

WIRELESS MONITORING SERVICES AGREEMENT

This Agreement ("Agreement") supplements your purchase order(s) and other contract(s) for the provision of goods and services by Metropolitan Industries, Inc., an Illinois corporation (together with its affiliates, predecessors, successors and assigns, "MII"). For purposes hereof, you, the customer, are referred to herein as "Customer".

BACKGROUND

A. Customer may now or hereafter have contracted for the provision of goods and/or services from MII, which may include machine-to-machine wireless data transmission, a web-based information portal and other automated wireless monitoring services embedded in equipment sold by MII to Customer (collectively, "Monitoring Services").

B. This Agreement sets forth certain terms and conditions upon which Monitoring Services are furnished by MII; it being understood and agreed that MII would not agree to furnish Monitoring Services but for the terms and conditions set forth herein.

SUPPLEMENTAL TERMS AND CONDITIONS

1. **Nature of Services.** Unless and until either Customer or MII shall have elected to terminate this Agreement, MII shall furnish, and Customer shall receive, Monitoring Services as are described on **Exhibit A** attached hereto, as the same may be modified from MII from time to time. Customer shall use the Monitoring Services only for the purposes for which the same have been designed and designated by MII from time to time, and shall not suffer or permit any modification thereto (including, without limitation, any modification to any SIM card, modem or other device) or any other person or entity to use the Monitoring Services. Without limiting the generality of the foregoing, Customer shall not suffer or permit the use of the Monitoring Services (a) for any medical monitoring or other medical-related use, (b) after any termination of this Agreement or any Monitoring Services, (c) for 911 or other emergency communications, (d) by any assignee, donee or other person or entity without the prior written approval of MII, or (e) any other use or purpose that would subject MII to any violation of law or any other legal requirement.

2. **Term.** THE INITIAL TERM OF THIS AGREEMENT SHALL BE ONE (1) YEAR FROM THE DATE OF MII'S ACCEPTANCE OF THIS ADDENDUM (AS SET FORTH ON ITS SIGNATURE PAGE HERETO), AND SHALL AUTOMATICALLY RENEW ON AN ANNUAL BASIS THEREAFTER; PROVIDED, HOWEVER, THAT EITHER PARTY MAY TERMINATE MONITORING SERVICES UPON THE DELIVERY OF NOT LESS THAN FIFTEEN (15) DAYS' NOTICE OF CANCELLATION TO THE OTHER PARTY. Any such notice of cancellation shall be given in the manner described in **Section 8** below. Upon any termination hereof, Customer shall immediately cease using the Monitoring Services and shall, within ten (10) days after MII's written request therefor, return all property furnished by, or belonging to, MII.

3. **Monitoring Service Fees.** Customer hereby agrees to pay fees for Monitoring Services in such amounts as are described on **Exhibit B** attached hereto. MII shall have the right, exercisable from time to time but not more frequently than annually, to modify the rates charged to Customer for Monitoring Services, upon not less than thirty (30) days' prior written notice thereof to Customer. All such fees shall be due and owing within **thirty (30)** days following MII's delivery of an invoice or other statement thereof. MII reserves the right to charge, upon demand therefor, interest on delinquent sums owing hereunder at a rate equal to one and one-half percent (1.5%) per month or any lesser maximum rate permitted under applicable law. If Customer fails to timely pay sums owing under this Agreement, MII may (a) suspend or terminate Monitoring Services, (b) charge Customer MII's reasonable attorneys' fees and other costs of collection and/or (c) exercise any other right or remedy available to it. Annual fees for any period of less than a full year will be equitably prorated by MII on a per day basis.

4. **Waiver of Damages.** If Customer is ever dissatisfied with any Monitoring Services (including, without limitation, on account of any failure of service or any actual or alleged breach or other default by MII), then Customer may, as Customer's sole and exclusive right and remedy, discontinue obtaining Monitoring Services from MII. Customer agrees that MII's furnishes Monitoring Services as an accommodation to Customer and that MII would not furnish such services absent the waivers and other limitations set forth in this Agreement. Customer hereby forever waives, and agrees not to seek or pursue, any damages on account of or otherwise relating to any Monitoring Services, including, without limitation, any direct, indirect, consequential, incidental, special or punitive damages. Although the foregoing waiver is intended to be legally binding and enforceable in accordance with its terms, if a court of competent jurisdiction shall finally determine that such waiver is not legally binding or enforceable, then Customer agrees that any damages or other recourse to which Customer may be entitled shall be limited to the aggregate amount of fees and other charges paid by Customer to MII pursuant to **Section 2** above.

5. **Disclaimers and Releases of Other Obligations.**

(a) MII MAKES NO WARRANTY WHATSOEVER, EITHER DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MONITORING SERVICE, INCLUDING ANY (i) WARRANTY OF MERCHANTABILITY (ii) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (iii) WARRANTY AGAINST ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, OR (iv) WARRANTY OF SUITABILITY, DURABILITY, RELIABILITY, QUALITY, NON-INTERFERENCE OR PERFORMANCE. CUSTOMER ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY MII OR ANY OTHER PERSON ON MII'S BEHALF.

(b) Without limiting the generality of the foregoing, Customer hereby:

(i) represents that (aa) Customer is US-based, utilizes the Monitoring Services only in the US and is not an individual or entity appearing on the Department of Treasury's Office of Foreign Assets Control's Specially Designated Nationals list, any other "blocked," embargoed, sanctioned or specially regulated individual or entity as designated by any governmental or quasi-governmental entity, and (bb) this Agreement is binding upon and enforceable against Customer in accordance with its terms;

(ii) acknowledges that Monitoring Services may be subject to interruption, delay and other technical problems from time to time due to a variety of factors, including, without limitation, cellular network deficiencies, utility outages, adverse weather, labor disputes, computer viruses and other difficulties, and human error and other mistakes; and Customer agrees that MII and the other Releasees shall have no liability to Customer on account of any of the foregoing;

(iii) agrees to be solely responsible for obtaining from third parties, and to implement, such back-up Monitoring Services as Customer determines are necessary and appropriate;

(iv) agrees that it has no contractual relationship whatsoever with any underlying wireless service provider or its affiliates or contractors on account of this Agreement or services provided hereunder and that Customer is not a third party beneficiary of any agreement between Customer and the underlying carrier. In addition, Customer acknowledges and agrees that the underlying carrier and its affiliates and contractors shall have no legal, equitable, or other liability of any kind to Customer and Customer hereby waives any and all claims or demands therefor;

(v) agrees that it is not a customer of wireless communications services, and does not acquire or own any SIM card, telephone number, intellectual property or other property right in connection with the Monitoring Services;

(vi) agrees that MII has no duty to store any data or other information or materials on behalf of Customer, and that MII may collect, use and dispose of all such data, information and materials as MII deems appropriate;

(vii) agrees that any failure by MII to perform any Monitoring Services shall be excused by, among other things, any force majeure events;

(viii) waives, releases and renounces all warranties, obligations, guarantees and liabilities of MII and its parents, subsidiaries, affiliates, predecessors, successors and assigns, and each of their respective directors, officers, employees, shareholders, representatives and agents (collectively "Releasees"), and all other rights, claims and remedies of Customer against any of the Releasees, whether express or implied by contract, tort or statutory law or otherwise, which may arise or be alleged to arise in any way from the provision of any Monitoring Service; and

(ix) agrees to not commence or institute against any of the Releasees any legal actions, including litigation, arbitration or any other legal proceedings of any kind whatsoever, in law or equity, or assert any claim, demand, action or cause of action, which may arise or be alleged to arise in any way from the use and/or possession of any Monitoring Service, regardless of the identity of the user and/or possessor.

6. **Indemnification.** Customer shall indemnify, defend and hold harmless each of the Releasees against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of any kind, including attorneys' fees, whether or not arising from the negligence of such indemnified parties, asserted against any of them by any third party (including assignees, users or possessors of any Monitoring Service) which may arise or be alleged to arise in any way from Customer's procurement, use or modification of any Monitoring Service.

7. **Insurance/Waiver of Subrogation.** Customer shall procure and maintain, at Customer's cost, such insurance coverages, including, without limitation, property damage, liability and business interruption insurance, as Customer deems necessary or appropriate relative to the Monitoring Services and all equipment and other property related thereto, containing waivers of subrogation rights against MII consistent with the provisions of this Agreement.

8. **Taxes and Compliance with Laws.** In addition, Customer shall be responsible for, and timely pay, any and all taxes, assessments and similar charges of any governmental or quasi-governmental bodies imposed on the Monitoring Services, whenever arising, and irrespective of whether any statute, ordinance or other law imposes such obligation upon MII. Customer shall comply with all federal, state and local laws, ordinances, rules, regulations, orders and other legal requirements applicable to the Monitoring Services, including, without limitation, (a) all rules, regulations and orders of the Federal Communications Commission, (b) all privacy and security requirements, (c) all homeland security, OFAC, anti-money laundering, anti-terrorism and similar laws and regulations, and (d) all laws concerning governmental contracts, if applicable. Customer shall, if so requested by MII, deliver such certificates and other evidence of compliance as may be reasonably requested by MII from time to time.

9. **Notices.** All notices given under this Agreement shall be in writing and giving by US mail, e-mail, facsimile, overnight courier or hand delivery to the following addresses:

If to MII:	Metropolitan Industries, Inc. 37 Forestwood Drive Romeoville, IL 60446 Phone Number: 815-886-9200 E-Mail Address: sales@metropolitanind.com
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If to Customer: Town of Munster, IN
Attn: Stephen Guntz, Dir. Of PW
508 Fisher Street
Munster, IN 46321
(219) 836-6975

In addition, any notice from MII to Customer shall also be deemed effective if delivered to any address which Customer utilizes for billing purposes. Each party reserves the right to change its address for notice purposes upon the delivery of not less than thirty (30) days' notice thereof to the other party. Each notice given in the manner specified herein shall be deemed effective upon delivery or attempted delivery if delivery is refused.

10. **Dispute Resolution and Mandatory Arbitration.** If a dispute arises under this Agreement, the parties shall meet within 30 days after notice of such dispute is given to attempt to resolve the matter in good faith. Thereafter, the parties agree to arbitrate any dispute arising out of this Agreement. Any such dispute shall be finally resolved by arbitration in accordance with the International Institute for Conflict Prevention and Resolution ("CPR") Rules for Non-Administered Arbitration (the "Rules") by a sole arbitrator appointed by agreement of the Contractor and Subcontractor within thirty (30) days of the date of the Notice of the Demand or, upon failure of the Contractor and Subcontractor to reach agreement on such appointment, appointed by CPR in accordance with the Rules on failure to appoint an arbitrator. No arbitration between the parties may proceed on a class basis or be consolidated with any other arbitration without the written consent of all parties. If the prohibition on class arbitrations set forth above is deemed unenforceable, then neither party shall be required to arbitrate. Any award shall be accompanied by a written opinion of the arbitrator giving the reasons for the award and shall be binding upon the parties with no right of appeal. If for any reason the provisions of this Agreement requiring arbitration are declared unenforceable, void, or voidable, or if any action or judicial proceeding is permitted, each party waives any right it may have to trial by jury.

11. **Integration.** This Agreement supplements any purchase order(s) and/or other contract(s) between MII and Customer. Except as may be expressly supplemented and modified hereby, all of the terms and conditions of such purchase order(s) and/or other contract(s) remain in full force and effect. In the event of any conflict or inconsistency between the provisions of this Agreement and any other agreement between the parties, the provisions of this Agreement shall govern and control.

12. **Miscellaneous.** The parties are independent contractors. There are no understandings, agreements or warranties, either verbal or written, relating to Monitoring Services that are not fully expressed herein and no change in the terms hereof may be made except by a writing signed by both parties. No statement, recommendation or assistance made or offered by MII through its representatives to Customer or your representatives in connection with the use of any product sold by MII shall be or constitute a waiver by MII of any of the provisions hereof or change Customer's rights or liability as herein provided. Each party represents and warrants to the other that: (a) it is in good standing under the laws of the state of its incorporation or formation; (b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary company action to the extent applicable; and (c) the person signing this Agreement on its behalf is duly authorized to bind it to this Agreement. The parties acknowledge and agree that this Agreement includes any attachments hereto. This Agreement was accepted in Romeoville, Illinois and shall be governed and construed in accordance with the laws of the State of Illinois, subject to the provisions of **Section 10** above. The provisions of this Agreement (other than as require the provision of on-going Monitoring Services) shall survive the expiration or any sooner termination of this Agreement. This Agreement may be executed in multiple counterparts. Signatures hereon sent by electronic means shall constitute binding original signatures.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date of MII's acceptance hereof.

CUSTOMER:

Town of Munster, IN

By: _____
Name: _____
Title: _____

MII:

METROPOLITAN INDUSTRIES, INC.,
an Illinois corporation

By: _____
Name: _____
Title: _____
Date of Acceptance: _____

EXHIBIT A

MetroCloud Remotely Hosted SCADA Monitoring System

Additional Stations:

Verizon –Cellular to Cloud – West Lake Lift Station

Verizon –Cellular to Cloud – 45th Street Lift Station

Existing Stations for the following:

Ethernet to Cloud – Riverbend Pump Station Primary

Verizon –Cellular to Cloud – Riverbend Pump Station Back-up

Verizon –Cellular to Cloud – Calumet Pump Station

Verizon –Cellular to Cloud – Fisher Street Elevated Tank

Verizon –Cellular to Cloud – Ridge Road Elevated Tank

Verizon –Cellular to Cloud – Superior Elevated Tank

EXHIBIT B

Additional Stations:

Verizon –Cellular to Cloud – West Lake Lift Station/\$45 per month

Verizon –Cellular to Cloud – 45th Street Lift Station/\$45 per month

Existing Stations:

Ethernet to Cloud – Riverbend Pump Station Primary / \$25 per month

Verizon –Cellular to Cloud – Riverbend Pump Station Back-up / \$45 per month

Verizon –Cellular to Cloud – Calumet Pump Station / \$45 per month

Verizon –Cellular to Cloud – Fisher Street Elevated Tank / \$45 per month

Verizon –Cellular to Cloud – Ridge Road Elevated Tank / \$45 per month

Verizon –Cellular to Cloud – Superior Elevated Tank / \$45 per month

Overage charge of \$0.03 / MB or \$30 / GB