



## SUPPLY AGREEMENT NO. 2111

### Water and Gas Meter Transmission Units

THIS **Water and Gas Meter Transmission Units Supply Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Aclara Technologies LLC ("Supplier"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Supplier has bid to provide Water and Gas Meter Transmission Units in response to Request for Bid No. SS 2111 ("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 and Gas Meter Transmission Units 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 24 months. The parties may mutually extend the term of this Agreement for up to zero additional zero-month periods ("Option Period(s)"), provided, the parties do so in writing and prior to the expiration of the original term or the then-current Option Period. The City's extension authorization must be executed by the City Manager or designee.
- 3. Compensation and Payment.** This Agreement is for an amount not to exceed \$3,359,358.02, 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. Any amount not expended during the initial term or any option period may, at the City's discretion, be allocated for use in the next option period.

Invoices will be mailed to the following address with a copy provided to the Contract Administrator:

City of Corpus Christi  
Attn: Accounts Payable  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

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: Joanna Moreno  
Department: Utilities Department  
Phone: (361) 826-1649  
Email:joannm@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.** City may inspect all products supplied before 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.**

(A) 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.

(B) 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 30<sup>th</sup> 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 unless the subcontractors were named in the bid or in an attachment to this Agreement. 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 in writing executed by authorized representatives of both parties.
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 applicable 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: Joanna Moreno  
Title: Contract Administrator  
Address: 2726 Holly Road, Corpus Christi, Texas 78415  
Phone: (361) 826-1649  
Fax: (361) 826-1715

**IF TO SUPPLIER:**

Aclara Technologies LLC  
Attn: Samuel Wright, J.D.  
Title: Contracts Administrator II  
Address: 77 West Port Plaza, Suite 500, St. Louis, MO 63146  
Phone: (314) 895-8425  
Fax: (314) 895-7373

17. ***SUPPLIER SHALL FULLY 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 WHATEVER NATURE, CHARACTER, OR DESCRIPTION ON ACCOUNT OF PERSONAL INJURIES, 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 A BREACH OF THIS AGREEMENT OR THE PERFORMANCE OF THIS***

**AGREEMENT BY THE SUPPLIER OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE SUPPLIER OR ITS EMPLOYEES OR AGENTS. 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 OR RESULTING 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 (excluding attachments and exhibits);
  - B. its attachments;
  - C. the bid solicitation document including any addenda (Exhibit 1); then,
  - D. 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 if required by said statute.
- 23. Verification Regarding Israel.** In accordance with Chapter 2270, Texas Government Code, the City may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this Agreement on behalf of the Supplier verifies that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.
- 24. 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.
- 25. 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: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

## **CITY OF CORPUS CHRISTI**

\_\_\_\_\_  
Kim Baker  
Assistant Director of Finance – Purchasing Division

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. 2111

Exhibit 2: Supplier's Bid Response

## **Attachment A – Scope of Work**

### **General Requirements**

- A.** The Supplier shall supply Water and Gas Meter Transmission Units for the Utilities Department per Attachment B – Bid/Pricing Schedule.
- B.** The Supplier is responsible for all shipping charges.
- C.** The Supplier shall ship items ordered to:

City of Corpus Christi  
Utilities-Water Department  
2726 Holly Rd. Building 8-A  
Corpus Christi, TX 78415



## Attachment B – Bid /Price Schedule

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	PRICE TOTAL
1	Series 3000 Water MTU – Single Port – Extended Range Encoder, 12' Wire	8,000	EA	97.00	776,000.00
2	Series 3000 Water MTU – Single Port – Extended Range Encoder, 3' Nicor Connector Cable	4,000	EA	98.00	392,000.00
3	Series 3000 Water MTU – Dual Port – Extended Range Encoder, 12' Wire	1	EA	125.00	125.00
4	Series 3000 Water MTU – Dual Port – Extended Range Encoder, 3' Nicor Connector Cable	1	EA	125.00	125.00
5	Series 3000 Water MTU – Single Port – Extended Range – Pit Lid Antenna Encoder, 12' Wire (antenna sold separately)	1	EA	100.00	100.00
6	Series 3000 Water MTU – Single Port – Extended Range – Pit Lid Antenna Encoder, 3' Nicor Connector Cable (antenna sold separately)	1	EA	100.00	100.00
7	Series 3000 Water MTU – Dual Port – Extended Range – Pit Lid Antenna-Encoder, 12' Wire (antenna sold separately)	1	EA	125.00	125.00
8	Series Water MTU – Dual Port – Extended Range – Pit Lid Antenna Encoder, 3' Nicor Connector Cable (antenna sold separately)	1	EA	125.00	125.00
9	Series 3000 Water MTU – Single Port – Extended Range Encoder, 12' Wire	1	EA	97.00	97.00
10	Series 3000 Water MTU – Single Port – Extended Range_3' Nicor Connector Cable	1	EA	98.00	98.00
11	Series 3000 Water MTU – Single Port – Extended Range – Pit Lid Antenna Encoder, 12' Wire, Pit Lid Antenna Capable (antenna sold separately)	1	EA	100.00	100.00
12	Series 3000 Water MTU – Single Port – Extended Range – Pit Lid Antenna Encoder, 3' Nicor Connector Cable, Pit Lid Antenna Capable (antenna sold separately)	1	EA	100.00	100.00
13	Series 3000 Water MTU – Dual Port – Extended Range Encoder, 12' Wire	1	EA	125.00	125.00
14	Series 3000 Gas MTU – Direct Munt_Sensus/Rockwell (11 Tooth) Style	3,000	EA	70.00	210,000.00

15	Series 3000 Gas MTU – Direct Mount – Extended Range_Sensus/Rockwell (11 Tooth) Style	5	EA	70.00	350.00
16	Series 3000 Gas MTU – Direct Mount_Itron/Sprague Style	100	EA	70.00	7,000.00
17	Series 3000 Gas MTU – Direct Mount – Extended Range American Style	5	EA	70.00	350.00
18	Series 3000 Gas MTU – Commercial American Style	200	EA	70.00	14,000.00
19	Series 3000 Gas MTU – Pulse Input – Extended Range Single Port	100	EA	70.00	7,000.00
20	Series 3000 Gas MTU – Direct Mount American Style	3,000	EA	70.00	210,000.00
21	MTU,2WAY, ENCDR,2P, EXT, NICR,3FT	1	EA	125.00	125.00
22	Series 3000 Gas MTU – Direct Mount_Sensus/Rockwell (18 Tooth) Style	5	EA	70.00	350.00
23	Series 3000 Water MTU – On demand: Single Port, Encoder, 12' wire-extended range	1	EA	95.00	95.00
24	Series 3000 Water MTU – On demand: Single Port, Encoder, 3' Nicor connector – extended range	1	EA	96.00	96.00
25	Series 3000 Water MTU – On demand: Dual Port, Encoder, 3' Nicor connector -extended range	1	EA	125.00	125.00
26	Series 3000 Water MTU – On demand: Single Port, Encoder, Pit Lid antenna, 12' wire-extended range (antenna sold separately)	1	EA	100.00	100.00
27	Series 3000 Water MTU – On demand: Single Port, Encoder, Pit Lid antenna, 3' Nicor connector – extended range (antenna sold separately)	1	EA	100.00	100.00
28	Series 3000 Water MTU – On demand: Dual Port, Encoder, Pit Lid antenna, 12' wire-extended range (antenna sold separately)	1	EA	125.00	125.00
29	Series 3000 Water MTU – On demand: Dual Port, Encoder, Pit Lid antenna, 3' Nicor connector-extended range (antenna sold separately)	1	EA	100.00	100.00
30	DCU – Water/Gas-Only-Solar_DCU-II, 2-Way, Solar, Verizon LTE, T-Board	1	EA	6,000.00	6,000.00
31	Series 3000 Pit Lid Antenna Pit Lid Antenna Assembly (MTU sold separately)	1	EA	25.00	25.00
32	Water MTU Mounting Kits Bracket, Wall Mount, Water MTU	1	EA	6.00	6.00
33	Water MTU Mounting Kits Long Spacer for Pit Installs, Water MTU	1	EA	0.00	0.00

34	Water MTY Mounting Kits Short Spacer for Pit Installs, Water MTU	1	EA	0.00	0.00
35	Water MTY Mounting Kits Horizontal Flange Hardware Kit, Water MTU	1	EA	20.00	20.00
36	Water MTU Mounting Kits-Angled Flange Hardware Kit, Water MTU	1	EA	20.00	20.00
37	Water MTU Mounting Kits Tab Mounting Hardware Kit, Water MTU	1	EA	7.00	7.00
38	Water MTU Mounting Kits Vertical Flange Hardware Kit, Water MTU	1	EA	18.00	18.00
39	MTU Programmers_Aclara USB Field Programmer Kit	30	EA	300.00	9,000.00
40	MTU Programmers_ToughPad	1	EA	4,443.00	4,443.00
41	MTU Programmers Clip, Hanger, USB FPP	1	EA	20.00	20.00
42	DCU – Accessories Solar Panel, 65W (Replacement)	1	EA	550.00	550.00
43	DCU – Mounting Kits/Antenna Mounting Kit, Round Pole, AC	1	EA	280.00	280.00
44	DCU – Mounting Kits/Antenna Mounting Kit, Round Pole, Solar	1	EA	420.00	420.00
45	DCU – Accessories Battery (Replacement)	1	EA	375.00	375.00
46	Solar Pwr Cable Kit, 20'	1	EA	70.00	70.00
47	100' Low loss antenna cable	1	EA	1,148.00	1,148.00
48	12' Low loss antenna cable	1	EA	66.60	66.60
49	20' Low loss antenna cable	1	EA	90.70	90.70
50	50' Low Loss N-M to N-M	1	EA	180.80	180.80
51	DCU Renewal Packages (Includes Labor, Replacement Battery, Preventative Maintenance, and 1 Year Extended Warranty) _DCU Renewal Advanced – Verizon LTE & T-board	1	EA	4,030.00	4,030.00
52	MTU Programmers_Aclara USB Field Programmer kit	30	EA	288.75	8,662.50

53	Aclara Wireless Network 100MB Annual Plan – Water	1	EA	288.00	288.00
	<b>TOTAL</b>				\$1,654,856.60

1 <sup>st</sup> year	\$1,654,856.60
2 <sup>nd</sup> year	<u>\$1,654,856.60</u> (plus 3% increase of \$49,645.70)
Total	\$3,359,358.02

“Quoted items are subject to availability and may be substituted for like or equal parts upon approval by the City.”

## Attachment C – Insurance Requirements

### I. CONTRACTOR'S LIABILITY INSURANCE

1. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
2. Contractor must furnish to the City's Risk Manager and Contract Administrator one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **endorsement** is required on all applicable policies. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-day advance written notice of cancellation, non-renewal, material change, or termination required on all certificates and policies.	<b>Bodily Injury and Property Damage</b> Per occurrence - aggregate
COMMERCIAL GENERAL LIABILITY including:  1. Commercial Broad Form 2. Premises – Operations 3. Products/Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$1,000,000 Aggregate

3. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

### ADDITIONAL REQUIREMENTS

1. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department

of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Contractor is not domiciled in the State of Texas.

2. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
3. Contractor shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi  
Attn: Risk Manager  
P.O. Box 9277  
Corpus Christi, TX 78469-9277

4. **Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
  - List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;
  - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
  - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
  - Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- 5.. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in

coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

6. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
7. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
8. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
9. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

2019 Insurance Requirements

Utilities

Supply Service for Water Meter Transmission Units- MTU's

01/15/2019 sw Risk Management

## **Attachment C – Bond Requirements**

No bond requirements necessary for this supply agreement; Section 5. (B) is null for this supply agreement.



## Attachment D- Warranty Requirements

Aclara Warranties  
Adara Technologies LLC

### Aclara Warranties

- STAR® MTU Warranty
- STAR® Utility DCU Warranty

The information contained herein is proprietary and confidential to Aclara Technologies LLC and shall not be released or disclosed to any third party without prior written approval.

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## STAR® MTU Warranty

### Basic Warranty

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

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

### Extended Warranty

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

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

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

All costs associated with the removal and/or reinstallation of a defective STAR® Utility MTU shall

The information contained herein is proprietary and confidential to Aclara Technologies LLC and shall not be released or disclosed to any third party without prior written approval.

**Aclara Warranties**  
**Aclara Technologies LLC**

be the responsibility of the PURCHASER. Aclara Technologies LLC warrants MTUs replaced pursuant to the Extended Warranty for ten (10) years (in accordance with the terms of the Basic Warranty) from the date the replacement is returned to the PURCHASER. Aclara Technologies LLC reserves the right to supply factory refurbished equipment, new equipment, or a newer model that provides equivalent or better performance.

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

Aclara Technologies LLC makes no warranty whatsoever with respect to the minimum communication distance or reliability of the radio propagation path of STAR® Utility MTUs.

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

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

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

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

The information contained herein is proprietary and confidential to Aclara Technologies LLC and shall not be released or disclosed to any third party without prior written approval.

## STAR® Utility DCU Warranty

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

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

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

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

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

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

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

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

THE LIABILITY OF ACLARA TECHNOLOGIES LLC SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF ANY DEFECTIVE PRODUCT. IN NO EVENT SHALL ACLARA

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**Aclara Warranties**  
**Aclara Technologies LLC**

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

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

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