



SUPPLY AGREEMENT NO. 983

Water Meters for Utilities Department

THIS **Water Meters for Utilities Department Supply Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Neptune Technology Group, Inc. ("Supplier"), effective for all purposes upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Supplier has bid to provide Water Meters for Utilities Department in response to Request for Bid No. **n/a** ("RFB"), which RFB includes the required scope of work and all specifications and which RFB and the Supplier's bid response are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Supplier agree as follows:

- 1. Scope.** Supplier will provide Water Meters for Utilities Department in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. "Goods," "products", and "supplies", as used in this Agreement, refer to and have the same meaning.
- 2. Term.** This Agreement is for 12 months. This Agreement includes an option to extend the term for up to one additional eight-month periods ("Option Period"), provided, the parties do so prior to expiration of the original term or the then-current Option Period. The decision to exercise the option to extend the term of this Agreement is, at all times, within the sole discretion of the City and is conditioned upon the prior written agreement of the Supplier and the City Manager.
- 3. Compensation and Payment.** The total value of this Agreement is not to exceed \$743,691.19, subject to approved extensions and changes. Payment will be made for goods delivered and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

- 4. Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Name: Bruce Short
Department: Utilities Maintenance of Lines
Phone: 361-826-1221
Email: BruceS@cctexas.com

- 5. Insurance.** Before performance can begin under this Agreement, the Supplier must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.
- 6. Purchase Release Order.** For multiple-release purchases of products to be provided by the Supplier over a period of time, the City will exercise its right to specify time, place and quantity of products to be delivered in the following manner: any City department or division may send to Supplier a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and products will remain with the Supplier until such time as the products are delivered and accepted by the City.
- 7. Inspection and Acceptance.** Any products that are delivered but not accepted by the City must be corrected or replaced immediately at no charge to the City. If immediate correction or replacement at no charge cannot be made by the Supplier, a replacement product may be bought by the City on the open market and any costs incurred, including additional costs over the item's bid price, must be paid by the Supplier within 30 days of receipt of City's invoice.
- 8. Warranty.** The Supplier warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Supplier

warrants that it has clear title to the products and that the products are free of liens or encumbrances. In addition, the products purchased under this Agreement shall be warranted by the Supplier or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.

- 9. Quality/Quantity Adjustments.** Any quantities indicated on the Bid/Pricing Schedule are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator
- 10. Non-Appropriation.** The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.
- 11. Independent Contractor.** Supplier will perform the work required by this Agreement as an independent contractor and will furnish such products in its own manner and method, and under no circumstances or conditions will any agent, servant or employee of the Supplier be considered an employee of the City.
- 12. Subcontractors.** Supplier may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Supplier must obtain prior written approval from the Contract Administrator if the subcontractors were not named at the time of bid. In using subcontractors, the Supplier is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Supplier. All requirements set forth as part of this Agreement, including the necessity of providing a COI in advance to the City, are applicable to all subcontractors and their employees to the same extent as if the Supplier and its employees had performed the work.

13. **Amendments.** This Agreement may be amended or modified only by written change order signed by both parties. Change orders may be used to modify quantities as deemed necessary by the City.
14. **Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
15. **Taxes.** The Supplier covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other related taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
16. **Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

IF TO CITY:

City of Corpus Christi
Attn: Bruce Short
Title: Work Coordinator
Address: 2726 Holly Road, Corpus Christi, Texas 78415
Fax: 361-826-1715

IF TO SUPPLIER:

Neptune Technology Group, Inc.
Attn: Rex Baxter
Title: Senior Territory Manager
Address: 1600 Alabama Highway 229
Tallasse, Alabama 36078
Fax: 334-283-7293

17. **SUPPLIER AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ON ACCOUNT OF PERSONAL INJURIES (INCLUDING DEATH AND WORKERS' COMPENSATION CLAIMS), PROPERTY LOSS OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS**

FEES WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF WHETHER THE INJURIES, DEATH OR DAMAGES ARE CAUSED OR ARE CLAIMED TO BE CAUSED BY THE CONCURRENT OR CONTRIBUTORY NEGLIGENCE OF INDEMNITEES, BUT NOT IF BY THE SOLE NEGLIGENCE OF INDEMNITEES UNMIXED WITH THE FAULT OF ANY OTHER PERSON. SUPPLIER MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF SUPPLIER UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

18. Termination.

(A) The City Manager may terminate this Agreement for Supplier's failure to perform the work specified in this Agreement or to keep any required insurance policies in force during the entire term of this Agreement. The Contract Administrator must give the Supplier written notice of the breach and set out a reasonable opportunity to cure. If the Supplier has not cured within the cure period, the City Manager may terminate this Agreement immediately thereafter.

(B) Alternatively, the City Manager may terminate this Agreement for convenience upon 30 days advance written notice to the Supplier. The City Manager may also terminate this Agreement upon 24 hours written notice to the Supplier for failure to pay or provide proof of payment of taxes as set out in this Agreement.

19. Assignment. No assignment of this Agreement by the Supplier, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Supplier is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.

- 20. Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.
- 21. Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:
- A. this Agreement and its attachments
 - B. the bid solicitation document, including addenda (Exhibit 1)
 - C. the Supplier's bid response (Exhibit 2)
- 22. Certificate of Interested Parties.** Supplier agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement.
- 23. Governing Law.** This Agreement is subject to all federal, State, and local laws, rules, and regulations. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
- 24. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

(SIGNATURE PAGE FOLLOWS)

SUPPLIER

Signature: *Rex Baxter*

Printed Name: Rex Baxter

Title: Senior Territory Manager

Date: 11/21/16

CITY OF CORPUS CHRISTI

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Attached and Incorporated by Reference:

- Attachment A: Scope of Work
- Attachment B: Bid/Pricing Schedule
- Attachment C: Insurance Requirements
- Attachment D: Warranty Requirements

Incorporated by Reference Only:

- Exhibit 1: RFB No. n/a
- Exhibit 2: Supplier's Bid Response

Attachment A: Scope of Work

Supply Water Meters and associated catalog parts as per HGACBUY Contract WM08-16.

Attachment B: Bid / Pricing Schedule

HGACBuy	CONTRACT PRICING WORKSHEET For Catalog & Price Sheet Type Purchases	Contract No.:	WM08-16	Date Prepared:	11/3/2016
This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents <u>MUST</u> be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.					
Buying Agency:	City of Corpus Christi, Texas	Contractor:	Neptune Technology Group, Inc.		
Contact Person:	Joanna Moreno	Prepared By:	Rex Baxter		
Phone:	361-826-1649	Phone:	281-794-4267		
Fax:		Fax:			
Email:	joannam@cctexas.com	Email:	rbaxter@neptunetg.com		
Catalog / Price Sheet Name:	Neptune PL-33 price sheet				
General Description of Product:	Water Meters (T-10's and HPT's)				
A. Catalog / Price Sheet Items being purchased - Itemize Below - Attach Additional Sheet If Necessary					
Quan	Description	Unit Pr	Total		
1000	ED2D21R7G8S358 3/4" t-10 METER	\$ 84.93	\$ 84,930.00		
250	ED2F21R7G8S358 1" t-10 METER	\$ 125.66	\$ 31,415.00		
100	ED2H11R7G8S358 1 1/2" t-10 METER	\$ 294.55	\$ 29,455.00		
125	ED2J11R7G8S358 2" t-10 METER	\$ 376.73	\$ 47,091.25		
100	ET4HR7G8S358 1 1/2" HPT	\$ 436.68	\$ 43,668.00		
125	ET4AR7G8S358 2" HPT	\$ 457.36	\$ 57,170.00		
100	ET4BR7G8S358 3" HPT	\$ 641.72	\$ 64,172.00		
50	ET4CR7G8S358 4" HPT	\$ 836.83	\$ 41,841.50		
20	ET4DR7G8S358 6" HPT	\$ 1,354.51	\$ 27,090.20		
10	ET4ER7G8S358 8" HPT	\$ 1,741.52	\$ 17,415.20		
5	ET4FR7G8S358 10" HPT	\$ 3,003.55	\$ 15,017.75		
500	R72G12S358 5/8" PRO-READ REGISTER	\$ 45.11	\$ 22,555.00		
1000	R72G22S358 3/4" PRO-READ REGISTER	\$ 45.11	\$ 45,110.00		
1000	R72G32S358 1" PRO-READ REGISTER	\$ 45.11	\$ 45,110.00		
500	R72G42S358 1 1/2" t-10 PRO-READ REGISTER	\$ 45.11	\$ 22,555.00		
500	R72G52S358 2" t-10 PRO-READ REGISTER	\$ 45.11	\$ 22,555.00		
500	R75G12S358 2" HPT PRO-READ REGISTER	\$ 45.11	\$ 22,555.00		
200	R75G22S358 3" HPT PRO-READ REGISTER	\$ 45.11	\$ 9,022.00		
100	R75G32S358 4" HPT PRO-READ REGISTER	\$ 45.11	\$ 4,511.00		
50	R75G52S358 6" HPT PRO-READ REGISTER	\$ 45.11	\$ 2,255.50		
50	R75G62S358 8" HPT PRO-READ REGISTER	\$ 45.11	\$ 2,255.50		
50	R75G02S358 10" HPT PRO-READ REGISTER	\$ 45.11	\$ 2,255.50		
3	EC3BR7G8S358 3" Compound	\$ 1,542.00	\$ 4,626.00		
3	EC3CR7G8S358 4" Compound	\$ 2,078.00	\$ 6,234.00		
3	EC3DR7G8S358 6" Compound	\$ 3,490.00	\$ 10,470.00		
5	53107-000 3" strainer	\$ 551.00	\$ 2,755.00		
5	53107-100 4" strainer	\$ 663.00	\$ 3,315.00		
4	51000-201 6" strainer	\$ 1,116.62	\$ 4,466.48		
3	52000-304 8" strainer	\$ 2,040.06	\$ 6,120.18		
3	52000-402 10" strainer	\$ 3,419.71	\$ 10,259.13		
10000	12482-002 Installation Kit	\$ 3.50	\$ 35,000.00		
2000	9601-001 Register Seal Pins	\$ 0.22	\$ 440.00		
Use Additional Sheet if all Option will not fit on this sheet. Include Total From Other Sheets, If Any:			Subtotal A:	\$743,691.19	
B. Unpublished Options, Accessory or Service items - Itemize Below - Attach Additional Sheet If Necessary (Note: Unpublished Items are any which were not submitted and priced in contractor's bid.)					
Quan	Description	Unit Pr	Total		
	Name of Unpublished Options (Items that were not include in bid submittal)			0	
				0	
				0	
				0	
Total From Other Sheets, If Any:			Subtotal B:	0	
Check: Total cost of Unpublished Options (B) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).			For this transaction the percentage is:		0%
C. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges					
Trade-In				0	
Freight				0	
Special Discount				0	
			Subtotal C:	0	
Delivery Date:	30 days ARO	D. Total Purchase Price (A+B+C):		\$743,691.19	

Attachment C: Insurance / Bond Requirements

No Insurance and Bond requirements are required for the supply agreement

Neptune T-10, HP Turbine, TRU/FLO® Compound Cold Water Meters Warranty



1. Terms of Limited Warranty.

With respect to its Neptune T-10, HP TURBINE, TRU/FLO® Compound Water Meters (collectively the “Water Meters”), Neptune Technology Group Inc. (“Neptune”) warrants the following on meters sold on or after 11/1/92:

The Water Meters will be, at the later of (i) the date of original purchase from Neptune or (ii) the date of original shipment from Neptune-authorized distributor of Water Meters (that later date is referred to as “the Date of Shipment”) and will remain for a period of eighteen (18) months from the Date of Shipment, or twelve (12) months from date of installation, whichever comes first, free from manufacturing defects in workmanship and material.

- (a) Maincase.** The no-lead high copper alloy or Brass maincase of the Water Meters will be at the Date of Shipment free from manufacturing defects in workmanship and material for the life of the Water Meter.
- (b) Frost Protection.** All Neptune T-10 Cold Water Meters shipped with a synthetic polymer or cast iron bottom cap will, commencing upon the Date of Shipment, be warranted against chamber damage for a period of ten (10) years.
- (c) Registers.** Standard, roll sealed registers of the Water Meters will be at the Date of Shipment, and shall remain for the following periods, free from manufacturing defects in workmanship and material for a period of ten (10) years. The ARB®, ProRead™ (ARB VI), and E-Coder® (ARB VII) system registers are warranted for ten (10) years from Date of Shipment. All ProRead encoder receptacles shipped after January 1, 2001 shall be warranted for five years from the Date of Shipment. All other components and parts are covered under Neptune’s standard one-year material and workmanship guarantee.
- (d) Meter Accuracy for Neptune T-10.** Neptune T-10 Meters and Neptune T-10 nutating disc chambers in TRU/FLO Compound Water Meters are warranted to meet or exceed, as listed herein, accuracy standards of the AWWA Standard C700-95 for a period of: (i) five (5) years from Date of Shipment for 5/8”, 3/4” and 1” meters; (ii) for a period of two (2) years from the Date of Shipment for 1 1/2” and 2” meters; or (iii) the applicable registration shown below, whichever occurs first. Neptune further guarantees that the Neptune T-10 and Neptune T-10 nutating disc chambers in TRU/FLO Compound Water Meters will perform to at least Repaired Meter Accuracy Standards, according to AWWA Manual M-6 Chapter 5 (1999) Table 5.3 for an additional ten (10) years or the registration shown below, whichever occurs first.
- (e) Meter Accuracy for HP Turbine and TRU/FLO.** The HP Turbine and TRU/FLO Compound Cold Water Meters will perform, for a period of one (1) year from the Date of Shipment, to American Water Works Association (“AWWA”) accuracy standards for new water meters.

SIZE	EXTENDED LOW FLOW ACCURACY	NEW METER ACCURACY	REPAIRED METER ACCURACY
5/8" & 3/4" x 3/4"	1/8 US gpm @ 95% 5 years or 500,000 gallons	500,000 gallons	1,500,000 gallons
3/4"	1/4 US gpm @ 95% 5 years or 750,000 gallons	750,000 gallons	2,250,000 gallons
1"	3/8 US gpm @ 95% 5 years or 1,000,000 gallons	1,000,000 gallons	3,000,000 gallons
1 1/2"	3/4 US gpm @ 95% 2 years or 1,600,000 gallons	1,600,000 gallons	5,000,000 gallons
2"	1 US gpm @ 95% 2 years or 2,700,000 gallons	2,700,000 gallons	8,000,000 gallons

W METER 09.11



2. Warranty Return.

If a Neptune Water Meter fails an accuracy test during an applicable warranty period, it may be returned to Neptune for repair or replacement at Neptune's option. An accuracy test shall be conducted by the customer according to AWWA standards. Any meter being returned for repair to Neptune under this performance guarantee must be returned with a copy of the customer's test results. If the meter is returned to Neptune without a copy of the test results or if Neptune's factory test shows the meter to meet current AWWA standards, the customer will be charged a nominal testing fee by Neptune in such cases. Neptune will repair or replace the meter at Neptune's option after the meter has been tested by Neptune. Meters repaired or replaced under the performance guarantee will be guaranteed to perform to AWWA repaired meter accuracy standards.

3. Warranties are exclusive.

The warranties set forth in this certificate of warranty are in lieu of any other warranty, guarantee, or representation, whether expressed or implied, including without limitation, the warranty of merchantability and the warranty of fitness for a particular purpose.

4. Damages limited to costs of replacement and repair.

If the Water Meter fails to meet the warranties set forth in Paragraph 1 of this Certificate of Warranty, Neptune, at its option shall, without charge of labor or materials, repair or replace the Water Meter or part thereof, provided that (a) the Water Meter is delivered to a Neptune representative, (b) the Water Meter is accompanied by a Return Material Authorization (RMA), and (c) all costs of delivery to Neptune are assumed by the purchaser of the Water Meter. Neptune's liability is limited to its costs of replacement and repair of the defective water meter. Damages resulting from miscalculation of water usage or lost revenue or profit are not recoverable from Neptune. It is the responsibility of the customer to periodically verify the operation and accuracy of its meters.

5. Warranties are inapplicable under certain conditions.

The warranties set forth in this Certificate of Warranty do not apply to any Water Meter that has been damaged by, or subjected to, conditions which, in the opinion of Neptune, have affected the Water Meter's ability of performance, including but not limited to: misuse; improper handling, application or installation; excessive operating conditions; foreign materials in the water; aggressive water conditions; tampering or unauthorized repairs or modifications; accidental or intentional damage; acts of God. This Certificate of Warranty shall not apply if product is placed in non-recommended installation, is connected or altered by other than Neptune recommended procedures, is used with other than genuine Neptune meter registers and components, or read by equipment not approved or licensed by Neptune. Neptune makes no claims concerning operability and/or compatibility or third party reading systems. In addition, this Certificate of Warranty shall not apply if third party reading equipment is believed to have caused damage to the meter or register. In order to determine its liability, if any, under this Certificate of Warranty, Neptune shall have the right to inspect any Water Meter or part thereof that is claimed to be defective at Neptune or other location designated by Neptune.

NEPTUNE'S LIABILITY WITH RESPECT TO BREACHES OF THE FOREGOING LIMITED WARRANTY SHALL BE LIMITED AS STATED HEREIN. NEPTUNE'S LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE. NEPTUNE SHALL NOT BE SUBJECT TO AND DISCLAIMS THE FOLLOWING: (1) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY (2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY NEPTUNE, OR ANY UNDERTAKINGS, ACT OR OMISSIONS RELATING THERETO, AND (3) ALL CONSEQUENTIAL, INCIDENTAL, SPECIAL, MULTIPLE, EXEMPLARY, AND PUNITIVE DAMAGES WHATSOEVER.

ProRead™/E-Coder® Encoder Warranty Statement



Products Covered

This warranty shall apply to both the ProRead Absolute Encoder and E-Coder Solid State Absolute Encoder Registers, hereinafter referred to as "Product," sold by Neptune Technology Group Inc. The warranty is extended only to utilities, municipalities, other commercial users, and authorized distributors, hereinafter referred to as "Customer," and does NOT apply to consumers.

Materials and workmanship

Neptune Technology Group Inc. ("Neptune") warrants that the product shall be free from defects in manufacture and design for a period of ten (10) years from the date of shipment (such period being the "Warranty Period") when installed, serviced and operated according to Neptune's instructions. Neptune shall not be responsible for any defects in the product (whether due to design, materials, manufacture, or otherwise) which manifest themselves after the expiration of the Warranty Period. Neptune will repair or replace a non-performing product free of charge for ten (10) years.

Warranties are inapplicable under certain conditions

This warranty does not include field replacement labor or materials costs, which are the responsibility of the Customer. This warranty does not apply if product is placed in non-recommended installations; may have been repaired with parts not recommended by Neptune; is converted, altered or connected by other than Neptune recommended procedures; is used with other than genuine Neptune components or read by equipment not approved or licensed by Neptune; or damaged due to improper care or maintenance, or improper periodic testing (please refer to Encoder quick install guide). This warranty does not apply to any Product that has been damaged by, or subjected to, conditions which, in the opinion of Neptune, have affected the Product's ability of performance, including but not limited to: misuse; improper handling; application or installation; excessive operating conditions; tampering or unauthorized repairs and modifications; accidental or intentional damage; or acts of God. In no event shall Neptune be liable for special, incidental, indirect or consequential damages, including, without limitation, lost revenue.

THE ABOVE WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY NEPTUNE WITH RESPECT TO THE PRODUCT. ALL OTHER WARRANTIES, CONDITIONS, TERMS, REPRESENTATIONS, OR OTHER LEGALLY OPERATIVE PROVISIONS CONCERNING THE PRODUCT ARE HEREBY EXPRESSLY EXCLUDED. INCLUDING WITHOUT LIMITATION, ANY WARRANTY, CONDITION, TERM, AND REPRESENTATION OR OTHER LEGALLY OPERATIVE PROVISION AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS PARAGRAPH IS EXPRESSLY INTENDED TO EXCLUDE FROM THIS CONTRACT ALL STATUTORY AND COMMON LAW WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY LAW. TO AVOID ANY AMBIGUITY OR MISUNDERSTANDING, ALL PROBLEMS ARISING WITH THE PRODUCT AFTER THIS POINT ARE CUSTOMER'S RESPONSIBILITY. NEPTUNE'S LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE. NEPTUNE SHALL NOT BE SUBJECT TO AND DISCLAIMS THE FOLLOWING: (1) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY; (2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY NEPTUNE, OR ANY UNDERTAKINGS, ACTS, OR OMISSIONS RELATING THERETO; AND (3) ALL CONSEQUENTIAL, INCIDENTAL, SPECIAL, MULTIPLE, EXEMPLARY, AND PUNITIVE DAMAGES WHATSOEVER.



Encoder Compatibility Guarantee



Automatic Reading and Billing (ARB®) System (ARB V, ProRead™, and E-Coder®)

With the purchase of the ARB encoder metering system, Neptune will provide the assurance that the ARB System purchased today can be expanded from reading with Neptune handheld devices to reading with Neptune mobile products and fixed network systems.

GUARANTEE OF COMPATIBILITY

The Pocket ProReader RF, Advantage Probe, R900®, E-Coder)R900i™, DAP handhelds (PC9300, 9800 & CE5320B) and Neptune mobile systems are designed and built by Neptune. This guarantees the utility compatibility between these systems and the ARB encoder registers.

For Probed Reads: When reading ARB encoders with the Pocket ProReader RF, Advantage Probe, or DAP handhelds (PC9300, 9800 and CE5320B), Neptune guarantees that the meter reading obtained will match the mechanical odometer reading, or Neptune will pay the difference at the rate currently in force.

For RF Reads: When reading ARB encoders connected to an R900 where the R900 reads a ProRead or ARB V encoder hourly, or in the case of E-Coder where the R900 reads the E-Coder every 15 minutes, Neptune guarantees the encoder reading and the remote reading will match upon manual activation of the R900 with a magnet to force an immediate read and transmission. In the event of the E-Coder)R900i where the R900 transmission is updated every 15 minutes, Neptune will guarantee the encoder reading and remote reading to match upon this update. If the electronic reading on the handheld device is less than the odometer reading, Neptune will pay the difference at the rate currently in force.

Damage Guarantee

The Pocket ProReader RF, Advantage Probe, R900, E-Coder)R900i, DAP handhelds (PC9300 & 9800, CE5320B) and Neptune mobile systems are warranted against causing damage to any ARB encoder register during interrogation. If it is found that the Pocket ProReader RF, Advantage Probe, R900, DAP handhelds (PC9300 & 9800, CE5320B) or Neptune mobile systems caused damage to an ARB encoder register during interrogation, Neptune will either repair or replace the register at no charge to the utility.

If there are any questions concerning this Meter & Reading Information Systems Guarantee, please write to: Manager of Consumer Relations, Neptune Technology Group Inc., 1600 Alabama Hwy. 229, Tallahassee, Alabama 36078.

If a Neptune water meter fails an accuracy test during an applicable warranty period, it may be returned to Neptune for repair or replacement at Neptune's option. An accuracy test shall be conducted by the customer according to AWWA standards. If foreign material causes the meter not to perform appropriately, all such materials shall be removed prior to the customer conducting the test. Any meter being returned for repair to Neptune under this performance guarantee must be returned with a copy of the customer's test results. If the meter is returned to Neptune without a copy of the test results or if Neptune's factory test shows the meter to meet current AWWA standards, the customer will be charged a nominal testing fee by Neptune in such cases. Neptune will repair or replace the meter at Neptune's option after the meter has been tested by Neptune. Meters repaired or replaced under the performance guarantee will be guaranteed to perform to AWWA repaired meter accuracy standards. This guarantee is void if components have not been maintained or installed according to Neptune installation and maintenance guidelines, or are otherwise damaged or defective. The accuracy guarantee will not apply where a properly formatted electronic meter reading cannot be obtained on six digit encoders. The last digit will be displayed only as a zero (0) or five (5) when read remotely. As part of the encoder technology, the electronic reading from the R900 is guaranteed to match the reading on the encoder register upon manual activation of the R900 with a magnet to force an immediate read and transmission (one per hour). System damage as a result of vandalism or acts of God are not covered. Additional warranties may also apply to individual system components. Neptune's liability with respect to breaches of the foregoing warranty shall be limited as stated herein. Neptune's liability shall in no event exceed the purchase price. Neptune shall not be subject to and disclaims the following: (1) any other obligations or liabilities arising out of breach of contract or of warranty; (2) any obligations whatsoever arising from tort claims (including negligence and strict liability) or arising under other theories of law with respect to products sold or services rendered by Neptune, or any undertakings, acts, or omissions relating thereto; and (3) all consequential, incidental, special, multiple, exemplary, and punitive damages whatsoever.

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