

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, MADE AS OF THIS 18th day of March, 2025, by and between the City of Joliet, Illinois, an Illinois Municipal Corporation, (hereinafter called the "City") and Core & Main LP (hereinafter called the "Consultant"), collectively referred to as the "Parties" herein, is an AGREEMENT for professional services.

NOW, THEREFORE, the City and the Consultant in consideration of the mutual covenants hereinafter set forth agree as follows:

SECTION 1 – SERVICES OF THE CONSULTANT

1.1 The Project scope of work is defined in the attached pricing and scope page from the Letter Proposal (Exhibit A) and End of User License Agreement (Exhibit B) dated February 18, 2025.

1.2 The City and the Consultant, by mutual agreement, shall determine the final schedule.

1.3 The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by Consultants in their line of work. The Consultant will use their best professional judgment in the course of the work. Design criteria, guidelines and other standards shall be supplemented by the professional judgment of the Consultant. Deviations from design criteria, guidelines and other standards shall be called to the attention of the City's representative.

SECTION 2 – THE CITY'S RESPONSIBILITIES

The City will:

2.1 Provide full information as to the requirements for the Project in a timely manner in which the Consultant may reasonably rely on with regard to its completeness and accuracy.

2.2 Designate in writing a person to act as the City's representative with respect to the work to be performed under this Agreement; and such person shall have complete authority to transmit instructions, receive information, interpret, and define the City's policies and decisions with respect to materials, equipment elements and systems pertinent to the work covered by this Agreement.

2.3 Guarantee access to and make all provisions for the Consultant to enter upon the City's facilities as required for the Consultant to perform their work under this Agreement.

2.4 Examine all studies, reports and other documents presented by the Consultant and shall render decisions pertaining thereto within seven (7) calendar days from receipt so as not to delay the work of the Consultant.

2.5 Obtain approval of all governmental authorities having jurisdiction over the Project and such approvals and consents from such other individuals or bodies as may be necessary for completion of the Project.

SECTION 3 – PAYMENTS TO THE CONSULTANT

3.1 The City will pay the Consultant for the professional services performed in accordance with pricing set out in Exhibit A.

3.2 Invoices for payment shall be submitted by Consultant to the City, together with reasonable supporting documentation. The City may require such additional supporting documentation as City reasonably deems necessary or desirable. Payment to Consultant shall be made in accordance with the Illinois Local Government Prompt Payment Act, after City's receipt of an invoice and all such supporting documentation.

3.3 Payment to the Consultant for expenses associated with direct costs or reimbursable expenses, as dictated by the Agreement and/or Scope of Services, shall be made upon presentation of receipts for costs or expenses.

SECTION 4 – TIME OF COMPLETION

4.1 The Consultant shall complete the project implementation within an estimated 6 months of the date of execution of this Agreement and provide one year of Software as a Service (SaaS), subject to time extensions to such schedule arising from delays beyond Consultant's control. To the extent Consultant is impacted by such delays, Consultant shall be entitled to an adjustment to its schedule for performance.

4.2 Time is of the essence for this Agreement.

4.3 The Consultant shall commence work within ten (10) calendar days of the date of execution of this Agreement or such other time mutually agreed to by the Parties in writing.

4.4 The Consultant may request an extension to complete the scope of work, and the City may grant such extension in a subsequent contract amendment.

SECTION 5 – RIGHTS TO DELIVERABLES

5.1 Deliverables, as defined in the Scope of Work, shall become the City's permanent property upon payment by the City to the Consultant.

5.2 Consultant shall not use photographs of the Deliverables for project competition, awards of any nature, project testimonials, presentations, advertising, proposals, professional papers, public display, or any other use without obtaining prior written approval from the City's representative. Any photographs taken of City property in the execution of the Consultant's work may not be re-used by the Consultant for project competition, awards of any nature, project testimonials, advertising, proposals, presentations, professional papers, public display, or any other use without obtaining prior written approval from the City's representative.

SECTION 6 – REMOVAL AND REPLACEMENT OF PERSONNEL

6.1 Consultant (for the duration of the term of the Agreement) will not, without obtaining the City's prior written consent not to be unreasonably withheld, replace, or alter the assignment of its lead personnel, to the extent their respective availability is reasonably within the Consultant's control.

6.2 Consultant shall promptly remove any person assigned to perform the Services in the event of notification by the City that he/she is no longer acceptable, irrespective of any prior City consent. Replacement of lead personnel, prior to assignment, will be subject to the City's approval, which shall not be unreasonably withheld.

6.3 A violation by Consultant of paragraph 6.1 and/or 6.2 may be considered a substantial and material breach of Agreement, for which termination and damages otherwise provided by Law or the Agreement may be claimed.

6.4 The City's right to request the removal of Consultant's personnel from the Services as set forth in paragraph 6.2 does not expressly or implicitly create an employer-employee relationship between the City and personnel assigned by Consultant. Such a relationship is expressly denied herein by Consultant and the City.

SECTION 7 – INSURANCE

The Consultant shall maintain for the duration of the Agreement, insurance purchased from a company, or companies lawfully authorized to do business in the State of Illinois and having a rating of at least A-minus as rated by A.M. Best Ratings. Such insurance will protect the Consultant from claims set forth below which may arise out of or result from the Consultant's operations under the agreement and for which the Consultant may be legally liable, whether such operations be by the Consultant or by a SubConsultant or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

Worker's Compensation Insurance covering all liability of the Consultant arising under the Workers' Compensation Act and Occupational Diseases Act; limits of liability not less than statutory requirements.

Employers Liability covering all liability of Consultant as employer, with limits not less than: \$1,000,000 per injury – per occurrence; \$1,000,000 per disease – per employee; and \$1,000,000 per disease – policy limit.

Comprehensive General Liability in a broad form on an occurrence basis, to include but not be limited to, coverage for the following where exposure exists; Premises/Operations, Contractual Liability, Products/Completed Operations for 2 years following final payment, Independent Consultant's coverage to respond to claims for damages because of bodily injury, sickness or disease, or death of any person other than the successful proposers employees as well as claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Consultant, or (2) by another person and claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use there from; Broad Form Property Damage Endorsement;

General Aggregate Limit \$ 2,000,000
Each Occurrence Limit \$ 1,000,000
(limits may be met by combination of primary and excess policies)

Automobile Liability Insurance shall be maintained to respond to claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance, or use of a motor vehicle. This policy shall be written to cover any auto whether owned, leased, hired, or borrowed.

Each Occurrence Limit \$1,000,000

Professional Liability Insurance shall be maintained to respond to claims for damages due to the Consultant's errors and omissions.

Errors and Omissions \$1,000,000

Consultant agrees that with respect to the above required insurance:

1. The CGL policy shall be endorsed for the general aggregate to apply on an annual basis.
2. To provide separate endorsements: to name the City of Joliet and its officers and employees as additional insured as their interest may appear, and to provide notice, in writing, per the policy provisions, of cancellation or material change.
3. The Consultant's insurance shall be primary in the event of a claim.
4. The City of Joliet shall be provided with Certificates of Insurance and endorsements evidencing the above-required insurance, prior to commencement of an agreement and thereafter with certificates evidencing renewals or replacements of said policies of insurance per the policy provisions.
5. A Certificate of Insurance that states the City of Joliet and its officers and employees have been endorsed as an "additional insured" by the Consultant's general liability and automobile liability insurance carrier. Specifically, this Certificate must include the following language: "The City of Joliet and its officers and employees are, and have been endorsed, as an additional insured under the above reference policy number XSL G48900161 on a primary and non-contributory basis for general liability and automobile liability coverage for the duration of the contract term."

Failure to Comply: In the event the Consultant fails to obtain or maintain any insurance coverage required under this Agreement, the City of Joliet may purchase such insurance coverage and charge the expense thereof to the Consultant. Such insurance shall be maintained in full force and effect during the life of the Agreement and shall protect the Consultant, its employees, agents and representatives from claims for damages, for personal injury and death and for damage to property arising in any manner from the negligent or wrongful acts or failures to act by the Consultant, its

employees, agents and representatives in the performance of the work covered by the Agreement. The Consultant shall also indemnify and save harmless the City from any claims against, or liabilities incurred by the Consultant of any type or nature to any person, firm or corporation arising from the Consultant's wrongful or negligent performance of the work covered by the Agreement.

SECTION 8 – SUCCESSORS AND ASSIGNS

The City and the Consultant each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the City nor the Consultant shall assign, sublet or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any employee, officer or agent of any public body or the Consultant which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City and the Consultant.

SECTION 9 – NON-DISCRIMINATION

In all hiring or employment made possible or resulting from this Agreement, there shall be no discrimination against any employee or applicant for employment because of sex, age, race, color, creed, national origin, marital status or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification, and this requirement shall apply to, but not be limited to, the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. No person shall be denied or be subjected to discrimination in receipt of the benefit of any services of activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, national origin, age except minimum age and retirement provisions, marital status, or the presence of any sensory, mental, or physical handicap. Any violation of this provision shall be considered a violation of a material provision of this Agreement and shall be grounds for cancellation, termination, or suspension, in whole or in part, of the Agreement by the City.

SECTION 10 – MODIFICATION OR AMENDMENT

This Agreement constitutes the entire Agreement of the Parties on the subject matter hereof and may not be changed, modified, discharged, or extended except by written amendment duly executed by the Parties. The Consultant agrees that no representations or warranties shall be binding upon the City unless expressed in writing herein or in a duly executed amendment hereof, or authorized or approved Change Order as herein provided.

SECTION 11 – APPLICABLE LAW AND DISPUTE RESOLUTION

11.1 This Agreement shall be deemed to have been made in and shall be construed in accordance with the laws of State of Illinois.

11.2 Any controversy, claim or dispute arising out of or relating to the interpretation, construction, or performance of this Agreement, or breach thereof, shall be referred to the American Arbitration Association (the "AAA") for a voluntary, non-binding mediation in the

municipality where the Services are provided and to be conducted by a mutually acceptable single mediator, in accordance with then applicable Construction Industry Mediation Rules, prior to resorting to litigation to any State or Federal Court located nearest to where the Services are provided. Neither party shall be liable for any indirect, incidental, or consequential damages of any nature or kind resulting from or arising in connection with this Agreement. The Parties shall share the cost of the mediator's services equally.

WITH RESPECT TO ANY SUCH LITIGATION, EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND WILLINGLY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE BETWEEN OR AMONG ANY OF THE PARTIES HERETO, WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF, CONNECTED WITH, RELATED OR INCIDENTAL TO THIS AGREEMENT, THE TRANSACTION(S) CONTEMPLATED HEREBY AND/OR THE RELATIONSHIP ESTABLISHED AMONG THE PARTIES HEREUNDER.

SECTION 12 – TERMINATION OF THE CONTRACT

12.1 TERMINATION BY THE CONSULTANT

If the Work is stopped for a period of thirty days under an order of any court or other public authority having jurisdiction, through no fault of the Consultant, or if the City has not made timely Payment thereon as set forth in this Agreement, then the Consultant may upon twenty-one (21) days written notice (from postmark) to the City, terminate the Agreement.

12.2 TERMINATION BY THE CITY

In the event of any breach of this Agreement by the Consultant, the City may, at its option, serve the Consultant with a written seven (7) day notice (from postmark) with the Consultant's option to cure the breach, or the City may engage the services of another Consultant to complete the work and deduct the cost of such completion from any amount due the Consultant hereunder, or the City may either pause or terminate the contract.

IN WITNESS WHEREOF, the undersigned have placed their hands and seals upon and executed this Agreement in triplicate as though each copy hereof were an original and that there are no other oral agreements that have not been reduced to writing in this statement.

CITY OF JOLIET

By: _____

H. Elizabeth Beatty

City Manager

Date: _____

Core & Main LP

By: Scott E. Jaros

Name: Scott E. Jaros

Title: Branch Manager

Date: 2/20/2025

ATTEST:

By: _____

Lauren O'Hara

City Clerk

Date: _____

Exhibit A-

City of Joliet Department of Public Utilities
Budgetary Quote-Meter Asset Management

PROJECT PRICE

Scope:

Modules to be implemented	Meter Asset Management (MAM) + Meter Data Analytics (MDA)+ Leak Detection (LD)+Work Order Integration
Licensing	SaaS
Hosting	Cloud

Based on our exchange of information, a rough order of magnitude budget would be:

Number of smart meters: about 51,000 meters, with 25,000-30,000 meters to be replaced in the future

TASK	ONE-TIME
Initial deployment (MAM +MDA+ Leak Detection+Work Order Integration)	\$329,552 ^[1]

Software as a Service

TASK	ANNUAL
Five Year SaaS for MAM+MDA+Leak Detection + Work Order Integration	
Base Year-SaaS annual subscription (MAM +MDA+ Leak Detection+ Work Order Integration)	\$140,175 ^[2]
TOTAL-Initial deployment (MAM + MDA+ Leak Detection +Work Order Integration) + annual SaaS	\$469,727

Pricing quotes are valid until April 30, 2025. Xylem reserves the right to modify pricing beyond that time-period.

- [1] A portion of the total initial deployment cost will be billed monthly as a percentage of project completion.
- [2] The annual SaaS fee covers one year of service, to begin when the initial deployment phase has concluded. Billing will occur annually. SaaS includes software licensing for unlimited users, software development updates/coordination, customer support, data hosting, and bug fixes. All software fees are subject to a 3% annual increase, tied to the published Consumer Price Index (CPI). Any additional modules/services not included in this scope will have an associated SaaS price and will be included in a separate scope upon request by the client.
- [3] Data Integration included, but not limited to, asset management software (e.g. Tyler), work order management software (e.g. VueWorks) using a one-way integration with VueWorks to send sensor-based alarms from Xylem Vue to VueWorks work order system via API., GIS, SCADA, Sensus Analytics, etc. as listed in the Data Integration section of the SOW. Specific list of data sources will be compiled in coordination with customer as part of the kick-off meeting.

Billing Notes:

Base Year SaaS is intended to start September 01, 2025. Coverage start date may vary based on implementation date.

Exhibit B

End User License Agreement (Hosted SaaS Solution)

1. Scope and Applicability.

- 1.1** This End User License Agreement (“**EULA**”) between You and Xylem covers Your use of the Go-Aigua Software selected in Exhibit I (hereinafter “**Software**”). This document also incorporates any Product Specific Terms that may apply to the Software. Definitions of capitalized terms are in Section 12 (Definitions).
- 1.2** You agree to be bound by this EULA through:
- a.** Your download, installation, or use of the Software; or
 - b.** Your express agreement to this EULA.

2. Using the Software.

2.1 Right to Access and Use.

- a.** Subject to the terms and conditions of this EULA, and subject to the full and timely payment of all applicable fees owed to the Approved Source, Xylem grants to You and You hereby accept, a limited, a non-exclusive, non-transferable, right to access and use the Software and Documentation, both as acquired from an Approved Source, for Your direct benefit during the Usage Term, and as set out in Your Entitlement (collectively, the “**Usage Rights**”).
- b.** You will use the Software only as permitted in this EULA. Any additional or other use by You may require additional rights and the payment of additional fees.

2.2 Use by Third Parties. You may permit Authorized Third Parties to exercise the Usage Rights on Your behalf, provided that You are responsible for:

- a.** ensuring that such Authorized Third Parties comply with this EULA; and
- b.** any breach of this EULA by such Authorized Third Parties.

2.3 Beta and Trial Use. If Xylem grants You Usage Rights in the Software on a trial, evaluation, beta, or other free-of-charge basis (“**Evaluation Software and Services**”):

- a.** You may only use the Evaluation Software and Services on a temporary basis for the period limited by the license key or specified by Xylem in writing. If there is no period identified, such use is limited to thirty (30) days after the Evaluation Software and Services are made available to You;
- b.** Xylem, in its discretion, may stop providing the Evaluation Software and Services at any time, at which point You will no longer have access to any related data, information, and files and must immediately cease using the Software; and
- c.** YOU ACCEPT THAT XYLEM DISCLAIMS ANY AND ALL LIABILITY THAT MAY ARISE FROM XYLEM’S DECISION TO STOP PROVIDING THE EVALUATION SOFTWARE AND SERVICES.

such as user manuals, trainings, and screenshots.

- 3.2 Protecting Account Access.** You will keep all Xylem account information up to date, use reasonable means to protect Your account information, passwords and other login credentials, and promptly notify Xylem by sending written notice to security@idrica.com of any known or suspected unauthorized use of, or access to, Your account.
- 3.3 Use with Third Party Products.** If You use the Software from the Approved Source with third party products not authorized by Xylem, such use is at Your risk. You are responsible for complying with any third-party provider terms, including its privacy policy. Xylem does not provide support or guarantee ongoing integration support for products that are not a native part of the Software.
- 4. Fees.** To the extent permitted by law, orders for the Software are non-cancellable. The fee to be paid for Your use of the Software is set out in Your purchase terms with Your Approved Source. If You use the Software beyond Your Entitlement (“**Overage**”), the Approved Source may invoice You according to the applicable fees outlined in the Agreement, and You agree to pay, for such Overage.
- 5. Confidential Information and Use of Data.**
- 5.1 Confidentiality.**
- a. Recipient will hold in confidence and use no less than reasonable care to avoid disclosure of any Confidential Information to any third party, except for its employees, Affiliates and contractors who have a need to know (“**Permitted Recipients**”).
 - b. Recipient:
 - (1) must ensure that its Permitted Recipients are subject to written confidentiality obligations no less restrictive than the Recipient’s obligations under this EULA; and
 - (2) is liable for any breach of this Section by its Permitted Recipients.
 - c. Such nondisclosure obligations will not apply to information which:
 - (1) is already in the possession of Recipient without confidentiality obligations, as established by documentary evidence, prior to disclosure to Recipient;
 - (2) is public knowledge through no fault of Recipient; or
 - (3) is independently developed by Recipient, as established by documentary evidence, without use of Confidential Information; or
 - (4) is made available to Recipient on a non-confidential basis from a third-party source, provided that such third-party is not and was not prohibited from making such a disclosure of the Confidential Information to the Recipient.
 - d. Recipient may disclose Discloser’s Confidential Information if required under a regulation, law or court order provided that Recipient provides prior notice to Discloser (to the extent legally permissible) upon becoming aware of the need to make the disclosure and reasonably cooperates, at Discloser’s expense, regarding protective actions pursued by Discloser.
 - e. Upon the reasonable request of Discloser, Recipient will either return, delete or destroy all Confidential Information of Discloser and certify the same.
- 5.2 How We Use Data.** Xylem will access, process and use data in connection with

Your use of the Software in accordance with applicable privacy and data protection laws.

5.3 Notice and Consent. To the extent Your use of the Software requires it, You are responsible for providing notice to, and obtaining consents from, individuals regarding the collection, processing, transfer and storage of their data through Your use of the Software.

6. Ownership.

6.1 Unless agreed in writing, nothing in this EULA transfers ownership in, or grants any license to, any intellectual property rights. You retain any ownership of Your content and Xylem retains ownership of Xylem Content. Xylem may use any feedback You provide in connection with Your use of the Software in its business operations.

7. Representations and Indemnity.

7.1 Performance. Xylem represents that:

- a. for ninety (90) days from the Delivery Date, that, the Software will substantially comply with the Documentation.

7.2 Malicious Code. Xylem represents that it will use commercially reasonable efforts to deliver the Software free of Malicious Code.

7.3 Indemnity. Xylem agrees to indemnify and defend You and Your respective employees, officers, directors, agents, successors and assigns, from and against liability, loss, damage, and expenses (including without limitation reasonable attorneys' fees) arising from or in connection with third-party claims or demands, allegations, or claims that the use of the Software by You infringes, misappropriates, or otherwise violates a third party's intellectual property or proprietary rights. Xylem's indemnification obligations outlined in this provision do not apply to the extent the infringement or violation arises from Xylem's compliance with particular requirements that You provided that in fact differ from Xylem's standard specifications for the Software. Xylem shall undertake, at its expense, the defense of any such suit or proceeding using reputable counsel. If either party receives notice of an alleged infringement arising from the Software, or if Xylem reasonably believes that such a claim is likely, Xylem shall perform one of the following actions: (i) procure for You the right to continue using the Software and using any results of the Software, (ii) modify the allegedly infringing Software so that such Software is no longer infringing, or (iii) replace the Software so that the Software becomes non-infringing; provided always that the modified or replaced Software does not modify or detract from agreed functionality.

7.4 Qualifications.

- a. Sections 7.1 and 7.2 do not apply if the Software or the equipment on which it is authorized for use:
 - (1) has been altered, except by Xylem or its authorized representative;
 - (2) has been subjected to abnormal physical conditions, accident or negligence, or installation or use inconsistent with this EULA or Xylem's instructions;

- (3) is acquired on a no charge, beta or evaluation basis;
 - (4) is not a Xylem-branded product or service; or
 - (5) has not been provided by an Approved Source.
- b. Upon Your prompt written notification to the Approved Source during the warranty period of Xylem's breach of this Section 7.4, Your sole and exclusive remedy (unless otherwise required by law) is, at Xylem's option, either:
 - (1) repair or replacement of the applicable Software; or
 - (2) a refund of the fees paid for the non-conforming Software.
- c. Where Xylem provides a refund of license fees for Software, You must return or destroy all copies of the applicable Software.
- d. **Except as set out in this Section and to the extent permitted by law, Xylem expressly disclaims all warranties and conditions of any kind, express or implied, including without limitation any warranty, condition or other implied term as to merchantability, fitness for a particular purpose or non-infringement, or that the Software will be secure, uninterrupted or error-free.**
- e. If You are a consumer, You may have legal rights in Your country of residence that prohibit the limitations set out in this Section from applying to You, and, to the extent prohibited, they will not apply.

8. Liability.

8.1 NEITHER PARTY WILL BE LIABLE FOR INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES; LOSS OR CORRUPTION OF DATA OR INTERRUPTION OR LOSS OF BUSINESS; OR LOSS OF REVENUES, PROFITS, GOODWILL OR ANTICIPATED SALES OR SAVINGS.

8.2 THE MAXIMUM AGGREGATE LIABILITY OF EACH PARTY UNDER THIS EULA IS LIMITED TO THE FEES RECEIVED BY XYLEM FOR THE APPLICABLE SOFTWARE AND ATTRIBUTABLE TO THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO SUCH LIABILITY.

8.3 Sections 8.1 and 8.2 do not apply to liability arising from:

- a. Your failure to pay all amounts due; or
- b. Your breach of Sections 2.1 (License and Right to Use), 3.1 (EULA Generally) or 11.7 (Export).

8.4 This limitation of liability applies whether the claims are in warranty, contract, tort (including negligence), infringement, or otherwise, even if either party has been advised of the possibility of such damages. Nothing in this EULA limits or excludes any liability that cannot be limited or excluded under applicable law. This limitation of liability is cumulative and not per incident.

9. Termination and Suspension.

9.1 Suspension. Xylem may immediately suspend Your Usage Rights if You materially breach the EULA.

9.2 Termination.

- a. If a party materially breaches this EULA and does not cure that breach within thirty (30) days after receipt of written notice of the breach, the non-

breaching party may terminate this EULA for cause.

- b. Xylem may immediately terminate this EULA if You breach Sections 2.1 (License and Right to Use), 3.1 (EULA Generally), or 11.7 (Export).
- c. Upon termination of the EULA, You must stop using the Software and destroy any copies of Software and Confidential Information within Your control.
- d. Upon Xylem's termination of this EULA for Your material breach, You will pay Xylem or the Approved Source any unpaid fees through to the end of the then-current Usage Term.

10. Verification.

10.1 During the Usage Term and for a period of twelve (12) months after its expiry or termination, You will take reasonable steps to maintain complete and accurate records of Your use of the Software sufficient to verify compliance with this EULA (“**Verification Records**”). Upon reasonable advance notice, and no more than once per twelve (12) month period, You will, within thirty (30) days from Xylem's notice, allow Xylem and its auditors access to the Verification Records and any applicable books, systems (including Xylem product(s) or other equipment), and accounts during Your normal business hours.

10.2 If the verification process discloses underpayment of fees:

- a. You will pay such fees; and
- b. You will also pay the reasonable cost of the audit if the fees owed to Xylem as a result exceed the amounts You paid for Your Usage Rights by more than five percent (5%).

11. General Provisions.

11.1 Survival. Sections 3 (Additional Conditions of Use), 4 (Fees), 5 (Confidential Information and Use of Data), 6 (Ownership), 7 (Representations and Indemnity), 8 (Liability), 10 (Verification) and 11 (General Provisions) survive termination or expiration of this EULA.

11.2 Third Party Beneficiaries. This EULA does not grant any right or cause of action to any third party.

11.3 Assignment and Subcontracting. Except as set out below, neither party may assign or novate this EULA in whole or in part without the express written consent of Xylem and the applicable authorized distributor, if any.

11.4 Xylem Partner Transactions. If You purchase the Software from an Xylem Partner, the terms of this EULA apply to Your use of the Software and prevail over any inconsistent provisions in Your agreement with the Xylem Partner.

11.5 Modifications to the EULA. Xylem may change this EULA or any of its components by updating this EULA at any time. Changes to the EULA apply to any Entitlements acquired or renewed after the date of modification.

11.6 Compliance with Laws.

- a. **General.** Each party will comply with all laws and regulations applicable to their respective obligations under this EULA. Xylem may restrict the

availability of Software in any particular location or modify or discontinue features to comply with applicable laws and regulations.

- b. **Data collection and transfer.** If You use the Software in a location with local laws requiring a designated entity to be responsible for collection of data about individual end users and transfer of data outside of that jurisdiction (e.g., Russia and China), You acknowledge that You are the entity responsible for complying with such laws.

11.7 Export. Xylem’s Software, products, technology and services (collectively the “**Xylem Products**”) may be subject to Spain or U.S. export control and sanctions laws. You acknowledge and agree to the applicability of and Your compliance with those laws, and You will not receive, use, transfer, export or re-export any Xylem Products in a way that would cause Xylem to violate those laws. You also agree to obtain any required licenses or authorizations.

11.8 Governing Law and Venue. This Agreement shall be governed by the laws of the State of New York without regard to its conflict of laws provisions. The United Nations Convention on Contracts for the International Sale of Goods, to the extent it may be deemed to apply, does not apply to this EULA or any Xylem Products provided hereunder. The parties agree that any dispute arising from this Agreement, in relation to its effectiveness, execution, performance, interpretation or any other matter, shall be submitted to the courts of the State of New York, waiving any other jurisdiction.

11.9 Notice. The parties designate as their respective domicile for the purpose of notifications the one stated at the head of this contract, although they may modify it by means of a written notification sent to the other party in an irrefutable manner. Notifications shall always be made in writing and in an irrefutable manner.

11.10 Force Majeure. Except for payment obligations prevented by a financial system disruption, neither party will be responsible for failure to perform its obligations due to an event or circumstances beyond its reasonable control.

11.11 No Waiver. Failure by either party to enforce any right under this EULA will not waive that right.

11.12 Severability. If any portion of this EULA is not enforceable, it will not affect any other terms.

11.13 Entire Agreement. This EULA is the complete agreement between You and Xylem regarding the subject matter of this EULA and supersedes all prior or contemporaneous communications, understandings or agreements (whether written or oral).

11.14 Translations. Xylem may provide local language translations of this EULA in some locations. You agree those translations are provided for informational purposes only and if there is any inconsistency, the English version of this EULA will prevail.

12. Definitions.

“Affiliate(s)” means any corporation or company that directly or indirectly controls, or is controlled by, or is under common control with the relevant party, where “control” means to: (a) own more than 50% of the relevant party; or (b) be able to direct the affairs of the relevant party through any lawful means (e.g., a contract that allows control).

“Approved Source” means Xylem or an Xylem Partner.

“Authorized Third Parties” means Your Users, Your Affiliates, Your third party service providers, and each of their respective Users, permitted to access and use the Software on Your behalf as part of Your Entitlement.

“Confidential Information” means non-public proprietary information of the disclosing party (**“Discloser”**) obtained by the receiving party (**“Recipient”**) in connection with this EULA, which:

- a. is conspicuously marked as confidential or if verbally disclosed, is summarized in writing to the Recipient within 14 days and marked as confidential; or
- b. is information which by its nature should reasonably be considered confidential whether disclosed in writing or verbally, including but not limited to documents such as APIs, user manuals, trainings, and screenshots.

“Delivery Date” means the date agreed upon in Your Entitlement, or if no date is agreed the earlier of the date Software is made available for download or installation, or the date that Xylem ships the tangible media containing the software.

“Documentation” means the technical specifications and usage materials officially provided by Xylem specifying the functionalities and capabilities of the applicable Software.

“Entitlement” means the specific metrics, duration, and quantity of Software You commit to acquire from an Approved Source through individual acquisitions or Your participation in a Xylem buying program.

“Go-Aigua Software” means the Applications, including Upgrades, firmware, and applicable Documentation defined in Exhibit I.

“Malicious Code” means code designed or intended to disable or impede the normal operation of, or provide unauthorized access to, networks, systems, Software other than as intended by Xylem.

“Product Specific Terms” means additional product related terms applicable to specific Xylem Products.

“**SaaS**” means a managed software as a service in which Xylem will be responsible for the day-to-day monitoring, maintenance, and management of certain software applications provided to You.

“**Upgrades**” means minor release and only major release when where it is expressly agreed.

“**Usage Term**” means the period commencing on the Delivery Date and continuing until expiration or termination of the Entitlement, during which period You have the right to use the applicable Software.

“**User**” means the individuals (including contractors or employees) permitted to access and use the Software on Your behalf as part of Your Entitlement.

“**Xylem**” “**we**” “**our**” or “**us**” means the applicable Affiliate(s) of Xylem Inc.

“**Xylem Content**” means any:

- a. content or data provided by Xylem to You as part of Your use of the Software; and
- b. content or data that the Xylem generates or derives in connection with Your use of the Software.
Xylem Content also includes geographic and domain information, rules, signatures, threat intelligence and data feeds and Xylem’s compilation of suspicious URLs.

“**Xylem Partner**” means a reseller, distributor or systems integrator authorized by Xylem to sell the Software.

“**You**” means the individual or legal entity acquiring Usage Rights in the Software.

EXHIBIT I: GO-AIGUA SOFTWARE

1. Description of Software as a Service.

This exhibit contains the details of the SaaS that Xylem shall provide to You if; (i) pricing for the application of SaaS has been provided to You; (ii) the application is selected with a checkmark below, and (iii) You are current in payments to the Approved Source for such selected application of SaaS.

A. Software as a Service Generally.

In a Software as a Service solution, Xylem owns all components of the solution (Infrastructure, Operative Systems, storage and all third-party software) required to run and operate the application. These software applications consist of the following (each an “Application”):

1. Smart Water Engine:
 - Portal
 - Domain Master Data
 - Iot Core
 - Device Management
2. Operational Intelligence:
 - Service Operations Center
3. Drinking Water Apps:
 - Leak Detection
 - Meter Data Analytics
 - Meter Asset Mgm
 - Unified Network Management
 - Unified Plant Management
 - Network Real-Time Decision Support
4. Wastewater Apps:
 - Real Time & What If Scenario
 - Clog Monitoring
 - SewerProtect
 - Unified Network Management
 - Sewer Tracker
 - Biological Monitoring
 - Unified Plant Management
5. Agriculture Apps:
 - AgroTwin
6. Cross Apps:
 - WorkOrders
 - Billing

EXHIBIT II: TECHNICAL SUPPORT

1. Description of the Service

The Technical Support Service aims to ensure that any incidents that users may encounter while using the solutions provided by Xylem are resolved as quickly as possible. The support and maintenance service are structured into two levels to ensure agility in the incident resolution process. These levels correspond to the different Specialist's teams:

- **Level 1 or Customer Service:** The team that is in contact with the users will register the ticket, in case it is not submitted through the ticketing tool. Additionally, they will perform an initial diagnosis, informing the user about the possible problem and the resolution timelines. This team is responsible for responding to customer inquiries within the agreed timeframe. In the case of incidents, they are responsible for detecting them, escalating them to the team responsible for resolving them.
- **Level 2/Level 3 or Specialist Teams:** These are specialized teams responsible for resolving problems reported by users, according to their area of expertise. This level is composed of different teams or areas that are involved in the development and implementation process of Go-Aigua Software: analysts, data scientists, product development, implementation, infrastructure administrators, deployment, DevOps, etc.

End users can refer to the provided manuals and other materials to address their queries. If they require additional support or encounter abnormal behaviour in the solution, they should report it to the key users of the client, if any.

Key users will analyse the need and respond based on their knowledge of the application. If they cannot resolve the query or if there is an incident (abnormal behaviour of the solution), they should escalate the query or incident through any established channels.

The Level 1 technician will analyse and diagnose the problem.

- If more information is required in the ticket, it will be requested from the key user who reported it through the ticketing tool. If the user needs to be informed through another available communication channel, communication will take place through that channel.
- Once the client has the necessary information, the Level 1 technician will either resolve the problem or escalate it to the specialist team.
- Once the ticket has been resolved by Xylem (both by L1 and L2/L3), they will validate the solution and inform the key user who raised the ticket through the ticketing tool.

The specialist team (L2/L3 teams) will analyse the escalated tickets and provide a solution.

Once the ticket is resolved, the Level 1 team will validate the solution and send the resolution to the user who reported the ticket.

2. Technical Support Organization

The organization chart is a service-oriented chart in which a multidisciplinary team of Level 1 technicians will be responsible for addressing user needs. The team has extensive training in both technical competencies and skills to manage customer relationships in any situation and to communicate information clearly and effectively to all users. The Level 1 technicians available in the Customer Service team have extensive training in technical and functional competencies, both in the ITIL methodology and in the implemented solutions. This team works under the supervision of the Support Area Manager, who will always maintain direct contact with the client to provide the required information.

3. Technical Support Process

The Maintenance and Support service includes all the necessary software and maintenance operations for the proper functioning of the IT infrastructure covered by the service to be provided. These tasks are grouped into:

- Operational Support
- Corrective Maintenance
- Evolutionary Maintenance
- Preventive Maintenance

The maintenance and operational support service does not include the following:

- Support for any element unrelated to the IT infrastructure covered by the service.
- Acquisition and purchase of hardware infrastructure elements.
- Acquisition and purchase of software licenses.
- Training services.
- Support services for operating system installations, installations, and configurations of third-party applications, operating system configurations, hardware configurations, network installations and configurations, equipment optimization, etc.

Operational Support

The support for the daily operation includes the resolution of queries or doubts made by the client regarding the operation of the software object of the service. The consultations should be specific, such as phone, Teams channel, email, or chat box – depends on the need of the client. The client will use the communication mechanisms established in the service to inform Xylem of the query.

Corrective Maintenance

Corrective maintenance includes the necessary activities to resolve incidents or anomalies and ensure the proper functioning of the GoAigua software.

Innovative Maintenance

Evolutionary maintenance includes the activities necessary to incorporate new functionalities or improvements in the GoAigua software. These activities involve the release of Updates or Upgrades of the System by Xylem to the client.

4. Communication Channels.

The end user will have access to the Customer Service Portal so that they can register and manage their support requests. Additionally, there are other communication channels with the client, such as phone, Teams channel, email, or chat box, depends on the need of the client. The client should preferably submit their request through the Customer Service Portal, providing as much information as possible to enable a quick diagnosis of their query or incident.

5. Service Location.

The Technical Support Services may be provided at the client's premises, or at the premises of any of its respective collaborating companies or suppliers, as necessary. However, this service will retain full autonomy and organization, without implying the existence of any dependency or inclusion within the scope of the client's organization and management.