

 			
Prepared By:	Prepared For:	Proposal:	
MARS Company	City of Columbus ("Customer")	Quote:	110923COC
Attn: Jim Hendricks	Attn: Todd Pulsifer	Contract Price:	\$154,940
3925 SW 13th Street	3568 Indianola Ave.	Proposal Date:	11/09/2023
Ocala Florida 34474	Columbus, OH 43214	Proposal Expires:	12/08/2023
(352) 843-0532	(614) 645-7825	Term:	One (1) year

Equipment, Software, and Services Renewal Contract

WHEREAS

The Equipment, Software and Services Contract ("Contract") and its Schedules are made pursuant to the terms of the MARS Warranty, General Terms and Conditions between Customer and OW Investors, LLC. Dba MARS Company of 3925 SW 13th St., Ocala, Florida (the "MARS").

The Customer accepts the offer on the terms and conditions specified in this Contract.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

I. Price Summary:

Please refer to Schedule 1 for details.

II. Equipment, Software and Services List:

Equipment list: Please refer to Schedule 2 for details.

Software and Services List: Please refer to Schedule 3 for details.

III. Non-Standard Terms and Conditions

Please refer to Schedule 5 for details.

IV. Validity of Agreement

This Contract shall commence on the date of final execution "Effective Date" and shall be in force for the Term.

V. List of Schedules

Schedule 1 - Price Summary

Schedule 2 - Equipment List & Asset Warranty & Ownership

Schedule 3 - Software and Services List

Schedule 4 - Statement of Work

Schedule 5 - Non-Standard Terms and Conditions

Schedule 6 - MARS Warranty, General Terms and Conditions

THE MODIFICATION(S) IN SCHEDULE 5 SUPERSEDE AND HAVE CONTROL OVER THE MARS Warranty, General Terms and Conditions.

IN WITNESS WHEREOF the Parties have caused this Agreement to be duly executed.

For and on Behalf of MARS Company:

For and on Behalf of City of Columbus

Name: David B. Corey

Title: CEO

Date:

Name:

Title:

Date:

Schedule 1 - Price Summary

City of Columbus Proposal

		CY 2023 ¹³			
		Qty	Model Number	Annual Fee	One-Time Fee ⁹
Equipment	MARS Advanced Gravimetric Scale & Control System ➤ Advanced Gravimetric Scale & Control Console ➤ Series 2410 Test Bench System	1	91-00003-23		\$73,957
	Sub-Total				\$73,957
Equipment	MARS Ultra-Low Flow Option (< 1/4 GPM) for Series 2410 Test Bench System, includes: ➤ 10 Gal. Stainless Steel Calibrated Test Tank with High Resolution Scale ➤ MARS Patented C715-18 Compliant Carrier Bars & Adapters ➤ Additional Rotometer, Needle Valve, & Bench Discharge	1	91-02411-23		\$20,690
	Sub-Total				\$20,690
Installation & Training	Installation Assistance & Training with Certified MARS Personnel - Hardware	1	51-02412-23		\$15,321
	Sub-Total				\$15,321
Project Mgmt.	Project Management Fees	1	96-00000-03		\$7,379
	Sub-Total				\$7,379
Freight	Freight, Handling and Crating Fees	1	997080WH		\$3,083
	Sub-Total				\$3,083
Software	MARS M3 Enterprise Software Suite ➤ Series 2410 Test Bench System Tier II Annual M3 Software License Fee ^{10,14,15} ➤ MARS M3 Enterprise Meter Management Advanced Software Modules -listed below (includes 1st Year Annual Software License Fee) as defined in the Proposal ➤ Core Module ➤ Connectivity Module ➤ Advanced Reporting Module ➤ Advanced Scale & Control Module	1	71-14201-23		\$49,997
	Sub-Total				\$49,997
Installation & Training	Installation Assistance & Training with Certified MARS Personnel - Software	1	61-64201-23		\$9,523
	Sub-Total				\$9,523
Sub Grand Total				\$49,997	\$129,953
Grand Total				\$179,950	
Current M3 Legacy License Discount Amount				(\$1,190)	
M3 Tier II Discount Amount				(\$23,820)	
New Equipment & Services					\$120,430
M3 Enterprise Annual Software Maintenance & Support				\$24,987	\$9,523
Grand Total (Including Any Applicable Discounts)				\$154,940	
Total Discounts Included				\$25,010	
Discount %				14%	

Notes:

- 3- All Discounts are year to year and require customer to be actively engaged in respective discount category.
- 4- All M3 Upgrade and MCC must be coordinated with MARS and pricing is valid for 30 days from the date of this proposal.
- 5- MARS General Terms and Conditions apply to this proposal. All pricing is in US Dollars (USD).
- 9- One-Time Fee Includes T&E, installation labor, and training.
- 10- Includes ONLY First Year of the Annual Software License Fee; all current M3 Software Licenses need to be 1) active and 2) all outstanding balances need to be current, if applicable.
- 11- The pricing does NOT include any compliance to seismic requirements, bonding fees, taxes, duties, or tariffs, if applicable.
- 12- Pricing does not include permits or other applicable fees. MARS Company is not responsible for permits.
- 14- Tiered Pricing Maximum Limit = 2500 meters in aggregate (sum of all benches) per 12 months.
- 15- Annual M3 Software License Type: On-premise Subscription Term License.
- 16- M3 Software and/or MCC Multi-Year Subscription Renewal Discount: 2% discount on std annual subscription renewal with a 5-year contract; 4% discount when prepaid. A separate discount is available for MCC only. If a 5-year MCC contract is signed within 90 days of respective equipment acceptance; equal to an additional 2% MCC discount (5-year multi-year annual pay agreement) or 1% MCC discount (5-year multi-year prepaid agreement)

Schedule 2 - Equipment List & Asset Warranty & Ownership

Equipment List:

Equipment Provided:

- Provide one (1) MARS Advanced Gravimetric Scale & Control System for the Series 2410 Test Bench System, includes:
 - Advanced Gravimetric Scale and Control System with Electronics Console
- Provide one (1) MARS Ultra-Low Flow Option (<1/4 GPM) for the Series 2410 Test Bench System, includes:
 - 10 Gal. Stainless Steel Calibrated Tank and High Resolution Deck Scale
 - MARS Patented C715-18 Compliant Carrier Bars and Adapters
 - Additional Rotometer, Needle Valve, and Bench Discharge

Asset Warranty and Ownership:

Asset Warranty and Ownership			
Asset Description	Warranty Term	Annual Subscription	Ownership
Test Bench Equipment ⁵	12 Months	NA	Customer ¹
Printer ²			
Ipad ³			
Cables & Misc Adapters			
M3 Server (HW & SW & OS)	NA	Covered	MARS
Test Bench Local PC			
Mobile Test System Laptop ⁴			
Router ³			

Notes:

1 - Ownership is conveyed per T&Cs

2 - Consumables including Ink, Paper, etc is Customer responsibility at all times

3 - Included only with optional Connectivity Module

4 - Included only with Mobile Test System

5 - Includes Test Bench hardware, Advanced Scale and Control System (Console and Unitronics Scale hardware)

Schedule 3 - Software and Services List



M3 Enterprise Software & Test Bench Hardware Subscription 2023 Product Configuration		License ¹ & Maintenance Fees	Install & Configuration Services ²
GRAND TOTAL ALL SYSTEMS		# of Systems = 1 Annual	One-Time ²
Grand Total After All Discounts		\$ 24,987	\$ 9,523

Small or Medium Test Bench or Truck Tester System		Tiered Pricing Limit = 2500 Meters per 12 Months	
M3 Enterprise Software ³		Model Number(s): 71-14201-23	
➤ Core Software Application and Platform Architecture		\$	11,904
➤ Advanced Connectivity Module		\$	11,904
➤ Custom Test, Reporting, and Export Module		\$	11,904
➤ Advanced Scale and Control Module		\$	11,904
Sub-Total		\$	47,616
M3 Enterprise Hardware			
➤ Server and Database Software		\$	2,381
Install SW/HW; Onsite Training; System Configuration/Data Migration (Total 15 Hours) ²		Included	\$ 9,523.00
Sub-Total		\$ 49,997	\$ 9,523
Total License + Advanced Maintenance per System		\$ 49,997	\$ 9,523
Current M3 Legacy License Discount Amount		\$ (1,190)	\$ -
M3 Tier II Discount Amount		\$ (23,820)	\$ -
Total (per System) After All Discounts		\$ 24,987	\$ 9,523
Total Number of Systems =		1	
		Annual	One-Time
Grand Total Price (\$/M/T)		\$ 24,987	\$ 9,523

Notes

¹Software License Subscription billed annually in advance and (requires minimum 12 month term(s)) unless specified and agreed upon in writing.

²Install pricing for TYPICAL configuration; Additional config & data migration services / hours billed separately.

³Annual M3 Software subscription based upon Tiered usage pricing; and in accordance with MARS Warranty, Standard Terms and Conditions ("Terms").

⁴Initial pricing is based upon a tiered, usage-based license agreement, actual price will vary in accordance with actual aggregate meter test bench usage over a 12-month period.

Legend

- Bold Text - Req'd for min. configuration
- Italics - optional configuration

In accordance with this contract agreement, MARS Company will provide City of Columbus with the following:

- Provide annual subscription renewal for M3 Enterprise Advanced Software Suite* (Tier II) with the Following Modules for the Series 2410 Test Bench System:
 - Core Module
 - Connectivity Module
 - Advanced Reporting Module
 - Advanced Scale Module.

- Software License and Maintenance Fees for One (1) Year
- Train the Operators and Provide Certification Documents

*Includes 1 Year of M3 Annual Subscription License only

Schedule 4 - Statement of Work

SOW Description	MARS Responsibility	Customer Responsibility
STATEMENT OF WORK FOR PROJECT:		
MARS Project Lead Name: Jim Hendricks		
Project Manager Name: Connor Hogberg		
Customer Name: City of Columbus		
FACILITY PREPARATION		
Equipment Delivery and Placement		
Move Equipment from Delivery truck to project site		<input checked="" type="checkbox"/>
Clear Path from Entry Door to Work Zone		<input checked="" type="checkbox"/>
MARS to direct the opening of the crates to determine the components required for the project and the location.	<input checked="" type="checkbox"/>	
Uncrate All Equipment & Rough Placement	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Utilizing Customer Resources (Fork truck/Lifts/Jacks) to place the equipment into position.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
INSTALLATION AT PROJECT SITE		
Equipment Installation		
Install Ultra-Low Flow Option for Series 2410 Test Bench System	<input checked="" type="checkbox"/>	
Install Recirc 10 Gal. Stainless Steel Calibrated Test Tank With High Resolution Scale	<input checked="" type="checkbox"/>	
Install MARS Patented C715-18 Compliant Carrier Bars & Adapters	<input checked="" type="checkbox"/>	
Additional Rotometer, Needle Valve, & Bench Discharge	<input checked="" type="checkbox"/>	
Submit Punch List Document - Issue Management	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Final Electrical and Plumbing Equipment Connection	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Verification of Equipment Connection and Final Equipment Installation	<input checked="" type="checkbox"/>	
CUSTOMER STARTUP & TRAINING		
System Startup /Troubleshooting/Leak Tests	<input checked="" type="checkbox"/>	
Operator Training		
Perform Equipment and Software Training	<input checked="" type="checkbox"/>	
Administer Operator Certification Test	<input checked="" type="checkbox"/>	
Submit Operator Names for Certifications	<input checked="" type="checkbox"/>	
EQUIPMENT AND SOFTWARE ACCEPTANCE		
Final Customer Acceptance-Docusign		<input checked="" type="checkbox"/>
MARS to Send Final Invoice to Customer (24 hours or Less after Completed DocuSign)	<input checked="" type="checkbox"/>	
PROJECT CLOSEOUT AND WARRANTY SUPPORT		
Send Hard Copy/Digital O&M Manuals	<input checked="" type="checkbox"/>	
Send Warranty Start / Stop Document	<input checked="" type="checkbox"/>	
Licence Terms/Start Stop Renewal/Warranty	<input checked="" type="checkbox"/>	
MARS Final Project Closeout Document Package Completion	<input checked="" type="checkbox"/>	
Completion Of Customer Training And Startup	<input checked="" type="checkbox"/>	

Schedule 5 - Non-Standard Terms and Conditions

Non-Standard Terms & Conditions:

NONE

Schedule 6 - MARS Warranty, General Terms and Conditions



MARS COMPANY
WARRANTY, GENERAL TERMS AND CONDITIONS

1) **General.** These terms and conditions (these "**Terms**"), the Equipment, Software and Services Contract (the "**Contract**") and its Schedules, the M3 Enterprise Software End User License Agreement (the "**EULA**"), MARS Calibration Certification - General Conditions of Service and Maintenance Agreement (the "**MCC**"), any proposal from MARS Company received by Purchaser (the "**Proposal**"), any purchase order and any change orders attached and incorporated hereto, (collectively, this "**Agreement**") are the only terms that govern Equipment and Services sold or provided by MARS Company and comprise the entire agreement between the parties regarding the Equipment and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. "**MARS On-Premise Equipment**" means computer, software and related equipment including but not limited to (i) computer servers and server operating system software, (ii) test bench computers and operating system software, and (iii) routers, and (iv) mobile test bench laptop computers and operating system software that are owned by MARS and provided to the Licensee (defined hereafter) to use during the M3 Software subscription or usage term. "**Equipment**" means the hardware, parts, iPads, cables, printers, and accessories, excluding MARS On-Premise Equipment, sold under the purchase order accompanying these Terms. "**Software**" means the M3 enterprise software, including any updates, upgrades, versions, enhancements, and/or any new features (collectively, the "Software" and together with the Equipment and the MARS On-Premise Equipment, the "**MARS Test Bench Solution**"). "**Purchaser**" means the entity buying the Equipment or Software pursuant to the Contract or purchase order accompanying these Terms. "**Licensee**" means the entity identified on the Contract by and between these parties. "**Services**" means all labor, supervisory, technical and engineering, installation, repair, consulting or other services provided by MARS Company related to the Equipment. PURCHASER WILL BE DEEMED TO HAVE ACCEPTED THESE TERMS UNLESS MARS COMPANY RECEIVES WRITTEN NOTICE OF ANY OBJECTION WITHIN THREE (3) BUSINESS DAYS AFTER PURCHASER'S RECEIPT. THESE TERMS ARE SUBJECT TO CHANGE WITHOUT NOTICE.

2) **Delivery of Equipment and Performance of Services.**

- a) All Equipment to fulfill MARS' obligations under this Agreement is delivered F.O.B. to destination designated by Purchaser. The date on which the Equipment (which may include pre-loaded Software) is delivered to Purchaser is the "**Delivery Date**."
- b) If the scheduled Delivery Date is delayed by Purchaser or by a force majeure event, MARS Company may move the Equipment to a temporary storage location approved by the Purchaser for the account of and at the risk of Purchaser whereupon it shall be deemed to be delivered, the date of such deemed delivery shall be the Delivery Date, and payment for the delivered Equipment and Software shall be due in accordance with Section 5(b). All expenses for the temporary storage transportation, storage fees, redelivery fees, etc. shall be the sole responsibility of Purchaser and payable to MARS Company together with payment for Equipment and Software in accordance with Section 5(b).
- c) Shipping and delivery times are contingent upon Purchaser's timely approvals and delivery by Purchaser of any documentation required for MARS Company's performance hereunder.
- d) Claims for shortages or other errors in delivery must be made in writing to MARS Company within ten (10) days of the Delivery Date. Claims for damage caused by delivery shall be made directly by Purchaser with the common carrier.
- e) Except as expressly set forth herein, Purchaser may not return any goods without MARS's written consent. All returns are subject to a restocking fee/handling charge of 25%, which may change from time to time. Contact MARS to determine the exact amount. If the goods are specially ordered by the Purchaser, they cannot be returned to MARS, MARS shall have no obligation to accept the return of the goods, and Purchaser shall remain liable for the entire purchase price of the goods.
- f) MARS Company shall provide, and Purchaser shall pay for MARS Company's performance of, the Services described in one or more statements of work executed by MARS Company and any person listed as Purchaser's authorized representative in writing by Purchaser. With respect to the Services, Purchaser shall (i) cooperate with MARS Company in all matters relating to the Services and provide such reasonable access to Purchaser's premises, and such office accommodation and other facilities as may reasonably be requested by MARS Company, for the purposes of performing the Services; (ii) respond promptly to any MARS Company request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for MARS Company to perform Services in accordance with the requirements of this Agreement; (iii) provide such materials or information as MARS Company may reasonably request to perform the Services in a timely manner; and (iv) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start.

3) **Purchase Order and Acceptance.**

- a) Purchaser shall be deemed to irrevocably accept these Terms, and MARS Company's furnishing of Equipment, Software and Services in accordance with these Terms, upon the earlier to occur of the following: (i) Purchaser's issuance of a purchase order; (ii) Purchaser's non-rejection of Equipment, Software or Services on the earliest Delivery Date; or (iii) Purchaser's payment for Equipment, Software or Services, in whole or in part.

4) **Purchase Price and Service and Software Fees.**

- a) The purchase price of the Equipment and the hourly rates for Services are set forth in the Contract. Unless otherwise agreed by the parties in writing, all Proposals expire thirty (30) days from the date thereof.
- b) Unless otherwise stated in a statement of work, the hourly rates set forth in the Contract is based on Services performed during normal business hours (8 a.m. to 5 p.m. Monday through Friday). Any Services performed on: (i) a business day outside of normal business hours or on a Saturday will be billed at one and one-half (1 1/2) times the hourly rate; (ii) Sunday will be billed at two (2) times the hourly rate; and (iii) a federal holiday, including any falling on a Saturday or Sunday, will be billed at three (3) times the hourly rate. If a Services rate sheet is attached hereto, the applicable Services rates shall be those set forth in the rate sheet. Service rates are subject to change without notice.
- c) The purchase price of the Equipment does not include any federal, state or local property, license, permits, privilege, sales, use, excise, gross receipts, manufacturer's tax, occupation tax, transfer tax, privilege tax, excise tax, duty, custom, tariff, inspection or testing fee, or any other tax, fee, interest or charge of any nature whatsoever, whether international, national, state, or local, however designated, which is levied or imposed by any governmental authority, on or measured by the transaction between MARS Company and Purchaser, shall be paid by Purchaser in addition to the prices quoted or invoiced, or in lieu thereof the Purchaser shall supply MARS Company with an appropriate tax exemption certificate. In the event MARS Company is required to pay any such tax, fee, interest or charge, Purchaser shall reimburse MARS Company therefore. If Purchaser is exempt from the payment of any tax or holds a direct payment permit, Purchaser shall, upon submitting a purchase order, provide MARS Company a copy, acceptable to the relevant governmental authorities of any such certificate or permit.

- d) Services fees, including but not limited to MARS calibration certification equipment maintenance and services (MCC) fees, shall be (i) designated in the manner set forth on the Proposal or the MCC, and (ii) payable ANNUALLY IN ADVANCE of performance of Services.
- e) Software fees shall be (i) designated in the manner set forth on the Proposal or the Contract, and (ii) payable ANNUALLY IN ADVANCE of Software activation, renewal, re-activation, etc.; as appropriate.
- f) In the event Purchaser prepays Software fees to be applied against future MARS Services projects, Purchaser shall have twelve (12) months from the effective date of the Schedule of Software and Services to utilize the prepaid Fees towards a Services project. Any Fee credits shall expire after twelve (12) months and Purchaser shall not be entitled to any refund.
- g) If Licensee purchased an On-Premise Subscription Usage License, then:
 - (i) Software fees shall be calculated based upon the monthly pro-rated amount of M3 Annual Meter Testing Usage and respective M3 Usage Tier and Usage Tier Discount as follows: the multiplication of each of the amounts: (i) One (1) subtracted by the Usage Tier Discount, and (ii) prevailing annual On-Premise Subscription Term License.
 - (ii) By way of example, if Licensee M3 Annual Meter Testing Usage exceeds Usage Tier I during five months into a 12-month renewal term and does not exceed Usage Tier 2 during the following seven months, then the Software Fee calculation would be: $[(1 - \text{Usage Tier I Discount}) \times (5/12)] + [(1 - \text{Usage Tier Discount II}) \times (7/12)]$. Licensee agrees that Usage Tiers may be increased but not decreased.
- h) MARS may increase its license and other fees, not included in this Agreement, at any time without notice so fees due for new or additional Software license or subscription purchases may be more than a previous purchase.
- i) If Licensee purchased an On-Premise Subscription License, MARS may not increase the associated license fees more than once in any 12-month period following Licensee's initial purchase by more than ten percent (10%). MARS will notify Licensee of a price increase at least 90 days before the increase takes effect.
- j)
- k) Upon activation of a Temporary Software License (as defined in the EULA), Licensee agrees to pay all of the pro-rated license fees during the duration of the Temporary Software License in the amount of the lesser of (i) the Software license fee as proposed in advance and in writing by MARS for the continued use of the Software beyond the expiration date, or (ii) the then-current, annual license fee list price. The granting of a Temporary Software License (i) does not change the terms of this Agreement, such as the renewal date of the Software unless explicitly agreed to in writing by the parties, and (ii) is NOT an extension to your current annual contract but will be part of your software subscription renewal.
- l) You are responsible for providing MARS with the most current contact and billing information. Purchaser may provide updates to Purchaser's contact information to MARS at Sales@MARSwater.com and updates to Purchaser's billing information to MARS. You agree that, so long as the On-Premise Subscription Term License is active, MARS may, on a monthly basis, automatically bill the same credit card or bank account Purchaser provides to MARS.

5) **Payment.**

- a) Unless specified to the contrary in writing by MARS Company, payment terms are net cash, payable without offset, in United States Dollars, thirty (30) days from date of invoice by ACH or wire transfer to the account designated by MARS Company in the Proposal.
- b) Notwithstanding Section 5(b) above, payment terms for Equipment and Software are net cash, payable without offset, in United States Dollars and due on the Delivery Date by ACH or wire transfer to the account designated by MARS Company to Purchaser in writing (which may be delivered by email).
- c) If Purchaser fails to pay any reasonably undisputed invoice by the due date, MARS Company may require payment in advance, payment security satisfactory to MARS Company, or may terminate the purchase order, whereupon MARS Company shall be entitled to receive reasonable cancellation charges. If delivery is delayed by Purchaser, payment shall be due on the date MARS Company is prepared to make delivery. Delays in delivery or nonconformities in any installments delivered shall not relieve Purchaser of its obligation to accept and pay for remaining installments.
- d) If Purchaser's account is overdue (except with respect to amounts subject to a bona fide dispute), in addition to any of its other rights or remedies, MARS reserves the right to (i) suspend any MARS Services to Purchaser, and (ii) terminate Your use of the software.

6) **Changes.**

- a) Any changes to a statement of work requested by Purchaser must be accepted by MARS Company and resulting adjustments to affected provisions, including price, schedule, and guarantees mutually agreed in writing prior to implementation of the change (the "Change Order"), and comply with the provisions of Section 27(e)(i).
- b) MARS Company may, at its expense, make such changes in the Equipment or Services as it deems necessary, in its sole discretion, to conform the Equipment or Services to the applicable specifications agreed upon by the parties. If Purchaser objects to any such changes, MARS Company shall be relieved of its obligation to conform to the applicable specifications to the extent that conformance may be affected by such objection.
- c) MARS Company may, at any time while the Equipment is under warranty, make such changes in design and construction of Equipment that it deems, in its sole discretion, to be an improvement. MARS Company may furnish suitable substitutes for materials that are unobtainable because of priorities or regulations established by governmental authority or non-availability of materials from suppliers.



MARS COMPANY
WARRANTY, GENERAL TERMS AND CONDITIONS

7) Title & Risk of Loss.

- a) Notwithstanding any agreement with respect to delivery terms or payment of transportation charges, risk of loss or damage shall pass to Purchaser upon delivery.
- b) Title to the Equipment shall remain with MARS Company until Purchaser has paid MARS Company the full purchase price of the Equipment.

8) Bonding. Any cost related to Payment Bonds, Performance Bonds, Labor and Material Bonds, hereinafter referred to as "BONDS" or any such financially bonding documents and/or mechanism required by Contract are not included unless specified to the contrary in writing by MARS Company. BONDS, if applicable, will be provided for either, (i) 12 months from the issuance / requirement date from Purchaser, or (ii) Contract Completion, whichever occurs first. Any costs to extend the requirement or to maintain or extend BONDS coverage beyond 12 months will be paid by Purchaser.

9) Inspection, Testing, Installation and Acceptance.

- a) Any inspection by Purchaser of Equipment on MARS Company's premises shall be scheduled in advance to be performed during normal working hours.
- b) If the purchase order provides for factory acceptance testing of the Equipment, MARS Company shall notify Purchaser when MARS Company will conduct such testing, which will be prior to shipment. UNLESS PURCHASER PROVIDES MARS COMPANY WITH WRITTEN NOTICE OF SPECIFIC OBJECTIONS WITHIN TEN (10) DAYS AFTER COMPLETION OF FACTORY ACCEPTANCE TESTING, COMPLETION OF THE FACTORY ACCEPTANCE TEST CONSTITUTES PURCHASER'S FULL ACCEPTANCE OF THE EQUIPMENT AND ITS AUTHORIZATION FOR SHIPMENT.
- c) MARS Company agrees to supply and install the MARS Test Bench Solution at a mutually agreeable location on the Purchaser's facility. For such installation, the Purchaser, at its sole cost and expense, shall: (i) provide a mutually agreeable electrical source and a water source to the MARS Test Bench Solution and (ii) engage a licensed plumber and licensed electrician to connect the MARS Test Bench Solution with such electrical and water sources (collectively, the "Purchaser Installation Responsibilities").
- d) After the Purchaser completes the Purchaser Installation Responsibilities to MARS Company's reasonable satisfaction and MARS Company installs the MARS Test Bench Solution, MARS Company and the Purchaser will perform testing in accordance with the detailed process and specification with the acceptance test procedure ("ATP") addendum at marswater.com/ATP. A summary of the ATP is outlined as follows: (i) phase one - calibrate the MARS Test Bench Solution for accuracy (collectively, "Accuracy Calibration"). MARS shall be responsible for hiring a licensed, independent scale calibration and accuracy company ("Licensed Accuracy Calibration Company") to provide test bench scale system calibration to confirm that the Test Bench Solution meets NIST traceability and accuracy and adheres to local licensing requirements and industry standards. MARS and the Licensed Accuracy Calibration Company shall document the accuracy testing in accordance with scale system calibration & accuracy that is set forth on ATP Schedule A. If the test results conform to ATP Schedule A, the parties mutually agree the Test Bench Solution will be deemed to have successfully passed this Accuracy Calibration phase; (ii) Following the completion of the Accuracy Calibration, MARS shall then perform phase two - Test Bench Solution testing for repeatability based on the Accuracy Calibration data. The repeatability testing ("Repeatability Testing") shall document the performance of the Test Bench Solution using statistical process control model detailed in the ATP. If the test results conform to ATP Schedule B, the parties mutually agree that the Test Bench Solution will be deemed to have successfully passed this Test Bench Solution Repeatability phase; (iv) MARS Company and Purchaser will jointly perform phase three - operator training and variable meter size acceptance testing of the MARS Test Bench Solution to ensure that the MARS Test Bench Solution conforms to the specifications set forth in the Agreement and per AWWA M6 Manual, Fifth Edition pages 63 & 64, Table 5-3. The data from phase three will be made available to the Purchaser and upon receipt will be deemed accepted in so far as operator training and variable meter testing. Upon successful completion of the ATP of this Section, the parties mutually agree that the MARS Test Bench Solution will be deemed acceptable by the Purchaser (collectively, the "Acceptance Testing").
- e) The Purchaser shall have accepted the Test Bench Solution ("Accepted") the earlier of (i) Completion of Acceptance Testing constituting Purchaser's / Licensee's full acceptance of the Test Bench Solution; (ii) IF, THROUGH NO FAULT OF MARS COMPANY, SITE ACCEPTANCE TESTING IS NOT COMPLETED WITHIN THIRTY (30) DAYS AFTER ARRIVAL OF THE EQUIPMENT AT THE DESIGNATED SITE OR IN THE CASE OF SOFTWARE, AFTER TEN (10) DAYS AFTER SOFTWARE INSTALLATION, THE SITE ACCEPTANCE TESTING SHALL BE DEEMED COMPLETED AND THE EQUIPMENT OR SOFTWARE SHALL BE DEEMED ACCEPTED BY PURCHASER. "Acceptance Date" means the date the Equipment and Software was Accepted.

10) Operational Control. OPERATIONAL CONTROL MEANS THE RIGHT TO CONDUCT ANY AND ALL OPERATIONS AND UTILIZE EQUIPMENT AND SERVICES FOR THE INTENDED PURPOSE OF CONDUCTING WATER METER TESTING, INCLUDING ANY AND ALL OPERATIONS OF SOFTWARE (EXCLUDING INSPECTION, TESTING AND ACCEPTANCE). OPERATIONAL CONTROL SHALL REMAIN WITH MARS COMPANY UNTIL PURCHASER HAS ACCEPTED THE EQUIPMENT OR SOFTWARE PURSUANT TO SECTION 9).

11) Limited Warranties and Remedies (unless otherwise stated).

- a) Equipment and Services Warranty. MARS Company warrants that Equipment shall be delivered free of defects in material and workmanship. The Warranty Period for Equipment (excluding, spare parts and refurbished or repaired parts) shall end twelve (12) months after the Acceptance Date. The Warranty Period for new spare parts shall end twelve (12) months after date of shipment. The Warranty Period for refurbished or repaired parts shall end ninety (90) days after date of shipment. The Warranty Period for Services shall end ninety (90) days after the date of completion of Services or one-hundred and twenty (120) days after Services are initiated, whichever comes first.
- b) MARS On-Premise Equipment Warranty. MARS Company warrants that MARS On-Premise Equipment shall be delivered free of defects in material and workmanship.
- c) Equipment and Services Remedy. If a nonconformity to the foregoing warranty is discovered in the Equipment or Services during the applicable Warranty Period, as specified above, under normal and proper use and provided the Equipment has been properly stored, installed, operated and maintained and written notice of such nonconformity is provided to MARS Company promptly after such discovery and within the applicable Warranty Period, MARS Company shall, at its option, either (i) repair or replace the nonconforming portion of the Equipment or re-perform the nonconforming Services, (ii) refund the portion of the purchase price applicable to the nonconforming portion of Equipment or Services, or (iii) refund the full purchase price of the Equipment if any nonconformance with the above warranty causes the Equipment to be inoperable. If any portion of the Equipment or Services so repaired, replaced or re-performed fails to conform to the foregoing warranty, and written notice of such nonconformity is provided to MARS Company promptly after discovery and within the original Warranty Period applicable to such Equipment or Services or thirty (30) days from completion of such repair, replacement or re-performance, whichever is later, MARS Company will repair or replace such nonconforming Equipment or re-perform the nonconforming Services. The original

d) Exceptions. MARS Company shall have no obligation hereunder with respect to any

Warranty Period shall not otherwise be extended.

Equipment which (i) has been installed by non-MARS authorized entities; (ii) has been improperly repaired or altered by Purchaser or a third party; (iii) has been subjected to misuse, negligence or accident; (iv) has been used in a manner contrary to MARS Company's instructions; (v) is comprised of materials provided by or a design specified by Purchaser; or (vi) has failed as a result of ordinary wear and tear. Equipment supplied by MARS Company but manufactured by others is warranted only to the extent of the manufacturer's warranty, and only the remedies, if any, provided by the manufacturer will be allowed.

The Warranty Period is void if the Purchaser does not adhere to storage instructions specifying both storage time and temperature or if MARS Company determines, at its sole discretion, that the AMR Radio equipment is improperly maintained, modified, subjected to excessive operating conditions, incidental damage, intentional or unintentional destruction, act of God, abuse or physically damaged. If any portion of the AMR Radio so repaired or replaced fails to conform to the foregoing warranty, and written notice of such nonconformity is provided to MARS Company promptly after discovery and within the original Warranty Period applicable to such ARM Radio or thirty (30) days from the shipment date of such repair or replacement, whichever is later, MARS Company will repair or replace such nonconforming AMR Radio. The original Warranty Period shall not otherwise be extended.

e) THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF QUALITY AND PERFORMANCE, WHETHER WRITTEN, ORAL OR IMPLIED, AND ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USAGE OF TRADE ARE HEREBY DISCLAIMED. THE REMEDIES STATED HEREIN CONSTITUTE PURCHASER'S EXCLUSIVE REMEDIES AND MARS COMPANY'S ENTIRE LIABILITY FOR ANY BREACH OF WARRANTY.

12) End User License Agreement. BY CLICKING THE "I ACCEPT THE TERMS..." CHECKBOX ON THE M3 SOFTWARE LICENSE DIALOG BOX, BY INSTALLING, COPYING OR OTHERWISE USING THE SOFTWARE, LICENSEE IS CONSIDERED TO HAVE READ, AND LICENSEE AGREES TO BE BOUND BY THE TERMS OF THE END USER LICENSE AGREEMENT ("EULA"). IF LICENSEE IS NOT WILLING TO BE BOUND BY THE TERMS OF THE EULA, LICENSEE SHALL NOT INSTALL, COPY OR USE THE SOFTWARE. THE SOFTWARE, INCLUDING ANY UPDATES, ENHANCEMENTS, NEW FEATURES, AND/OR THE ADDITION OF ANY NEW SERVICES, ARE SUBJECT TO THESE TERMS AND CONDITIONS OF THE EULA.

13) Care and Use of MARS On-Premise Equipment. MARS Company shall maintain and service the MARS On-Premise Equipment from the Delivery Date until either: a) the expiration of the applicable EULA license Term, or b) the date of earlier termination in accordance with the EULA.

In all other respects, except for damage or repairs due to the acts or omissions of MARS Company or its employees, agents, or contractors, Purchaser shall maintain in good operating condition, repair, and appearance, the MARS On-Premise Equipment at Purchaser's own cost and expense, and Purchaser shall protect the MARS On-Premise Equipment from damage and deterioration, other than that caused by normal wear and tear.

Purchaser shall use the MARS On-Premise Equipment in the regular course of business only, within its normal capacity, without abuse, and in the manner contemplated by the parties as of the date of this Agreement. Purchaser shall comply with all laws, ordinances, regulations, requirements and rules with respect to the use and operation of the MARS On-Premise Equipment, and shall not make any modification, alteration or addition to the MARS On-Premise Equipment without prior written approval by MARS Company. Neither Purchaser nor its employees, agents or representatives shall tamper with, disassemble, revise, engineer or otherwise examine the manual workings of the MARS On-Premise Equipment. If through the negligence of Purchaser or the breach of this Agreement by Purchaser repairs are required of MARS Company, then Purchaser shall reimburse MARS Company for all reasonable costs incurred by MARS Company to repair, replace, or perform such maintenance to correct any faults. If Purchaser has not corrected such repairs or performed such maintenance to MARS Company's satisfaction within ten (10) calendar days following MARS Company's written notice to Purchaser, MARS Company shall have the right during normal business hours, with reasonable prior notice to Purchaser and subject to applicable laws and regulations, to enter the Facility in order to inspect, observe, or upon termination or expiration of Licensee's EULA, remove the MARS On-Premise Equipment or otherwise protect MARS Company's interests, and Purchaser shall cooperate fully in affording MARS Company the opportunity to do the same. Purchaser shall permit MARS Company to review all documentary and electronic information relating to the MARS On-Premise Equipment and the operation of it. In the event of theft or loss of the MARS On-Premise Equipment while in use and control of the Purchaser, Purchaser agrees to reimburse MARS Company for all reasonable costs incurred by MARS Company to replace MARS On-Premise Equipment.

14) Inventions and Information. Unless otherwise agreed in writing by MARS Company and Purchaser, all right, title and interest in any inventions, developments, improvements or modifications of or for Equipment and Services shall remain with MARS Company. Any design, manufacturing drawings or other information submitted to the Purchaser remains the exclusive property of MARS Company. Purchaser shall not, without MARS Company's prior written consent, copy or disclose such information to a third party. Such information shall be used

solely for the operation or maintenance of the Equipment and not for any other purpose, including the duplication thereof in whole or in part.

15) Patent Indemnity.

a) MARS Company shall defend at its own expense, and shall indemnify and hold Purchaser harmless from, any action brought against Purchaser alleging that the Equipment or the use of the Equipment to practice any process for which such Equipment is specified by MARS Company (a "Process") directly infringes any claim of a patent of the United States of America and to pay all damages and costs finally awarded in any such action, provided that Purchaser has given MARS Company prompt written notice of such action, all necessary assistance in



MARS COMPANY WARRANTY, GENERAL TERMS AND CONDITIONS

the defense thereof and the right to control all aspects of the defense thereof including the right to settle or otherwise terminate such action in behalf of Purchaser.

- b) MARS Company shall have no obligation hereunder and this provision shall not apply to: (i) any other equipment or processes, including Equipment or Processes which have been modified or combined with other equipment or process not supplied by MARS Company; (ii) any Equipment or Process supplied according to a design, other than an MARS Company design, required by Purchaser; (iii) any products manufactured by the Equipment or Process; (iv) any patent issued after the date hereof; or (v) any action settled or otherwise terminated without the prior written consent of MARS Company.
- c) If, in any such action, the Equipment is held to constitute an infringement, or the practice of any Process using the Equipment is finally enjoined, MARS Company shall, at its option and its own expense, procure for Purchaser the right to continue using said Equipment; or modify or replace it with non-infringing equipment or, with Purchaser's assistance, modify the Process so that it becomes non-infringing; or remove it and refund the portion of the price allocable to the infringing Equipment. THE FOREGOING PARAGRAPHS STATE THE ENTIRE LIABILITY OF MARS Company AND EQUIPMENT MANUFACTURER FOR ANY PATENT INFRINGEMENT.

d)

16) Limitation of Liability.

- a) EXCEPT FOR CLAIMS AGAINST YOU THAT ANY PART OF THE EQUIPMENT OR THE USE OF THE EQUIPMENT TO PRACTICE A PROCESS INFRINGES ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHT, IN NO EVENT SHALL MARS COMPANY, ITS SUPPLIERS OR SUBCONTRACTORS BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE EQUIPMENT OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME COSTS, DELAYS, AND CLAIMS OF CUSTOMERS OF THE PURCHASER OR OTHER THIRD PARTIES FOR ANY DAMAGES, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT MARS COMPANY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR CLAIMS AGAINST YOU THAT ANY PART OF THE EQUIPMENT OR THE USE OF THE EQUIPMENT TO PRACTICE A PROCESS INFRINGES ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHT, **MARS COMPANY'S LIABILITY FOR ANY CLAIM WHETHER IN CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE FOR ANY LOSS OR DAMAGE ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF, OR FROM THE DESIGN, MANUFACTURE, SALE, DELIVERY, REPAIR, REPLACEMENT, INSTALLATION, TECHNICAL DIRECTION OF INSTALLATION, INSPECTION, OPERATION OR USE OF ANY EQUIPMENT COVERED BY OR FURNISHED UNDER THIS AGREEMENT, OR FROM ANY SERVICES RENDERED IN CONNECTION THEREWITH, SHALL IN NO CASE (EXCEPT AS PROVIDED IN THE SECTION ENTITLED "PATENT INDEMNITY") EXCEED ONE-HALF (1/2) OF THE PURCHASE PRICE ALLOCABLE TO THE EQUIPMENT OR PART THEREOF OR SERVICES WHICH GIVES RISE TO THE CLAIM.**
- b) ALL CAUSES OF ACTION AGAINST MARS COMPANY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PERFORMANCE OR BREACH HEREOF SHALL EXPIRE UNLESS BROUGHT WITHIN ONE YEAR OF THE TIME OF ACCRUAL THEREOF.
- c)

- 17) **Laws and Regulations.** MARS Company and Purchaser shall comply with all applicable laws in performance of its obligations under this Agreement. MARS Company does not assume any responsibility for compliance with any laws and regulations relating to the operation or use of the Equipment, which is the sole responsibility of the Purchaser. All laws and regulations referenced herein shall be those in effect as of the Acceptance Date. If Purchaser desires a modification as a result of any such change or revision, it shall be treated as a change per Section 6). Nothing contained herein shall be construed as imposing responsibility or liability upon MARS Company for obtaining any permits, licenses or approvals from any agency required in connection with the supply, erection or operation of the Equipment. If any provision hereof, partly or completely, shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision or portion hereof and these terms shall be construed as if such invalid or unenforceable provision or portion thereof had never existed.

- 18) **OSHA.** MARS Company warrants that the Equipment will comply with the relevant standards of the Occupational Safety and Health Act of 1970 ("OSHA") and the regulations promulgated thereunder as of the Proposal Date. Upon prompt written notice from the Purchaser of a breach of this warranty, MARS Company will replace the affected part or modify it so that it conforms to such standard or regulation. MARS Company's obligation shall be limited to such replacement or modification. IN NO EVENT SHALL MARS COMPANY BE RESPONSIBLE FOR LIABILITY ARISING OUT OF THE VIOLATION OF ANY OSHA STANDARDS RELATING TO OR CAUSED BY PURCHASER'S DESIGN, LOCATION, OPERATION, OR MAINTENANCE OF THE EQUIPMENT, ITS USE IN ASSOCIATION WITH OTHER EQUIPMENT OF PURCHASER, OR THE ALTERATION OF THE EQUIPMENT BY ANY PARTY OTHER THAN MARS COMPANY.

- 19) **Force Majeure.** MARS Company shall neither be liable for loss, damage, detention or delay nor be deemed to be in default for failure to perform when prevented from doing so by causes beyond its reasonable control including but not limited to acts of war (declared or undeclared), Acts of God, fire, pandemic, strike, labor difficulties, acts or omissions of any governmental authority or of Purchaser, compliance with government regulations, insurrection or riot, embargo, delays or shortages in transportation or inability to obtain necessary labor, materials, or manufacturing facilities from usual sources or from defects or delays in the performance of its suppliers or subcontractors due to any of the foregoing enumerated causes. In the event of delay due to any such cause, the date of delivery will be extended by period equal to the delay plus a reasonable time to resume production, and the purchase price will be adjusted to compensate MARS Company for such delay.

- 20) **Cancellation.** Any purchase order may be cancelled by Purchaser only upon prior written notice and payment of termination charges, including but not limited to, all costs identified in the purchase order incurred prior to the effective date of notice of termination and all expenses incurred by MARS Company attributable to the termination, plus a fixed sum of ten (10) percent of the final total purchase price to compensate for disruption in scheduling, planned production and other indirect costs.

- 21) **Termination.** In addition to any remedies that may be provided under these Terms, MARS company may terminate this Agreement with immediate effect upon written notice to Purchaser if Purchaser: (a) fails to pay any reasonably undisputed amount when due under this Agreement; (b) has not otherwise materially performed or complied with any of these Terms, in whole or in part; or (b) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors. Purchaser may terminate this Agreement for MARS Company's material breach if MARS

Company fails to cure or begin taking reasonable steps to cure any such material breach within fifteen (15) days after receiving written notice from Purchaser specifying such breach

22) Export Control.

- a) Purchaser represents and warrants that the Equipment and Services provided hereunder and the "direct product" thereof are intended for civil use only and will not be used, directly or indirectly, for the production of chemical or biological weapons or of precursor chemicals for such weapons, or for any direct or indirect nuclear end use. Purchaser agrees not to disclose, use, export or re-export, directly or indirectly, any information provided by MARS Company or the "direct product" thereof as defined in the Export Control Regulations of the United States Department of Commerce, except in compliance with such Regulations.
- b) If applicable, MARS Company shall file for a U.S. export license, but only after appropriate documentation for the license application has been provided by Purchaser. Purchaser shall furnish such documentation within a reasonable time after acceptance of the purchase order. Any delay in obtaining such license shall suspend performance of this Agreement by MARS Company. If an export license is not granted or, if once granted, is thereafter revoked or modified by the appropriate authorities, this Agreement may be canceled by MARS Company without liability for damages of any kind resulting from such cancellation. At MARS Company's request, Purchaser shall provide to MARS Company a Letter of Assurance and End-User Statement in a form reasonably satisfactory to MARS Company.

- 23) **Assignment.** Purchaser shall not assign this Agreement or of any rights or obligations under this Agreement without the prior written consent of MARS Company.

- 24) **Warranty of Capacity to Execute Agreement.** Each of the parties warrants and represents on behalf of itself that it has full power and authority to enter into this Agreement and to bind the parties, that any and all necessary consents and approvals have been obtained, and that no other consent, approval or action is required.

- 25) **Severability.** If any provision of this Agreement is held to be unenforceable, the enforceability of the remaining provisions shall in no way be affected or impaired thereby.

- 26) **Entire Agreement.** This Agreement is a legal agreement and constitutes the complete and exclusive agreement between Purchaser and MARS Company with respect to the subject matter hereof, and supersedes all prior or contemporaneous oral or written communications, proposals, representations, understandings, or agreements not specifically incorporated herein. This Agreement may not be amended or modified except in a writing duly signed by the authorized representative of Purchaser and an authorized representative of MARS Company.

27) Miscellaneous.

- a) Equipment consumables including printer ink, paper, etc. are Purchaser responsibility at all times.
- b) This Agreement shall not be construed more strongly against either party, regardless of who is more responsible for its preparation.
- c) Neither party shall be deemed to have waived any of its rights under this Agreement without specifically agreeing to do so in writing. No waiver of a breach of this Agreement shall constitute a waiver of any prior or subsequent breach of this Agreement.
- d) If there is a conflict between a part of this Agreement and any present or future law, the part of this Agreement that is affected shall be curtailed only to the extent necessary to bring it within the requirements of that law.
- e) **Conflicts.** MARS Company and Purchaser agree and acknowledge that due to the nature of the commercial relationship, and the public or quasi-public sector nature of Purchaser, this transaction will be regulated by multiple documents. Occasionally, conflicts will arise between different documents, or between different versions of the same document. The purpose of this Section 27(e) is to provide simple rules for resolving such conflicts.
- (i) **Change Order – A Change Order** shall only be effective to prevail over a conflicting term if such Change Order contains an express statement of the Parties' intent for the Change Order provision to control over the conflicting provision in the other document. Such statements must be prominently and conspicuously in BOLD CAPITAL LETTERS, must be in a font no smaller than that of this Section of this Agreement, and must expressly reference the section and page number of the conflicting provision in the other document that the Change Order provision prevails over. Any effective statement shall only be effective as to that provision in that Change Order; it shall have no force or effect relative to previous or subsequent agreements or addendums thereto.
- (ii) **Conflicts Between Different Dated Versions of Same Document – For conflicts between versions of the same document (i.e., a EULA) that bear different dates, the most recent version will prevail.**
- (iii) **Conflict Between Different Documents – For conflicts between different documents (i.e., a term in the EULA and a conflicting term in the Proposal), such conflicts shall be resolved by reference to the chart below. Utilizing the foregoing example, a conflict between a EULA term and a Proposal term would place in conflict "4" with "G" and the chart shows that 4, the EULA, would prevail.**

	A	B	C	D	E	F	G
1	-	1	1	1	1	1	1
2	A	-	2	2	2	2	2
3	A	B	-	3	3	3	3
4	A	B	C	-	4	4	4
5	A	B	C	D	-	5	5
6	A	B	C	D	E	-	6
7	A	B	C	D	E	F	-

1-Change Order	A-Change Order
2-Contract	B-Contract
3-Terms	C-Terms
4-EULA	D-EULA
5-MCC	E-MCC
6-Purchase Order	F-Purchase Order
7-Proposal	G-Proposal

f) Beta Test Program

- (i) **Beta Test Discount Eligibility:** MARS Company may, at its sole discretion, offer certain customers favorable terms in exchange for participating in the MARS Beta Test Program ("BTP"). To be eligible for the BTP, customers must be invited by MARS and agree to perform testing and fulfill obligations in accordance with the detailed specification as set out in the Beta Test Matrix ("BTM") addendum at marswater.com/BTM, provided by MARS alongside the contractual agreement.
- (ii) **Acknowledgment of Concession:** By accepting and agreeing to the BTP, the Customer acknowledges and agrees that they are receiving a material concession from MARS in the form of favorable terms for the respective products or services.
- (iii) **Renewals and Contract Changes:** For any contract renewals or changes, MARS will provide a new or updated BTM along with the updated contract. Continued eligibility for the BTP and favorable terms will be contingent on agreement and compliance with the updated BTM.
- (iv) **Failure to Fulfill Obligations:** In the event a Customer fails to fulfill their obligations as outlined in the BTM, MARS reserves the right to revoke the BTP and revert the pricing of products or services to the standard rate, retroactively to the start of the contract period.
- (v) **BTP Audit Rights:** MARS reserves the right to audit a customer's compliance with the BTM at any time. Customers are required to cooperate fully with such audits and to provide any necessary documentation upon request.



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- g) All notices hereunder shall be made by certified or registered airmail, return receipt requested, by recognized overnight courier, by facsimile transmission, answer back requested, but excluding e-mail, and shall be sent to the parties at the addresses indicated in the purchase order (or at such other address for a party as shall be specified by like notice; provided that notices of a change of address shall be effective only upon receipt thereof). MARS Company's address is 3925 SW 13th St, Ocala, Florida 34474.
- h) During the term of this Agreement and for one (1) year thereafter, neither party shall solicit the other parties' current employees or full-time consultants for employment, directly or indirectly, without such other parties' written consent. For the purposes of this provision, placing a general advertisement for employment shall not be considered solicitation for employment. This provision does not apply in the event of a breach by either party
- i) This Agreement may only be modified by written agreement of the parties.
- j) Separate Execution; Reproduced Signatures. This Agreement may be separately executed in identical counterparts, each of which shall be considered an original and all of which together shall collectively be considered an effective and binding agreement on the part of each of the undersigned. For the avoidance of doubt, an electronically reproduced signature, such as by facsimile or PDF copy shall have the same force and effect as execution of an original