

**WATER SERVICE AGREEMENT****Water One® Digital Solutions Service**

This agreement ("Agreement") is entered into and is effective as of \_\_\_\_\_ between Evoqua Water Technologies LLC, (hereinafter "Seller") and \_\_\_\_\_ (hereinafter "Buyer").

**RECITALS**

Buyer wishes and Seller agrees to design, install, and service for Buyer SDI equipment with Remote Monitoring and Leak Detection Equipment (the "Equipment"). Services shall be provided at Buyer's facilities located at \_\_\_\_\_.

**NOW THEREFORE**, in exchange for mutual promises and good valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **Term** Upon notice by Seller to Buyer that the Equipment is operational, the parties agree that such event shall constitute the ("Commencement Date"). The initial term of this Agreement shall commence upon its execution and shall continue thereafter for a period of **XXX** years following the occurrence of the Commencement Date (the "Initial Term"). Upon the expiration of the Initial Term of this Agreement, this Agreement shall continue for additional one year periods ("Renewal Term") unless terminated by either party giving written notice to the other party no later than sixty days before the end of the Initial Term or the Renewal Term, as the case may be.
2. **Cancellation** In the event Seller cancels this Agreement as a result of Buyer's uncured material default or in the event Buyer for any reason, except for a material uncured default by Seller, cancels this Agreement prior to the expiration of the initial Term, Buyer shall pay to Seller the compensation set forth in Exhibit **B** times the remaining number of months in the Initial Term. In the event of any cancellation, Buyer shall permit Seller to remove its Equipment from the Site as provided for in this Agreement. Upon any expiration or cancellation of the Agreement, Seller shall have sixty (60) days from the date of such expiration or cancellation to remove the Equipment from the Site. Seller shall have reasonable access to the Site to permit such removal. Seller will not be responsible for restoration of the Site to its original condition. Buyer shall be responsible for de-installation costs.
3. **Seller's Obligations**
  - a) The Equipment shall be completed, installed and operational on or before **XXX** but in no event sooner than **Two (2)** weeks from the acceptance of this Agreement by Seller, excluding any time required for Buyer to complete its installation activities (if applicable).
  - b) The Equipment shall be fully maintained by Seller except with regard to the cost of repairs or replacement of equipment damaged due to the acts or omissions of Buyer, its agents, independent contractors, or employees, which shall be Buyer's responsibility. If Seller believes some excursion may damage the Equipment, Seller shall have the right to shut down the Equipment.
  - c) The Equipment shall be operated and/or serviced by Seller in accordance with Seller's documentation (the "Services") provided, however, the Buyer shall be responsible for all costs incurred by Seller and resulting from the acts or omissions of Buyer, its agents, independent contractors, or employees.
  - d) Seller will be expected to take daily readings and maintain a log via Remote Monitoring. Should the equipment alarm or should the readings go outside the range provided, the seller will immediately notify the Buyer.
4. **Buyer's Obligations** Buyer shall, at its own cost throughout the Term and any Renewal Term, provide the following items and/or utilities so as to allow Seller to fulfill its obligations under this Agreement:

- a) A cleared and level location with a foundation suitable for the Equipment (floor or wall mount) taking into account the weight of various Equipment components. Seller shall have access to the Site as necessary for Seller to maintain and operate the Equipment. Conduits as appropriate for distribution of the water going into the Equipment and water leaving the Equipment, including but not limited to, an Electrical source.
- b) Feed water to the Equipment that conforms to the specifications set forth in Exhibit A.
- c) Obtain in writing all consents, licenses and permits required for Seller to operate the Equipment at the Site.
- d) Utilities as necessary to facilitate the collection of Equipment performance measurements, including but not limited to, cellular technology.
- e) Water containment including processes and methods remain the responsibility of Buyer
- f) Buyer is solely responsible for defending the validation protocols to the FDA and/or any other regulatory agency. However, if specified herein, the Seller may participate in the validation support documentation.
- g) Buyer must provide all security measures reasonably needed to protect the Equipment.
- h) If Buyer, for any reason, requests Seller to relocate the Equipment to another Site on Buyer's real property, Buyer shall bear all costs in connection with said relocation including any additional service costs incurred by Seller.

**5. Compensation** The compensation for Seller's provision of water purification services under this Agreement is set forth in Exhibit B hereto.

- a) The Equipment configuration, including the number and size of tanks and the associated cost of the Equipment is based upon the Equipment receiving Feedwater conforming to the Specification set forth in Exhibit A at the Commencement of this Agreement. In the event Buyer fails to provide feed water to the system that conforms to specifications in Exhibit A, Seller may raise the price of the Equipment and the associated services as necessary.
- b) The compensation for Seller's provision of water purification services under this Agreement is set forth in Exhibit B hereto.
- c) Buyer's payment obligation for the Base Monthly Charge (as such term is referenced in Exhibit B) shall not be negated by any failure of Seller to provide Water when caused by Buyer's delay or failure in fulfilling its obligations under the Agreement.
- d) All payments are due within 30 days of receipt of invoice. Customer shall be charged the lower of 1.5% interest per month or the maximum legal rate on all amounts not received by the due date and shall pay Seller's reasonable costs (including attorney's fees) of collecting amounts due but unpaid.

**6. Title and Defense of the Equipment**

- a) While the Equipment is located at the Site, Buyer shall take no action which is inconsistent with Seller's ownership of, and title to, the Equipment and shall take no action which would cause title to the Equipment to be encumbered by levies, liens, security interests or other encumbrances. Buyer will execute all documents and public filings as Seller may reasonably request to evidence Seller's ownership interest. Buyer authorizes Seller or its agent to sign on behalf of Buyer any UCC (Uniform Commercial Code) documents necessary to affirm Seller's ownership of the Equipment. Seller's additional equipment other

than the SDI equipment with Remote Monitoring and Leak Detection Equipment is set forth in Water Exhibit C.

- b) Buyer shall use all reasonable precautions to prevent persons other than Buyer's authorized employees or Seller's employees or agents from entering the Site. Buyer shall be liable for damage to the Equipment while located at the Site, unless said damage or loss is caused by the negligent acts or omissions of Seller or its employees or agents.
- c) All components, couplings, pipe, tubing, fittings, valves and other devices used to connect the Equipment to Buyer's feed water and processed water connection, including those provided by Seller, are owned and are the responsibility of Buyer.

## 7. Warranty

- a) Subject to the following sentence, Seller warrants to Buyer that the (i) Service shall be free from defects in material and workmanship and (ii) the Services shall be performed in a timely and workmanlike manner. The Seller warrants the Service, or any components thereof, ninety (90) days from the performance of services (the "Warranty Period"). If Buyer gives Seller prompt written notice of breach of this warranty within the Warranty Period, Seller shall, at its sole option and as Buyer's sole and exclusive remedy, repair or replace the subject parts, re-perform the Service or refund the purchase price. Unless otherwise agreed to in writing by Seller, (i) Buyer shall be responsible for any labor required to gain access to the Equipment so that Seller can assess the available remedies and (ii) Buyer shall be responsible for all costs of installation of repaired or replaced Equipment. If Seller determines that any claimed breach is not, in fact, covered by this warranty, Buyer shall pay Seller its then customary charges for any repair or replacement made by Seller. Seller's warranty is conditioned on Buyer's (a) not making any unauthorized repairs or alterations, and (b) not being in default of any payment obligation to Seller. Seller's warranty does not cover (i) damage caused by chemical action or abrasive material, misuse or improper installation (unless installed by Seller) and (ii) media goods (such as, but not limited to, resin, membranes, or granular activated carbon media) once media goods are installed.
- b) Final determination of the suitability of the Water for any use contemplated by the Buyer is the sole responsibility of Buyer, and Seller shall have no responsibility in connection therewith. Buyer shall have sole responsibility for determining the quality and quantity specifications for water discharged from the Equipment and the suitability of such water for Buyer's applications.
- c) THE WARRANTIES SET FORTH IN THIS SECTION ARE THE SELLER'S SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO THE LIMITATION OF LIABILITY PROVISION BELOW. SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PURPOSE OR USE INTENDED.

8. Indemnity Each Party, as the indemnifying party, agrees to indemnify, defend and hold the other party harmless from any claim, cause of action or liability incurred by indemnifying party as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by the indemnifying party's negligence. The indemnifying party shall have the sole authority to direct the defense of and settle any indemnified claim. Seller's indemnification is conditioned on Buyer (a) promptly, within the Warranty Period, notifying Seller of any claim, and (b) providing reasonable cooperation in the defense of any claim.

9. **Default** A default under this Agreement shall be deemed to have occurred when one of the parties has materially breached a provision of the Agreement and, such party having first received written notice setting forth the nature of the alleged breach, has not cured said breach within thirty (30) days after notification thereof. In the event of a material uncured breach of the Agreement by one party, the aggrieved party shall, subject to other provisions of this Agreement, have the right to immediately cancel the Agreement and the Equipment shall be removed pursuant to Article 15. The aggrieved party shall, subject to the terms of this Agreement, also be entitled to any other remedies which may be available to it in equity, as a result of the breaching party's breach of the Agreement.
10. **Force Majeure** Neither Buyer nor Seller shall have any liability for any breach nor delay (except for breach of payment obligations) caused by a Force Majeure Event. If a Force Majeure Event exceeds six (6) months in duration, the Seller shall have the right to terminate the Agreement without liability, upon fifteen (15) days written notice to Buyer, and shall be entitled to payment for work performed prior to the date of termination. "**Force Majeure Event**" shall mean events or circumstances that are beyond the affected party's control and could not reasonably have been easily avoided or overcome by the affected party and are not substantially attributable to the other party. Force Majeure Event may include, but is not limited to, the following circumstances or events: war, act of foreign enemies, terrorism, riot, strike, or lockout by persons other than by Seller or its sub-suppliers, natural catastrophes or (with respect to on-site work), unusual weather conditions.
11. **Equipment Removal** Upon any expiration or cancellation of the Agreement, Seller shall have sixty (60) days from the date of such expiration or cancellation to remove the Equipment from the Site. Seller shall have reasonable access to the Site to permit such removal. Seller will not be responsible for restoration of the Site to its original condition.
12. **Governing Law/Attorney Fees** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws provisions. Both Buyer and Seller reject the applicability of the United Nations Convention on Contracts for the international sales of goods to the relationship between the parties and to all transactions arising from said relationship.
13. **Limitation of Liability** NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND SELLER'S TOTAL LIABILITY ARISING AT ANY TIME FROM THE SALE OR USE OF THE WORK, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR ALL WARRANTY CLAIMS OR FOR ANY BREACH OR FAILURE TO PERFORM ANY OBLIGATION UNDER THE CONTRACT, SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE WORK. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.
14. **Partial Invalidity** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way. Notwithstanding the preceding sentence, if the absence of the eliminated provision is contrary to the original intention of the parties, Seller shall have the right to terminate this Agreement and remove the Equipment from the Site, with each party to bear its own costs as a result of such termination.
15. **Assignment** This Agreement or any obligation or right under this Agreement may not be assigned or delegated by Buyer or Seller without the written consent of the other party, such consent not to be unreasonably withheld.
- Notwithstanding the above, Seller may, without prior written notice to, and without the consent of Buyer assign any of its rights or delegate any of its duties under this Agreement if such assignment or delegation is to: (a) an affiliate of Supplier, (b) a successor of Supplier, by consolidation, merger or operation of law, (c) a purchaser of all or substantially all of Supplier's assets, or (d) to a bank, trust company, or other financing institution.
16. **Notices** Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses shown in the Preamble of this Agreement, but each party may change its address by written

notice in accordance with this Article. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three (3) days after mailing.

**17. General Terms** This Agreement shall not be binding upon Seller until it is accepted by a duly authorized representative of Seller. The provisions of this Agreement constitute the entire Agreement between Seller and Buyer relating to the matters covered by this Agreement and supersede any and all agreements, either oral or in writing between the parties hereto. No modifications or waivers of any provision herein shall be binding upon Seller unless set forth in a subsequent written agreement signed by Seller. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which are not embodied herein.

*ACCEPTANCE:*

Purchase Order No.	Tax Exempt No.
Date:	Date:
<i>EVOQUA REPRESENTATIVE</i>	<i>CUSTOMER</i>
By:	By:
Authorized Signature	Customer
Title:	Title: