



Aqua-Metric Sales Company
 16914 Alamo Parkway, Bldg. 2 | Selma, TX 78154
 Phone: (210) 967-6300 | Facsimile: (210) 967-6305

December 12, 2024

Client: City of Tomball, Texas
Attention:
Address
City, State, Zip:
Phone:
Email:

Line No.	Item	Quantity	Unit	Extended
Large Meter Exchange Services				
Product Installation Services				
	Field Deployment Management, Monthly Fee	4	\$12,500.00	\$50,000.00
	Mobilization Fee	1	\$12,500.00	\$12,500.00
	NovusCenter WOMS Additional Setup Fee	1	\$2,500.00	\$2,500.00
	NovusCenter WOMS Work Order Fee	453	\$2.25	\$1,019.25
	NovusCenter WOMS Data Quality Review Fee	453	\$3.00	\$1,359.00
	Commercial Water Meter Survey 3" and Larger, Prior to Exchange Service	49	\$200.00	\$9,800.00
	1" Water Meter Exchange with SmartPoint Installation and Activation	82	\$93.75	\$7,687.50
	1 1/2" Water Meter Exchange with SmartPoint Installation and Activation	108	\$343.75	\$37,125.00
	2" Water Meter Exchange with SmartPoint Installation and Activation	214	\$406.25	\$86,937.50
	3" Water Meter Exchange with SmartPoint Installation and Activation	25	\$1,243.75	\$31,093.75
	4" Water Meter Exchange with SmartPoint Installation and Activation	17	\$1,687.50	\$28,687.50
	6" Water Meter Exchange with SmartPoint Installation and Activation	4	\$2,000.00	\$8,000.00
	8" Water Meter Exchange with SmartPoint Installation and Activation	3	\$2,812.50	\$8,437.50
	Add-On: Lid Modification: Drill Hole In Plastic Meter Box Lid, Estimated Quantity	40	\$8.75	\$350.00
	Add-On: Lid Modification: Drill Hole In Metal Meter Box Lid, Estimated Quantity	5	\$25.00	\$125.00
	Add-On: Clean Out Excessive Dirt From Meter Box, Estimated Quantity	40	\$31.25	\$1,250.00
	Add-On: Clean Out Excessive Dirt From Meter Vault, Estimated Quantity	5	\$93.75	\$468.75
	Recommended Contingency Fund for Materials and Installation Incidentals	1	\$160,000.00	\$160,000.00
	Installation Incidental: SmartPoint Installation and Activation Only on Existing Sensus Meter, Labor Only		\$93.75	
	Installation Incidental: Residential (5/8" - 1") Water Meter Box Adjustment, Removal; or Meter Box & Lid Replacement, in Dirt, Labor Only		\$68.75	
	Installation Incidental: 1 1/2" - 2" Water Meter Box Adjustment, Removal; or Meter Box & Lid Replacement, in Dirt, Labor Only		\$118.75	
	Installation Incidental: Water Meter Register Reprogram of Existing Sensus Meter, Labor Only		\$33.75	
	Installation Incidental: Residential Water Meter Register Replacement on Existing Sensus Meter, Labor Only		\$56.25	
	Installation Incidental: Commercial Water Meter Register Replacement on Existing Sensus Meter, Labor Only		\$156.25	
	Installation Incidental: 5/8" - 1" Curb Stop Replacement, Labor Only		\$312.50	
	Installation Incidental: 5/8" - 1" Meter Tail Replacement, Labor Only		\$81.25	
	Installation Incidental: Meter Box Lid Replacement, Labor Only		\$8.75	
	Installation Incidental: 5/8" - 1" Bushing Adapter Replacement, Labor Only		\$8.13	
	Installation Incidental: 5/8" - 1" Meter Resetter / Riser Installation, Labor Only		\$56.25	
	Installation Incidental: Dewater Vault		\$93.75	
	Installation Incidental: Confined Space Entry		\$437.50	
	Installation Incidental: Site Visit Fee		\$68.75	
	Installation Incidental: Special Job Hourly Rate, Price per Technician per Hour		\$156.25	

This quote for the product and services named above is subject to the following terms:

- All quotes are subject to the Aqua-Metric Terms of Sale unless there is an executed agreement between the parties. Terms of Sale can be found online at www.aqua-metric.com
- Quote is valid for thirty days.
- If modifications in materials, labor, or processing are required to meet new regulations, the pricing submitted herein is subject to immediate change.
- Freight allowed on single Sensus Product orders exceeding \$80,000.00.
- Net Thirty Days to Pay
- Returned product may be subject to a 25% restocking fee. Additional details apply.
- Sales Tax and/or Freight charges are not included.

Total: \$447,340.75

December 11, 2024

Project Clarifications

1. All quotes are subject to the Aqua-Metric Terms of Sale unless there is an executed agreement between the parties. Terms of Sale can be found online at www.aqua-metric.com
2. Quote is valid for 30 days.
3. If modifications in materials, labor, or processing are required to meet new regulations, the pricing submitted herein is subject to immediate change.
4. Freight allowed on single orders exceeding \$80,000.00. All non-Sensus and/or non-water product orders are subject to additional freight charges (i.e., hand held equipment, backhaul modems, meter boxes and lids, etc.).
5. Net Thirty Days to Pay.
6. Returned product subject to a 25% restocking fee for Sensus water product(s) – must be returned within six months of shipment. Additional details and limitations apply. All non-Sensus product subject to their specific manufacturer’s published return policy.
7. Sales tax and/or freight charges are not included.
8. A retainer withholding surcharge will be applied if retainage is required.
9. Standard meter installation pricing shall encompass like-for-like meter exchange. Pricing is for labor only and not inclusive of any special parts or materials necessary to facilitate a successful exchange. Aqua-Metric will furnish nuts, bolts, and gaskets as necessary to replace each meter. City will be responsible for supplying any additional materials including but not limited to meter boxes, meter box lids, curb stops, meter couplings, meter riser/resetter, etc.; however Aqua-Metric can supply any additional materials at cost plus fifteen percent. An installation scope of work will be drafted upon request. Pricing is subject to change based on revisions or modifications requested by the City.
10. A highly recommended commercial meter survey is included within our proposal. Restocking fees and/or additional installation fees will apply for all returned or incorrectly purchased metering product.
11. Pricing does not include staging services, product storage, trash/recycling receptacles, or consumer outreach program.
12. Performance and Payment Bond not included.
13. Pricing does not reflect utilization of Buy-Board. Pricing does not reflect Prevailing Wage Rates.
14. Any items beyond quote above subject to price negotiations.

1. **DEFINITIONS.** "Customer" means the party purchasing goods or services pursuant to these Terms of Sale ("Terms"). "Aqua-Metric" means Aqua-Metric Sales Company, a subsidiary of Thirkettle Corporation. "Deliverables" and "Products" means the goods and/or services sold or otherwise provided pursuant to this Agreement. "Manufacturer" refers to Sensus Inc. unless otherwise stated. Software licenses are provided solely through a separate software license agreement.
2. **CONTRACT OF SALE.** All Deliverables offered for sale are subject to the prices and other terms specified in (i) an applicable Aqua-Metric quotation or proposal and (ii) the Terms defined herein (collectively, the "Proposal"), all of which are subject to the correction of clerical errors. A Customer's purchase order or similar writing shall constitute an acceptance of the offer to sell; however, any inconsistent, additional or different terms to the Proposal contained in a Customer's request for quotation or purchase order (collectively, "Additional Terms") are hereby objected to and rejected by Aqua-Metric. Such Additional Terms will not become part of the contract of sale unless accepted by Aqua-Metric in a writing.
3. **PROPOSALS AND QUOTATIONS.** Proposals and quotations are inclusive of only the Deliverables included in a formal Aqua-Metric quotation form. Proposals and quotations will remain valid for a period of thirty (30) days unless otherwise noted. All pricing is subject to changes based on the manufacturer's suggested retail price. Aqua-Metric reserves the right to apply a price adjustment to all quotes or orders received and not delivered to the Customer as a result of economic price increase or decrease in cost of raw materials, labor, or transport at the time imposed by Aqua-Metric's suppliers. Any incidental product, materials, and/or labor required but not included will be subject to additional costs to the Customer. **AQUA-METRIC MAKES NO GUARANTEE, EITHER EXPRESSED OR IMPLIED, THAT PROPOSAL OR QUOTED PRICING IS ALL INCLUSIVE.**
4. **INVOICES.** Unless otherwise agreed upon in writing between Aqua-Metric and Customer, Aqua-Metric shall invoice Customer for 1) product(s) shipped within fifteen (15) days of shipment; 2) software within fifteen (15) after successful installation of software on Customer owned device(s); 3) implementation and support services within fifteen (15) days of completion of service; or 4) annual subscription services as defined in Section 6 within fifteen (15) days of successful installation and not less than thirty (30) days in advance of subscription anniversary date.
5. **ANNUAL SUBSCRIPTION SERVICES.** Annual Subscriptions Services are defined as recurring fees or cost of services required to operate, maintain, or support Customer's product and/or software; including but not limited to Aqua-Metric Annual Support, Software-as-a-Service, Server/Data Hosting, or any fee requiring a recurring commitment. Unless otherwise agreed upon in writing between Aqua-Metric and Customer, annual subscription services will automatically renew upon the anniversary date of the first invoice containing annual subscription services and each subsequent year annually thereafter unless canceled by Customer in writing prior to sixty (60) days of subscription renewal. Annual subscription services will be subject to an automatic annual increase of three percent (3%) of the previous installment.
6. **TAXES.** All prices quoted are exclusive of federal, state and municipal taxes. Customer shall be liable for all sales, use, and other taxes (whether local, state or federal) imposed on this Agreement or on the Deliverables. If Customer is exempt from tax, Customer is required to provide a tax exemption form prior to invoicing.
7. **PAYMENT TERMS.** Customer shall pay all undisputed invoices in US Dollars within thirty (30) days of the invoice date. Aqua-Metric reserves the right to establish credit limits for Customer and may require full or partial payment prior to provisioning of any Deliverables. All payments shall be made via credit card (VISA or MasterCard), check or electronic payment according to instructions provided by Aqua-Metric. The Customer must notify Aqua-Metric, in writing, within seven (7) days of receipt of an invoice if the Customer disputes such invoice. In the absence of such notice the Customer shall not be entitled to dispute an invoice. Save for any invoices disputed in good faith in accordance with the previous sentence, if the Customer does not pay within the time allotted in this Agreement, the amount due shall bear interest at the lower of (i) one percent (1%) per calendar day past due; or (ii) the highest rate permitted by applicable law. Should Customer become delinquent in payment of sums due hereunder, Aqua-Metric shall not be obligated to continue performance.
8. **TITLE.** Unless agreed upon in writing between Aqua-Metric and Customer, Customer shall assume title of deliverables from the date and time of product(s) shipment.
9. **PACKAGING.** Aqua-Metric reserves the right to select the manner in which Deliverables are packaged. Quoted prices include standard packaging. Special requirements for packaging will be subject to additional charges.
10. **SHIPPING AND HANDLING.** All stock Products and Materials will be shipped Freight on Board (FOB) Destination. Aqua-Metric will ship all Products on prepaid ground transportation. Expedited shipments, such as Next Day or Second Day, will be at the Customers expense unless otherwise agreed upon by Aqua-Metric. All applicable Shipping and Handling charges will be included with the final invoice to the Customer. Aqua-Metric does not guarantee and therefore will not be liable for any delays in shipment.
11. **FREIGHT.** Aqua-Metric shall ship oversized Product(s) or bulk orders on standard Less-Than-Truckload ("LTL") freight carriers when applicable. The Customer is required to provide the necessary equipment required (i.e. loading dock, fork lift, pallet jack, etc.) to unload the shipment upon arrival. If the Customer does not have access to equipment necessary to unload the Product(s), Customer must inform Aqua-Metric in advance and prior to shipment. Customer will be responsible for any additional cost(s) or fee(s) incurred for special handling requirements.
12. **FREIGHT ALLOWANCE.** Single Sensus product orders exceeding \$80,000 will be shipped FOB Freight Allowed unless otherwise specified and agreed upon in writing. Freight allowance is only applicable to single orders shipped complete. Partial shipments must be specified in writing at the time of order placement. Aqua-Metric reserves the right to refuse freight allowance and/or bill partial freight costs on final invoice.
13. **LOSS OR DAMAGE CLAIMS.** The Customer is responsible for reporting lost or damaged deliverables as a result of improper packaging and/or handling to Aqua-Metric within fifteen (15) business days. Claims will become void if made more than fifteen (15) business days after the product has left Aqua-Metric facilities. Damaged product(s) will be returned to Aqua-Metric for inspection. Aqua-Metric reserves the right to repair or replace product(s) damaged in shipment.
14. **AMENDMENTS OR CANCELLATIONS.** Orders submitted to Aqua-Metric must be canceled or amended by Customer prior to the shipment of Deliverables. Aqua-Metric reserves the right to invoice shipping charges for orders cancelled after deliverables shipped.
15. **RETURNS.** No product(s) may be returned for refund without the prior written authorization of Aqua-Metric. Aqua-Metric reserves the right to refund the cost of deliverables less a restocking fee and/or shipping and handling charges upon receipt of return product. Refunds will be processed and issued within thirty (30) days from the receipt of the returned product(s). Authorized return shipments must be returned within six (6) months of the delivery date, in "like-new" condition to Aqua-Metric's designated receiving point, must be shipped in original or suitable packaging, must be accompanied by a packing slip, including Aqua-Metric's return authorization number, and must have transportation charges prepaid. All returned product(s) will be inspected upon delivery for any indication of use or damage. Client will be responsible for returning the product(s) to Aqua-Metric's designated distribution warehouse and any cost(s) incurred to repackage and/or shipping carrier fees. Client will be responsible for any damages incurred during shipment. Aqua-Metric reserves the right to refuse product(s) which have been installed, used, or otherwise returned in any condition other than new. Aqua-Metric reserves the right to deduct an adequate service charge to cover all inspection, testing and handling from any refund.
16. **RESTOCKING FEE.** Return Product(s) are subject to a twenty-five percent (25%) restocking fee and special order Product(s), including but not limited to: meter reading equipment, infrastructure, ActPaks, or any Product(s) requiring a unique configuration, are subject to fifty percent (50%) restocking fee. Due to the custom configuration of electric meters, all electric meter sales are final.
17. **OBSOLESCENCE.** Aqua-Metric shall not be held liable for planned or unplanned obsolescence of product(s), parts, or software discontinued by any manufacturer.
18. **WARRANTIES.**

- 18.1. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SERVICES AND SOFTWARE ARE PROVIDED BY AQUA-METRIC ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- 18.2. Aqua-Metric warrants that the services provided by Aqua-Metric will be performed in a professional and workmanlike manner with a degree of care, skill and competence that is consistent with the then generally accepted industry standards reasonably expected of similar types of engagements and the deliverables will substantially conform to the deliverables specified in the applicable purchase agreement.
- 18.3. Standard Manufacturer Warranty. Standard manufacturer product warranties shall apply to all product(s) furnished under this Agreement. Aqua-Metric and/or their supplier agrees to provide a repaired or replacement product of equal value and as provisioned within the manufacturer warranty terms.
- 18.4. Meter Services Warranty. Aqua-Metric warrants the quality of workmanship and services provided herein to be reasonably free from defects within twenty-four linear inches of the meter connection for a period of thirty (30) days from the date of meter exchange.
 - A. Meter Services Warranty is only applicable to the services rendered during the time of meter exchange and only applicable if the failure is reasonably evident of a faulty meter exchange service provided by Aqua-Metric or its subcontractor.
 - B. Aqua-Metric does not warrant defective product(s) or material(s) (including but not limited to piping, fittings risers, setters, curb stops, meter boxes, or similar) used to complete the meter exchange service. Such products will be subject to any applicable product warranty guidelines as provided by Aqua-Metric's suppliers.
 - C. Aqua-Metric does not warrant pre-existing conditions; service line damage(s) resulting from non-approved materials or the service line is not up to code compliance; or damage(s) due to age or instability of galvanized lines on either the distribution or consumer side.
 - D. Meter Services Warranty does not include defects as a result of tampering, vandalism, negligence, "Acts-of-God".
 - E. The Customer shall notify Aqua-Metric of any warrantable concern(s) within five (5) days of Customer becoming aware of suspect failure.
 - F. The Customer acknowledges Aqua-Metric is unable to determine pre-existing plumbing conditions, including but not limited to pipe condition, debris or hard water buildup in plumbing lines, unstable or faulty plumbing connections or plumbing fixtures, or water pressure, etc. Due to the unknown condition(s), Aqua-Metric does not warrant against damage(s) or defect(s) to plumbing, household fixtures, water heaters, water softening or filtration systems, Sloan valves, appliances, water pressure, or other related appurtenances which rely on the utility services provided by the Customer.
 - G. Aqua-Metric reserves the right to inspect the project worksite prior to performing any work to determine the best course of action to correct the warranty concern. If such inspection is not indicative of Aqua-Metric or its contractor's faulty workmanship, Aqua-Metric, at its sole discretion, may invoice the Customer for any time and expense incurred to inspect the worksite. Aqua-Metric will not be held responsible for any unauthorized repair(s) performed by the Customer, Customer's resident or business customer, or any third-party repair company.
19. LIMITATIONS. Unless otherwise expressly provided herein, neither Aqua-Metric nor any of its service providers, licensors, employees or agents warrant that the operation of the Services will be uninterrupted or error free. Aqua-Metric will not be responsible for any damages that Customer may suffer arising out of use, or inability to use, the Services.
20. RETURN MATERIAL AUTHORIZATION. Product(s) returned for Warranty within the limitations defined by the Manufacturer will be returned directly to the Manufacturer unless otherwise instructed by Aqua-Metric. Customer shall submit a list of defective items with Serial Numbers and or Identification Numbers required to identify the product in an Excel format to rma-norcal@aquametric.com; rma-social@aquametric.com; rma-texas@aquametric.com; or rma-louisiana@aquametric.com. Aqua-Metric will generate a Return Material Authorization form for the Customer to include with the Product(s) shipment to the Manufacturer. Customer will be responsible for any cost(s) incurred to return the Product(s) to the Manufacturer for warranty concerns.
21. FORCE MAJEURE. If Aqua-Metric becomes unable, either wholly or in part, by an event of Force Majeure, to fulfill its obligations under this agreement, the obligations affected by the event of Force Majeure will be suspended during the continuance of that inability. "Force Majeure" means an event beyond the reasonable control of Aqua-Metric, including without limit acts of God, hurricane, flood, volcano, tsunami, tornado, storm, tempest, mudslide, vandalism, illegal or unauthorized radio frequency interference, strikes, lockouts, or other industrial disturbances, immigration, unavailability or delay of component parts of any Deliverables provided hereunder, acts of public enemies, border disputes, border disruptions, delivery vehicle impound, wars, blockades, insurrections, riots, pandemics, epidemics, earthquakes, fires, restraints or prohibitions by any court, board, department, commission or agency of the United States or any States, any arrests and restraints, civil disturbances and explosions.
22. LIMITATION OF LIABILITY.
 - 22.1. AQUA-METRIC'S AGGREGATE LIABILITY IN ANY AND ALL CAUSES OF ACTION ARISING UNDER, OUT OF OR IN RELATION TO THIS AGREEMENT, ITS NEGOTIATION, PERFORMANCE, BREACH OR TERMINATION (COLLECTIVELY "CAUSES OF ACTION") SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO AQUA-METRIC UNDER THIS AGREEMENT. THIS IS SO WHETHER THE CAUSES OF ACTION ARE IN TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY, IN CONTRACT, UNDER STATUTE, OR OTHERWISE.
 - 22.2. AS A SEPARATE AND INDEPENDENT LIMITATION ON LIABILITY, AQUA-METRIC'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES. AQUA-METRIC SHALL NOT BE LIABLE FOR: (I) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; NOR (II) ANY REVENUE OR PROFITS LOST BY CUSTOMER OR ITS AFFILIATES FROM ANY END USER IRRESPECTIVE OF WHETHER SUCH LOST REVENUE OR PROFITS IS CATEGORIZED AS DIRECT DAMAGES OR OTHERWISE, INCLUDING REVENUE LOST FROM THIRD PARTIES, PERSONS, OR ENTITIES, SUCH AS BILLS FOR ELECTRICITY, LIGHTING, GAS, OR WATER CONSUMPTION; NOR (III) ANY IN/OUT COSTS; NOR (IV) CLAIMS MADE BY A THIRD PARTY; NOR (V) MANUAL METER READ COSTS AND EXPENSES. "IN/OUT COSTS" MEANS ANY COSTS AND EXPENSES INCURRED BY CUSTOMER IN TRANSPORTING GOODS BETWEEN ITS WAREHOUSE AND ITS END USER'S PREMISES AND ANY COSTS AND EXPENSES INCURRED BY CUSTOMER IN INSTALLING, UNINSTALLING AND REMOVING GOODS. "END USER" MEANS ANY END USER OF ELECTRICITY/WATER/GAS THAT PAYS CUSTOMER FOR THE CONSUMPTION OF ELECTRICITY/WATER/GAS, AS APPLICABLE.
 - 22.3. The limitations on liability set forth in this Agreement are fundamental inducements to Aqua-Metric entering into this Agreement. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Aqua-Metric the maximum protection permitted under law. To the maximum extent permitted by law, no Cause of Action may be instituted by Customer against Aqua-Metric more than TWELVE (12) MONTHS after the Cause of Action first arose. In the calculation of any damages in any Cause of Action, no damages incurred more than TWELVE (12) MONTHS prior to the filing of the Cause of Action shall be recoverable. If Customer is not the sole end user and ultimate owner of the Deliverables, then Customer shall ensure by its contract with the end user and ultimate owner (collectively, "Owner") that Aqua-Metric is given the benefit of the exclusions and limitations set out in these Terms. To the maximum extent

permitted by law, Customer agrees to indemnify, defend, and hold harmless Aqua-Metric from and against all Losses (defined below) alleged by any Owner to the extent that Aqua-Metric would not be liable to Customer under these Terms if the claim had been made by Customer.

shall any single or partial exercise of a right or power preclude any other future exercise thereof.

23. INDEMNIFICATION. To the maximum extent permitted by law, Customer agrees to defend, indemnify and hold Aqua-Metric harmless from any and all losses, costs, fines, penalties, damages and other amounts (including reasonable attorney fees) incurred by, assessed against or imposed on Aqua-Metric arising from or in connection with any and all third party suits, claims, actions or demands (a "Claim"): (i) for personal injuries, death or damage to tangible personal and real property caused by the negligence or willful misconduct of Customer, its employees, contractors or agents other than Aqua-Metric; (ii) relating to or arising out of Customer's failure to comply with applicable law; and (iii) relating to or arising out of Customer's breach of its confidentiality obligations hereunder.
24. CONFIDENTIAL INFORMATION. Each party shall hold the other party's Confidential Information in confidence and shall not disclose such Confidential Information to third parties other than to consultants or contractors, subject to similar terms of confidentiality, when disclosure is necessary for the purposes set forth herein, nor use the other party's Confidential Information for any purpose other than the purposes set forth under this Agreement. The foregoing restrictions on disclosure shall not apply to information which is: (i) already known by the recipient, (ii) becomes, through no act or fault of the recipient, publicly known, (iii) received by recipient from a third party without a restriction on disclosure or use, (iv) independently developed by recipient without reference to the other party's Confidential Information, or (v) is a public record under applicable laws, subject to the terms of this Section. The Customer will maintain the confidentiality of all Aqua-Metric Confidential Information, and Aqua-Metric will maintain the confidentiality of all Customer Confidential Information, with each party taking all reasonable precautions to protect the same, at a minimum taking those precautions used to protect its own Confidential Information from unauthorized use or disclosure.
25. ASSIGNMENT. Customer may not assign, transfer or delegate this Agreement or any part of Customer's rights or duties without prior written consent of Aqua-Metric. Any attempted assignment in violation of this section shall be null and void.
26. GOVERNING LAW AND DISPUTE RESOLUTION. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Texas, without regard to conflicts of law principles. Any and all disputes arising under, out of, or in relation to this Agreement or its performance ("Disputes") shall first be resolved by the Parties attempting mediation in Texas. If the Dispute is not resolved within sixty (60) days of the commencement of the mediation, it shall be litigated in the state or federal courts located in the State of Texas.
27. COMPLIANCE WITH LAWS. Customer shall comply with all applicable laws and regulations, as set forth at the time of acceptance and as may be amended, changed, or supplemented. Customer shall not take any action or permit the taking of any action by a third party, which may render Aqua-Metric liable for a violation of applicable laws. Customer will perform its obligations under this Agreement in a manner that complies with all Laws applicable to Customer's business, activities, and facilities. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound.
28. SEVERABILITY. In the event any provision of this Agreement is held to be void, unlawful or otherwise unenforceable, that provision will be severed from the remainder of the Agreement and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible; and the Agreement, as so modified, will continue to be in full force and effect.
29. NON-WAIVER. Failure or delay of Aqua-Metric to exercise a right or power under this Agreement shall not operate as a waiver thereof, nor