of confidential information (a defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc. information) stored or transmitted in electronic form.

3.2 Network Security Liability arising from the unauthorized access to, use of or tampering with computer systems including hacker attacks, inability of an authorized third party, to gain access to your services including denial of service, unless caused by a mechanical or electrical failure.

3.3 Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon.

3.4 Additional Requirements: The policy shall provide a waiver of subrogation.

B. Additional Insurance Requirements: The policies must contain, or be endorsed to contain, the following provisions: Contractor's insurance coverage must be primary insurance and non-contributory with respect to the obligations that Contractor has undertaken under this Agreement. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, volunteers, and employees, for losses arising from work performed by the Contractor under this Agreement.

C. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Agreement must provide the required coverage and must provide thirty (30) days prior written notice of cancellation to the City except for non-payment of premium for which a ten (10) day notice will be provided. Such notice is not a right or obligation within the policies; it does not alter or amend any coverage. It will not extend any policy cancellation date and it will not negate any cancellation of the policy. Failure to provide a copy of such notice to the certificate holder shall impose no obligation or liability of any kind upon the insurer or its agents or representatives. Such notice must be sent directly to the addresses listed below and must be sent by certified mail, return receipt requested:

City of Chandler
Attention: Purchasing Division
P.O. Box 4008, Mail Stop 901
Chandler, Arizona 85244-4008
Phone: (480) 782-2400
Email: purchasing@chandleraz.gov

With a copy to: Office of the City Attorney
Attention: Risk Management
175 South Arizona Avenue
P.O. Box 4008 Mail Stop 602

Chandler, Arizona 85244-4008
Phone: (480) 782-4640
Fax: (480) 782-4652
Email: legal.notices@chandleraz.gov

- D. Acceptability of Insurers:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the State of Arizona and with an "A.M. Best" rating of not less than A- VII. City in no way warrants that the above-required minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.
- E. Verification of Coverage:** Contractor must furnish City with certificates of insurance (ACORD form or equivalent approved by City) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by City before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the Agreement. Failure to maintain the insurance policies as required by this Agreement or to reasonably provide evidence of renewal is a material breach of this Agreement. All certificates required by this Agreement must be sent directly to the City of Chandler Information Technology Department with a copy to Risk Management as the addresses listed in Section C. The Agreement number and description are to be noted on the certificate of insurance. At City's request, Contractor must make certified copies of all insurance policies required by this Agreement available for City's review through a representative and at Contractor's most proximate business location.
- F. Approval:** Any modification or variation from the insurance requirements in this Agreement must have prior approval from the Office of the City Attorney, whose decision will be final. Such action will not require a formal contract amendment but may be made by administrative action.

Exhibit F Continuation Agreement

CONTINUATION OF CUSTOMER FIRST TERMS AND CONDITIONS AGREEMENT

This Continuation Agreement (the "Agreement") is entered into on (Month) (DD), (YYYY) (the "Effective Date") by City of Chandler ("Customer") and Schneider Electric Systems USA, Inc. ("Schneider Electric").

Whereas, Customer and Schneider Electric have previously entered into a Customer FIRST Support Services Agreement (or Invensys Lifetime Services Agreement) ("Agreement"); and

Whereas, the Agreement entered into between Customer and Schneider Electric has expired; and

Whereas, Customer and Schneider Electric are actively and diligently negotiating a new Customer FIRST Support Agreement between the parties; and

Whereas, Customer wishes for Schneider Electric to continue its support services until a new Customer FIRST Support Agreement is negotiated by and between Customer and Schneider Electric.

In consideration of the factual recitals and for other good and valuable consideration, the parties agree as follows:

1. This term of this Continuation Agreement shall be sixty (60) days from the Effective Date, or upon the execution of a new Customer FIRST Support Agreement, whichever occurs FIRST ("Term").
2. The terms and conditions contained within the recently expired Agreement shall continue to govern and control in regards to support services provided by Schneider Electric to the Customer during the Term including, but not limited to, all limitations of liability. Note: The Advantage Upgrade Program Discount, Customer FIRST Software Version and Revision Upgrade entitlements are no longer inclusive during this negotiation period.
3. Upon the parties reaching agreement on a new Customer FIRST Support Agreement, all costs for support services provided during the Term shall be charged to Customer based on the rates and payment terms contained within the new agreement.
4. If a new Customer FIRST Support Agreement is not reached between the parties, all services provided during the Term shall become payable on demand.

CUSTOMER	SCHNEIDER ELECTRIC
Company Name (Legal Entity): <u>City of Chandler</u>	Schneider Electric Systems USA, Inc.
By: <u>David L. Goode</u>	By: <u>Erica Sylvester</u>
Print Name: <u>David L. Goode</u>	Print Name: Erica Sylvester
Title: <u>Business Systems Support Analyst</u>	Title: Project Controls Manager
Date: <u>06/23/2022</u>	Date: June 24th, 2022

