

ERIE COUNTY WATER AUTHORITY
 AUTHORIZATION FORM
 For Approval/Execution of Documents
 (check which apply)

Contract: _____ **Project No.:** 201900173
Project Description: Gas Detection Equipment and Maintenance Program

Item Description:

Agreement Professional Service Contract Amendment Change Order
 BCD NYSDOT Agreement Contract Documents Addendum
 Recommendation for Award of Contract Recommendation to Reject Bids
 Request for Proposals
 Other _____

Action Requested:

Board Authorization to Execute Legal Approval
 Board Authorization to Award Execution by the Chairman
 Board Authorization to Advertise for Bids Execution by the Secretary to the Authority
 Board Authorization to Solicit Request for Proposals
 Other _____

Approvals Needed:

APPROVED AS TO CONTENT:

<input checked="" type="checkbox"/> Associate Attorney	<u>Kathleen A. Billette</u>	Date: <u>11/24/2020</u>
<input checked="" type="checkbox"/> Chief Operating Officer	<u>Russell J. Fels</u>	Date: <u>11/24/2020</u>
<input checked="" type="checkbox"/> Executive Engineer	<u>Russell J. Fels</u> for/L. Kowalski	Date: <u>11/24/2020</u>
<input checked="" type="checkbox"/> Director of Administration	<u>Dawnysa Lester</u>	Date: <u>11/24/2020</u>
<input checked="" type="checkbox"/> Risk Manager	<u>Molly J. Musarra</u>	Date: <u>11/24/2020</u>
<input checked="" type="checkbox"/> Chief Financial Officer	<u>Karen A. Rendugast</u>	Date: <u>11/24/2020</u>
<input checked="" type="checkbox"/> Legal	<u>Margaret A. Murphy</u>	Date: <u>11/24/2020</u>

APPROVED FOR BOARD RESOLUTION:

<input checked="" type="checkbox"/> Secretary to the Authority	<u>[Signature]</u>	Date: <u>11/24/20</u>
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Remarks: _____

Resolution Date: _____ **Item No:** _____



**ERIE COUNTY WATER AUTHORITY
INTEROFFICE MEMORANDUM**

To: Terrence D. McCracken, Secretary to the Authority

Cc: Karen A. Prendergast, Chief Financial Officer
Russell J. Stoll, Chief Operating Officer
Margaret A. Murphy, General Counsel
Leonard F. Kowalski, Executive Engineer
Lavonya Lester, Director of Administration

From: Katherine A. Gillette, Associate Attorney

Date: November 24, 2020

Subject: Gas Detection Equipment and Maintenance Program

At its July 16, 2020 meeting, the Board of Commissioners awarded a contract for gas detection equipment and maintenance service to Industrial Scientific Corporation ("ISC"), subject to the review of the Legal Department. At that time, the Legal Department was waiting for ISC, a Pennsylvania corporation, to become registered to do business in New York State. Following the July 16, 2020 meeting, the contract was not fully executed until October 27, 2020 due to delays resulting from ISC becoming registered to do business in New York State.

Following execution of the Agreement, ISC requested that the Agreement be clarified to reflect that the Authority would not pay an increased subscription fee for gas detection equipment until ISC would be able to deliver new, replacement equipment to the Authority on December 1, 2020. The new fee is \$2,444.83. ISC charged a subscription fee at the same rate it had historically billed the Authority for its existing equipment until delivery of the new equipment. The prior fee was \$1,811.13.

Accordingly, an Amendment to the Agreement has been prepared to reflect this change. The increased subscription fee of \$2,444.83 in Article 4 of the Agreement will first be charged in December 2020. The General Counsel recommends this Amendment.

Attached please find the following documents:

1. ECWA Authorization Form.
2. A copy of the Equipment and Service Agreement executed by ISC and the Authority.
3. Three copies of the Amendment for execution by the Authority's Chairman.

**AMENDMENT NO. 1
EQUIPMENT AND SERVICE AGREEMENT
FOR GAS DETECTION EQUIPMENT AND MAINTENANCE PROGRAM**

AMENDMENT, effective December 1, 2020 (“Amendment No. 1”), to the Equipment and Service Agreement for Gas Detection Equipment and Maintenance Program (Project No. 201900173), effective on the 16th day of July 2020, by and between:

ERIE COUNTY WATER AUTHORITY
295 Main Street, Room 350
Buffalo, New York 14203

hereinafter referred to as the “Authority,” and

INDUSTRIAL SCIENTIFIC CORPORATION
1 Life Way
Pittsburgh, Pennsylvania 15205

hereinafter referred to as the “Vendor.”

WHEREAS, on July 16, 2020, the Authority’s Board of Commissioners (the “Board”) approved a resolution for the Authority and the Vendor to enter into an Agreement for the use, monitoring and maintenance of gas detection devices and related equipment, hardware and software (the “Agreement”) upon such terms and conditions as would be finalized and negotiated by the Authority’s General Counsel; and

WHEREAS, the Agreement was not able to be executed by the Vendor until October 20, 2020 due to delays resulting from the Vendor becoming licensed to do business in the State of New York; and

WHEREAS, the Vendor was not able to provide the Authority with the new equipment listed on Schedule A of the Agreement until December 1, 2020; and

WHEREAS, the Vendor provided service to the Authority and the Authority continued to use old equipment previously provided by the Vendor from July 16, 2020 until December 1, 2020; and

WHEREAS, based on the recommendation of the Authority’s General Counsel, the Authority seeks to amend the Agreement to clarify that the rates for service and equipment provided under the Agreement correspond to the date the new equipment was received; and

WHEREAS, in accordance with paragraph 5.02 of the Agreement, no modification or variation from the terms of the Agreement shall be effective unless it is in writing and authorized by a resolution of the Board and signed by all parties;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree to the following:

- (1) Paragraph 3.02 (A) of the Agreement is modified to state that the Vendor has agreed to replace specific Equipment, listed on Schedule A of the Agreement on or after December 1, 2020.
- (2) Paragraph 4.01 of the Agreement is modified to state that the Authority agrees to pay the Vendor a monthly subscription fee for the iNet® system in the amount of \$1,811.13 from the Effective Date until delivery of the Equipment as set forth in Paragraph 3.02 (A). The Authority agrees to pay the Vendor a monthly subscription fee for the iNet® system in the amount of \$2,444.83 from the date of delivery of the Equipment as set forth in Paragraph 3.02 (A) of this Agreement until the end of the term of this Agreement. The parties agree the Authority will not be subject to any other fees or charges, except for the purchase of equipment or parts not covered by this Agreement.
- (3) The parties agree all other terms and conditions of the Contract shall remain without change or amendment.
- (4) This Amendment may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.
- (5) The parties agree to accept electronic signature pages, signed in conformity with the Governor's Executive Order No. 202.7, allowing any notarial action to be performed using audio-visual technology.

IN WITNESS WHERETO, the parties hereto have caused this Amendment No. 1 to be signed by their respective duly constituted officers, attested and sealed pursuant to proper authority.

ERIE COUNTY WATER AUTHORITY

By _____
Jerome D. Schad, Chair

INDUSTRIAL SCIENTIFIC CORPORATION

By _____
Garth F. Miller, Vice President
Consumer Operations

STATE OF NEW YORK)
COUNTY OF ERIE) ss:

On the _____ day of _____, in the year 2020, before me personally came Jerome D. Schad, to me known, who, being by me duly sworn, did depose and say that he resides in Amherst, New York, that he is the Chair of the Board of Commissioners for the Erie County Water Authority described in the above instrument; and that he signed his name thereto by order of the Board of Commissioners.

Notary Public

STATE OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) ss:

On the _____ day of _____, in the year 2020, before me personally came Garth F. Miller, to me known, who, being by me duly sworn, did depose and say that he resides in Pittsburgh, Pennsylvania, that he is the Vice President Consumer Operation of the Corporation described in the above instrument; and that he signed his name thereto by order of the Board of Directors of said Corporation.

Notary Public

**EQUIPMENT AND SERVICE AGREEMENT
FOR GAS DETECTION EQUIPMENT AND MAINTENANCE PROGRAM**

This Agreement is effective as of July 16, 2020 (“Effective Date”) by and between

ERIE COUNTY WATER AUTHORITY

295 Main Street, Room 350
Buffalo, New York 14203

hereinafter referred to as the “Authority,” and

INDUSTRIAL SCIENTIFIC CORPORATION

1 Life Way
Pittsburgh, Pennsylvania 15205

hereinafter referred to as “Vendor.”

This Agreement relates to the use, monitoring, and maintenance of gas detection devices and related equipment, hardware, and software.

In consideration of the mutual promises set forth in this Agreement, the Authority and Vendor agree as follows:

ARTICLE 1 – DEFINITIONS

1.01 “Authority” means the Erie County Water Authority.

1.02 “Confidential Information” means confidential, copyrighted, protected, or proprietary information or such information specifically identified by the party in writing as being confidential, provided in connection with this Agreement.

1.03 “Distribution System” means the property and facilities from which the Authority treats or distributes water to locations within the Authority’s service area.

1.04 “Equipment” means gas detection devices, hardware, software and accessories.

1.05 “Installation Sites” mean the five specific locations under the control of the Authority where Equipment will be kept and stored. These locations include the Sturgeon Point Water Treatment Plant, the Van de Water Treatment Plant, the Meter Shop, the Line Maintenance Unit, and the Control Instrumentation Pump Mechanics Unit.

1.06 “Material Breach” means, with respect to a given breach of this Agreement, that a reasonable person, in the position of the nonbreaching party, would wish to terminate this

Agreement because of that breach or would not have entered into this Agreement if such conduct was known to the nonbreaching party prior to the execution of this Agreement.

1.07 “Services” means services provided by the Vendor including the use, supplying, monitoring, and maintenance of Equipment.

1.08 “Term” means the term of this Agreement and the term of any subsequent agreements executed on or before the expiration of this Agreement or the expiration of any other subsequent agreement.

1.09 “Usage Data” means information or data collected, used or disclosed through the general use of the iNet® system or by the Vendor for the purposes of research and development and/or technical support.

1.10 “User Information” means information related to individual users of the iNet® system.

1.11 “Vendor” means Industrial Scientific Corporation or its affiliate.

ARTICLE 2 – TERM

2.01 The term of this Agreement is twelve (12) months from its Effective Date.

ARTICLE 3 - SCOPE OF SERVICE

3.01 Equipment and Service for Gas Detection

A. The Authority currently uses Equipment manufactured and supplied by the Vendor to monitor toxic gases, used or which may be present in the water treatment plants and in the Distribution System. The gas monitors are designed and programmed to monitor and log exposure data to such gases. The data is used to generate reports on a pre-determined schedule to ensure appropriate response to alarms and equipment conditions.

B. The overall purpose of this Agreement is for the Vendor to furnish and supply specified Equipment, for the Authority’s use at multiple Installation Sites, in addition to providing a complete gas detection equipment management and maintenance service, including online equipment monitoring and data processing. Services shall include the repair or replacement of docking stations, portable gas monitoring equipment, software used for the iNet® system and other associated accessories. The Vendor will also provide the Authority with an auto replenishment of calibration gases and automatic equipment replacement within seventy-two (72) hours of notification of faulty equipment, for a 12-month period.

3.02 Location of Gas Detection Devices

A. The Vendor has agreed to replace specific Equipment, listed on Schedule A of this Agreement.

B. The Vendor has or will supply the Authority with specific Equipment, listed on Schedule B of this Agreement, for the locations indicated on the schedule.

C. The Authority will promptly notify the Vendor, in writing, if any Equipment is transferred from the Installation Site shown on Schedule B. The Authority further agrees not to transfer any Equipment outside of the United States without the express written consent of the Vendor.

3.03 Vendor's Obligations

A. The Vendor will deliver and install, to the extent necessary, the Equipment, using credentialed, trained, and screened personnel.

B. Absent negligent use or misuse of the Equipment, the Vendor will promptly repair or replace any Equipment if it malfunctions or fails during the Term. The Vendor will notify the Authority of any delay affecting the repair or replacement of any Equipment and will make diligent efforts to resolve any such delay.

3.04 Authority's Obligations

A. The Authority agrees to dock the gas detection devices on the appropriate docking stations. The parties agree and acknowledge that the Vendor will have no opportunity, ability or obligation to record, analyze, or take further action with respect to gas detection devices that are not properly docked.

B. The Authority will provide necessary cabling, wireless networking components, and technical assistance during installation. With respect to the network, the Authority will be responsible for any changes following initial installation, security, user training, and administration. The Vendor will have no responsibility for network systems that may be affected by Equipment installation and Services provided by the Vendor.

C. The Authority agrees not to make any unauthorized representations about the Services and Equipment without written permission from the Vendor. The Authority agrees not to perform, nor cause any third party to perform any non-routine security testing of the Equipment or to service the Equipment, without the Vendor's written permission.

ARTICLE 4 – SUBSCRIPTION FEE

4.01 The Authority agrees to pay the Vendor a monthly subscription fee for the iNet® system in the amount of \$2,444.83 during the term of this Agreement. The parties agree the Authority will not be subject to any other fees or charges, except for the purchase of equipment or parts not covered by this Agreement.

4.02 The Vendor will issue invoices on the last day of each month during the term of this Agreement and will email such invoices to accountspayable@ecwa.org.

4.03 The Authority agrees to pay the "Subscription Fee" within forty-five (45) days of the invoice date. The Authority will pay all charges for its internet connection and pre-approved travel expenses of the Vendor following the initial installation.

4.04 Pursuant to New York Public Authorities Law § 1063, the Authority shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities, or any filing, recording or transfer taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

ARTICLE 5 – GENERAL PROVISIONS

5.01 **Subcontract and Assignments:** The Vendor may not subcontract or delegate any of the work, services, and/or other obligations of the Vendor without the express written consent of the Authority. The Authority and the Vendor bind themselves and their successors, administrators and assigns to the terms of this Agreement. The Vendor shall not assign, sublet or transfer its interest in the Agreement without the written consent of the Authority.

5.02 **Amendments:** No modification or variation from the terms of this Agreement shall be effective unless it is in writing and authorized by a resolution of the Board of Commissioners of the Authority and signed by all parties.

5.03 **Indemnification:**

A. To the fullest extent permitted by law, the Vendor agrees to indemnify and hold the Authority harmless from all third-party claims, liabilities, damages and costs (including all reasonable attorney's fees, and cost of defense) to which the Authority, its officers, directors and employees may be subject to, arising out of the death or bodily injury to any person or the destruction or damage to any property to the extent caused by the negligent acts, errors or omissions, or willful misconduct of the Vendor's performance of Services provided under this Agreement and those of its subcontractors or anyone for whom the Vendor is legally liable.

B. To the fullest extent permitted by law, the Authority agrees to indemnify and hold the Vendor harmless from all third-party claims, liabilities, damages and costs (including all reasonable attorney's fees and cost of defense) to which the Vendor, its officers, directors and employees may be subject to, arising out of the death or bodily injury to any person or the destruction or damage to any property to the extent caused by the negligent acts, errors or omissions, or willful misconduct to the extent caused by the negligent acts, errors or omissions of the Authority, its employees, contractors, or anyone for whom the Authority is legally liable.

C. The provisions of this section survive the termination of this Agreement.

5.04 Liability Limitations:

A. Neither party will be liable to the other party for any special, indirect, contingent, punitive, or consequential damages or for losses or damages caused directly or indirectly by the Equipment and/or Services or the failure to deliver the same. The Vendor's liability arising under this Agreement, including by way of the indemnification described in paragraph A of § 5.03, will not exceed the lesser of the total Subscription Fee paid or actual damages incurred, as it relates to any claim for damages by the Authority.

B. The Authority's failure to meet the obligations set forth in § 3.04 of this Agreement will foreclose its ability to bring a claim of liability related to reports, a delay in providing reports, or failure to provide such reports by the Vendor.

C. The provisions of this section survive the termination of this Agreement.

5.05 Confidentiality & Privacy:

A. The parties agree Confidential Information shall be maintained in strict confidence and not used for any purpose unrelated to this Agreement nor disclosed to any third party.

B. If either party receives a request to disclose Confidential Information from a governmental or law enforcement entity, or any other entity acting under the color of law, that party shall immediately notify the other party, in writing, before making any disclosure required by law.

C. Notwithstanding the foregoing, the Vendor may store all Usage Data in aggregated, de-identified form. The Vendor may disclose this de-identified Usage Data to its authorized subcontractors that are subject to the same confidentiality obligations as set forth in this section.

D. The parties agree and acknowledge User Information will be collected and transferred to the Vendor for data processing in geographic location(s) that are not necessarily in the same jurisdiction as the location in which it was collected. The parties are responsible for compliance with all applicable laws and regulations related to such collection, transmittal, and processing of User Information.

E. Neither party shall use the other's name in connection with advertising or publicity without the respective party's written permission. Notwithstanding the foregoing, either party may include the other's name and logo on a supplier or customer list on its website.

F. The provisions of this section survive the termination of this Agreement.

5.06 Insurance:

A. The Vendor shall secure and maintain such insurance as will protect itself from claims under the Workers' Compensation Act; claims for damages because of bodily injury, including personal injury, sickness or disease, or death of any of its employees or of any person

other than its employees; and from claims for damages because of injury to or destruction of property including loss of use resulting therefrom in the amounts indicated on Appendix A.

B. The Vendor shall provide and maintain insurance that will provide coverage for claims arising out of the negligent performance of this Agreement and will list the Authority as a named insured on the applicable certificates of insurance.

C. The Vendor shall provide Certificates of Insurance certifying the coverage required by this provision.

D. The Vendor shall provide the name of an employee who will be responsible for providing the Authority with current and updated Certificates of Insurance. The Authority will require the name of the employee, the employee's phone number and email address.

5.07 Ownership:

A. The Authority agrees all intellectual property in or associated with the Equipment and Service is owned by the Vendor. Ownership and title to the Equipment, excluding calibration gas and authorized Equipment purchased outside of this Agreement, always remains vested in the Vendor.

B. The Authority will use the Equipment only as directed in the documentation and other instructions provided by the Vendor. The Authority will provide the Vendor with ready access to the Equipment, subject to the provision set forth below in paragraph C of this section.

C. Before the Vendor's personnel may be given access to any Authority property, the Vendor must notify the Authority's Security Officer and provide the following information prior to a site visit: (a) government-issued photo identification for all site visitors; (b) a statement indicating the purpose for the site visit; (c) the proposed date and time for the site visit; (d) the estimated start and finish time for the site visit; and (e) any additional information reasonably requested by the Authority's Security Officer. No person may visit any Authority property without the authorization of the Authority and/or its Security Officer.

D. The Authority will promptly return any Equipment in need of repair to the Vendor using the prepaid shipping packages that will accompany the replacement Equipment within fourteen (14) days; otherwise the Authority agrees to purchase the Equipment from the Vendor at the then-current retail price.

E. The Authority agrees to reimburse the Vendor, at the fair market value at time of replacement, for any lost, stolen, missing, destroyed, or damaged Equipment, including Equipment lost due to fire, theft, vandalism, force majeure, and/or acts of God.

F. The provisions of this section survive the termination of this Agreement.

5.08 Warranties:

A. The Equipment is warranted: (a) for the shorter of the Term or repair/replacement; and (b) to conform to the documentation provided to the Authority.

B. The Vendor does not warrant that the Equipment will meet the Authority's requirements or will be error free.

C. The Vendor's sole warranty obligation is limited to correction of defects or replacement of the Equipment.

D. To the extent permitted by applicable law, this limited warranty and these terms are in lieu of, and the Authority waives, all implied guarantees and warranties, including without limitation, any warranty of merchantability or fitness for a particular purpose and any liability of the Vendor under any provisions of applicable law.

E. The provisions of this section survive the termination of this Agreement.

5.09 Governing Law and Jurisdiction:

A. Notwithstanding any other provision of this Agreement, any dispute concerning any question of fact or law arising under this Agreement which is not disposed of by agreement between the Vendor and the Authority shall be governed, interpreted and decided by a court of competent jurisdiction in accordance with the laws of the State of New York.

B. The parties agree to use their best efforts to resolve any dispute arising out of or relating to this Agreement prior to resorting to any external dispute resolution process. Each party agrees to provide the other party with ten (10) days' prior written notice before filing a complaint or instituting a legal proceeding related to this Agreement.

C. A party's failure to exercise any of its rights under this Agreement on one occasion shall not waive its rights to enforce the same on another occasion.

D. The provisions of this section survive the termination of this Agreement.

5.10 Conflicts of Interest: The Vendor represents that it has advised the Authority in writing prior to the date of signing this Agreement of any relationships with third parties, including competitors of the Authority, which would present a conflict of interest with the rendering of the services, or which would prevent the Vendor from carrying out the terms of this Agreement or which would present a significant opportunity for the disclosure of confidential information. The Vendor will advise the Authority of any such relationships that arise during the term of this Agreement. The Authority shall then have the option to terminate the Agreement without further liability of the Vendor, except to pay for services rendered.

5.11 Additional Conditions: The Vendor and the Authority acknowledge that there may, in the future, be additional conditions, terms and provisions which shall apply specifically to the services

to be performed. The parties agree to negotiate in good faith to agree upon such additional terms and to comply with the provisions set forth in §§ 5.02 and 5.12 of this Article.

5.12 Entire Agreement: This Agreement constitutes the entire understanding of the parties and no representations or agreements, oral or written, made prior to its execution shall vary or modify the terms herein. This Agreement supersedes all prior contemporaneous communications, representations, or agreements, whether oral or written with respect to the subject matter of this Agreement and has been induced by no representations, statements or agreements other than those expressed in this Agreement. No subsequent agreement made between the parties shall be binding on either party unless reduced to writing and signed by an authorized officer of the party sought to be bound by such agreement.

5.13 Independent Status:

A. Nothing contained in the Agreement shall be construed to render either the Authority or the Vendor, an owner, member, officer, partner, employee or agent of the other, nor shall either party have authority to bind the other in any manner, other than as set forth in this Agreement, it being intended that the Vendor shall remain an independent contractor responsible for its own actions. The Vendor is retained by the Authority only for the purpose and to the extent set forth in this Agreement.

B. The Vendor is free to choose the aggregate number of hours worked and the scheduling of such hours as it shall see fit at its discretion within the limitations set forth in this Agreement.

C. Neither the Vendor nor its employees shall be considered under the provisions of this Agreement or otherwise as having an employee, servant or agency status or as being entitled to participate in any plans, arrangements or distributions of the Authority.

D. In providing the Services under this Agreement, the Vendor represents and warrants that it has complied with all applicable federal, state and local laws particularly with respect to licenses, withholdings, reporting and payment of taxes. The Vendor agrees to furnish copies of documentation to the Authority evidencing its compliance with such laws. The Vendor further represents and warrants that any income accruing to the Vendor and its employees from the Agreement shall be reported as such to the appropriate taxation authorities.

5.14 Doing Business Status: The Vendor represents it is qualified to do business in the State of New York and has registered with the New York Secretary of State.

5.15 Gratuities: The Vendor shall prohibit its agents, employees and consultants from using their positions for personal financial gain, or from accepting any personal advantage from anyone under circumstance which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their official duties. The Vendor or its employees shall not, under circumstances which might be reasonably interpreted as an attempt to influence the recipients in the conduct of their duties, extend any gratuity or special favor to employees of the Authority.

5.16 Force Majeure: The Vendor shall not be liable to the Authority for any failure to perform the Services if any such failure is caused by forces beyond the Vendor's reasonable control, including without limitation, actions or inactions of any governmental agencies, changes in law, strikes, lockouts, or other industrial disturbances, or other omissions of third parties, civil disturbances, fires, floods, earthquakes, acts of God, acts of a public enemy or terrorism, epidemics or pandemics, including issues arising out of the COVID-19 pandemic, which may include without limitation, workforce shortages, lack of necessary supplies or Personal Protective Equipment, travel restrictions, and other restrictions resulting from public guidance and emergency orders.

5.17 Notice: Any notices required by this Agreement or otherwise may be delivered by email, if such email can be sent with a return receipt requested, by personal delivery, or by United States Postal Service or other delivery service providers upon the addresses stated in this Agreement. Any change in such addresses shall be required to be in writing to the other party and acknowledged as such.

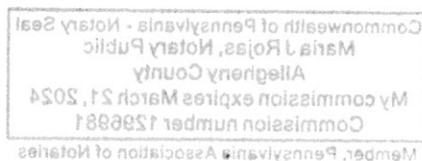
ARTICLE VI – SEVERABILITY

6.01 Any provision or part of the Agreement held to be void or unenforceable by a court of competent jurisdiction shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties who agree that the Agreement shall be reformed to replace such stricken provisions or part thereof with a valid enforceable provision that comes as close as possible to expressing the intent of the stricken provision. The validity and enforceability of all other provisions of this Agreement shall not otherwise be affected.

ARTICLE VII – TERMINATION


7.01 If either party commits a Material Breach of its obligations under this Agreement, the other party may terminate this agreement by giving the breaching party at least ten days' prior notice, except that any such notice will not result in termination if the breaching party cures that breach before the ten-day period elapses.

7.02 The Vendor may terminate this Agreement immediately if the Authority: (a) ceases to operate, declares bankruptcy, becomes insolvent or otherwise is unable to meet its financial obligations; (b) attempts to sell, assign, delegate or transfer any of the Vendor's rights and obligations under this Agreement; or (c) is dissolved or ceases to exist as a public benefit corporation under the laws of the State of New York.

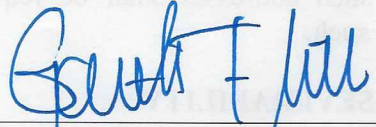


7.03 Upon termination or expiration of this Agreement: (a) the Vendor will have no further obligations to the Authority; and (b) the Authority will return, at its sole cost, all Equipment to the Vendor within thirty (30) days.

ERIE COUNTY WATER AUTHORITY

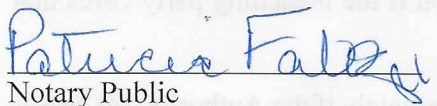
By 
Jerome D. Schad, Chair

INDUSTRIAL SCIENTIFIC CORPORATION

By 
Garth F. Miller, Vice President
Consumer Operations

STATE OF NEW YORK)
COUNTY OF ERIE) ss:


On the 27th day of October, in the year 2020, before me personally came Jerome D. Schad, to me known, who, being by me duly sworn, did depose and say that he resides in Amherst, New York, that he is the Chairman of the Corporation described in the above instrument; and that he signed his name thereto by order of the Board of Directors of said Corporation.


Notary Public

PATRICIA FABOZZI #4957586
Notary Public, State of New York
Qualified in Erie County
My Commission Expires October 16, 2021

STATE OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) ss:

On the 20th day of October, in the year 2020, before me personally came Garth F. Miller to me known, who, being by me duly sworn, did depose and say that he/she resides in Pittsburgh, PA, that he/she is the V.P. Consumer Operations of the Corporation described in the above instrument; and that he/she signed his/her name thereto by order of the Board of Directors of said Corporation.


Notary Public

Commonwealth of Pennsylvania - Notary Seal
Maria J Rojas, Notary Public
Allegheny County
My commission expires March 21, 2024
Commission number 1296981
Member, Pennsylvania Association of Notaries



APPENDIX A

GAS DETECTION EQUIPMENT AND MAINTENANCE PROGRAM

ECWA PROJECT No. 201900173

Insurance Specs:

The following minimum insurance requirements shall apply to vendors providing services to the Erie County Water Authority (ECWA). If a service or project, in the opinion of ECWA, represents an unusual or exceptional risk, ECWA may establish additional insurance requirements for that service or project. All insurance required herein shall be obtained at the sole cost and expense of the contractor, including deductibles and self-insured retentions, and shall be in full force and effect on the contract commencement date and for the duration of the contract. These requirements include but are not limited to the minimum insurance requirements.

Insurance Requirements:

a) Workers Compensation:

Part 1: Workers Compensation: Statutory

Part 2: Employers Liability: \$1,000,000.

Note: If New York State domiciled employees are used, coverage to be New York Statutory for both Parts 1 and 2

b) New York Disability Benefits Liability: Statutory coverage if New York State domiciled employees are used.

c) Commercial General Liability:

- \$2,000,000. General Aggregate
- \$2,000,000. Products/Completed Operations Aggregate
- \$1,000,000. Each Occurrence
- \$1,000,000. Personal Injury/Advertising Liability
- Erie County Water Authority to be scheduled as an Additional Insured for both on-going and completed operations (attach Additional Insured endorsement to Certificate of Insurance)
- Insurance to be primary and non-contributory
- Per project aggregate shall apply

d) Automobile Liability:

- \$1,000,000. Each Accident
- Erie County Water Authority to be scheduled as an Additional Insured.

e) Umbrella Liability:

- \$5,000,000. Each Occurrence
- \$5,000,000. Aggregate
- Erie County Water Authority to be scheduled as an Additional Insured

- Per project aggregate shall apply

f) Cyber Liability

- \$1,000,000 Per Claim
- \$1,000,000 Aggregate

Certificates of Insurance to be provided to ECWA prior to start of work as follows:

ACORD 25 (Item a-f) including copy of Additional Insured Endorsement Note: If coverage provided for NYS domiciled employees require Forms C 105.2 and DB 120.1 for Workers Compensation and NYS DBL.

Certificates of Insurance, on forms approved by the New York State Department of Insurance, must be submitted to ECWA prior to the award of contract. Renewals of Certificates of Insurance, on forms approved by the New York State Department of Insurance, must be received by ECWA 30 days prior to the expiration of the insurance policy period.

Certificates of Insurance and renewals, on forms approved by the New York State Department of Insurance, must be submitted to ECWA prior to the award of contract. Each insurance carrier issuing a Certificate of Insurance shall be rated by A. M. Best no lower than "A-" with a Financial Strength Code (FSC) of at least VII. The professional service provider shall name ECWA, its officers, agents and employees as additional insured on a Primary and Non-Contributory Basis, including a Waiver of Subrogation endorsement (form CG 20 26 11 85 or equivalent), on all applicable liability policies. Any liability coverage on a "claims made" basis should be designated as such on the Certificate of Insurance. Such insurance shall continue through the term of this Agreement and vendor shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Acts Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that vendor has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

To avoid confusion with similar insurance company names and to properly identify the insurance company, please make sure that the insurer's National Association of Insurance Commissioners (N.A.I.C.) identifying number or A. M. Best identifying number appears on the Certificate of Insurance. Also, at the top of the Certificate of Insurance, please list the project number.

Acceptance of a Certificate of Insurance and/or approval by ECWA shall not be construed to relieve the outside vendor of any obligations, responsibilities or liabilities.

Certificates of Insurance should be e-mailed to mmusarra@ecwa.org or mailed to Ms. Molly Jo Musarra, ECWA Claims Representative Risk Manager, Erie County Water Authority, 295 Main Street – Room 350, Buffalo, New York 14203-2494, or If you have any questions you can contact Ms. Musarra by e-mail or phone (716) 849-8465.

iNet® Subscription Agreement
Erie County Water Authority
Case No. 20200324-2389466

SCHEDULE A

All equipment currently on site will be returned for the below equipment list

Qty	Part Number	Description
2	VP5-K1231101101	Ventis Pro Series, LEL (Pentane), CO, H2S, O2, Li-ion, Desktop Charger, Orange, UL/CSA, English
9	VP5-K1231001101	Ventis Pro Series, LEL (Pentane), CO, H2S, O2, Li-ion, Orange, UL/CSA, English
3	VP5-KJ732001101	Ventis Pro Series, LEL (Pentane), CO/H2S, CL2, O2, Li-ion Ext Range, Orange, UL/CSA, English
8	18109327-131	DSXi Cloud-Connected Docking Station for Ventis, 3 Inlet Ports, North American Power Cord
8	18105841	Regulator, Demand Flow iGas, 150 PSI Pressure Switch, CGA-C10 for 58L, 103L & 116L Cylinders
8	17124348	Wall/ Desk Mount Cylinder Holder (for use with, 34L, 58L, 103L, 116L and 552L cylinders)
6	18105924	5-Port Gas Regulator Manifold Clamp, DSX
10	18109162-1111	Ventis Slide-on Pump, Lithium-ion battery pack, High Visibility Orange, UL/CSA, English /French /Spanish /German /Chinese
7	18108191	Charger, Single-Unit, Ventis
2	18108651	Charger, Single-Unit Automotive, 12VDC, Ventis
Calibration Gas – AutoReplenish Plus™ Program includes calibration gas for the term of the iNet Program.		
5	18109157	Cylinder, Calibration Gas, 25 ppm Hydrogen Sulfide, 100 ppm Carbon Monoxide, .35% Pentane (25% LEL), 18% Oxygen, Aluminum, 116L
3	18109082	Cylinder, Calibration Gas, 10 ppm Chlorine, Aluminum, 116L
Consumable Items – Initial Supply of items below only. Replacement consumable items must be purchased by customer.		
45	17152395	Dust filter/Water stop for Ventis Pump

SCHEDULE B

Location 1: Sturgeon Point

Qty	Part Number	Description
1	VP5-K1231101101	Ventis Pro Series, LEL (Pentane), CO, H2S, O2, Li-ion, Desktop Charger, Orange, UL/CSA, English
1	VP5-KJ732001101	Ventis Pro Series, LEL (Pentane), CO/H2S, CL2, O2, Li-ion Ext Range, Orange, UL/CSA, English
2	18109327-131	DSXi Cloud-Connected Docking Station for Ventis, 3 Inlet Ports, North American Power Cord
2	18109162-1111	Ventis Slide-on Pump, Lithium-ion battery pack, High Visibility Orange, UL/CSA, English /French /Spanish /German /Chinese
2	18105924	5-Port Gas Regulator Manifold Clamp, DSX
2	18105841	Regulator, Demand Flow iGas, 150 PSI Pressure Switch, CGA-C10 for 58L, 103L & 116L Cylinders
2	17124348	Wall/ Desk Mount Cylinder Holder (for use with, 34L, 58L, 103L, 116L and 552L cylinders)
Calibration Gas – <i>AutoReplenish Plus™ Program includes calibration gas for the term of the iNet Program.</i>		
1	18109157	Cylinder, Calibration Gas, 25 ppm Hydrogen Sulfide, 100 ppm Carbon Monoxide, .35% Pentane (25% LEL), 18% Oxygen, Aluminum, 116L
1	18109082	Cylinder, Calibration Gas, 10 ppm Chlorine, Aluminum, 116L
Consumable Items – <i>Initial Supply of items below only. Replacement consumable items must be purchased by customer.</i>		
10	17152395	Dust filter/Water stop for Ventis Pump

Location 2: Van de Water

Qty	Part Number	Description
1	VP5-K1231101101	Ventis Pro Series, LEL (Pentane), CO, H2S, O2, Li-ion, Desktop Charger, Orange, UL/CSA, English
1	VP5-KJ732001101	Ventis Pro Series, LEL (Pentane), CO/H2S, CL2, O2, Li-ion Ext Range, Orange, UL/CSA, English
2	18109327-131	DSXi Cloud-Connected Docking Station for Ventis, 3 Inlet Ports, North American Power Cord
2	18109162-1111	Ventis Slide-on Pump, Lithium-ion battery pack, High Visibility Orange, UL/CSA, English /French /Spanish /German /Chinese
2	18105924	5-Port Gas Regulator Manifold Clamp, DSX
2	18105841	Regulator, Demand Flow iGas, 150 PSI Pressure Switch, CGA-C10 for 58L, 103L & 116L Cylinders
2	17124348	Wall/ Desk Mount Cylinder Holder (for use with, 34L, 58L, 103L, 116L and 552L cylinders)
Calibration Gas – <i>AutoReplenish Plus™ Program includes calibration gas for the term of the iNet Program.</i>		
1	18109157	Cylinder, Calibration Gas, 25 ppm Hydrogen Sulfide, 100 ppm Carbon Monoxide, .35% Pentane (25% LEL), 18% Oxygen, Aluminum, 116L
1	18109082	Cylinder, Calibration Gas, 10 ppm Chlorine, Aluminum, 116L
Consumable Items – <i>Initial Supply of items below only. Replacement consumable items must be purchased by customer.</i>		
10	17152395	Dust filter/Water stop for Ventis Pump

Location 3: Meter Shop

Qty	Part Number	Description
3	VP5-K1231001101	Ventis Pro Series, LEL (Pentane), CO, H2S, O2, Li-ion, Orange, UL/CSA, English
1	18109327-131	DSXi Cloud-Connected Docking Station for Ventis, 3 Inlet Ports, North American Power Cord
1	18105841	Regulator, Demand Flow iGas, 150 PSI Pressure Switch, CGA-C10 for 58L, 103L & 116L Cylinders
1	17124348	Wall/ Desk Mount Cylinder Holder (for use with, 34L, 58L, 103L, 116L and 552L cylinders)
2	18109162-1111	Ventis Slide-on Pump, Lithium-ion battery pack, High Visibility Orange, UL/CSA, English /French /Spanish /German /Chinese
4	18108191	Charger, Single-Unit, Ventis
2	VP5-K1231001101	Ventis Pro Series, LEL (Pentane), CO, H2S, O2, Li-ion, Orange, UL/CSA, English
Calibration Gas – <i>AutoReplenish Plus™ Program includes calibration gas for the term of the iNet Program.</i>		
1	18109157	Cylinder, Calibration Gas, 25 ppm Hydrogen Sulfide, 100 ppm Carbon Monoxide, .35% Pentane (25% LEL), 18% Oxygen, Aluminum, 116L

Consumable Items – Initial Supply of items below only. Replacement consumable items must be purchased by customer.

5	17152395	Dust filter/Water stop for Ventis Pump
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Location 4: Line Maint

Qty	Part Number	Description
2	VP5-K1231001101	Ventis Pro Series, LEL (Pentane), CO, H2S, O2, Li-ion, Orange, UL/CSA, English
1	18109327-131	DSXi Cloud-Connected Docking Station for Ventis, 3 Inlet Ports, North American Power Cord
1	18105841	Regulator, Demand Flow iGas, 150 PSI Pressure Switch, CGA-C10 for 58L, 103L & 116L Cylinders
1	17124348	Wall/ Desk Mount Cylinder Holder (for use with, 34L, 58L, 103L, 116L and 552L cylinders)
2	18109162-1111	Ventis Slide-on Pump, Lithium-ion battery pack, High Visibility Orange, UL/CSA, English /French /Spanish /German /Chinese
1	18108191	Charger, Single-Unit, Ventis

Calibration Gas –AutoReplenish Plus™ Program includes calibration gas for the term of the iNet Program.

1	18109157	Cylinder, Calibration Gas, 25 ppm Hydrogen Sulfide, 100 ppm Carbon Monoxide, .35% Pentane (25% LEL), 18% Oxygen, Aluminum, 116L
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Consumable Items – Initial Supply of items below only. Replacement consumable items must be purchased by customer.

10	17152395	Dust filter/Water stop for Ventis Pump
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Location 5: Control Instrumentation Pump Mechanics

Qty	Part Number	Description
4	VP5-K1231001101	Ventis Pro Series, LEL (Pentane), CO, H2S, O2, Li-ion, Orange, UL/CSA, English
1	VP5-KJ732001101	Ventis Pro Series, LEL (Pentane), CO/H2S, CL2, O2, Li-ion Ext Range, Orange, UL/CSA, English
2	18109327-131	DSXi Cloud-Connected Docking Station for Ventis, 3 Inlet Ports, North American Power Cord
2	18105841	Regulator, Demand Flow iGas, 150 PSI Pressure Switch, CGA-C10 for 58L, 103L & 116L Cylinders
2	17124348	Wall/ Desk Mount Cylinder Holder (for use with, 34L, 58L, 103L, 116L and 552L cylinders)
2	18105924	5-Port Gas Regulator Manifold Clamp, DSX
2	18109162-1111	Ventis Slide-on Pump, Lithium-ion battery pack, High Visibility Orange, UL/CSA, English /French /Spanish /German /Chinese
2	18108191	Charger, Single-Unit, Ventis

Calibration Gas –AutoReplenish Plus™ Program includes calibration gas for the term of the iNet Program.

1	18109157	Cylinder, Calibration Gas, 25 ppm Hydrogen Sulfide, 100 ppm Carbon Monoxide, .35% Pentane (25% LEL), 18% Oxygen, Aluminum, 116L
1	18109082	Cylinder, Calibration Gas, 10 ppm Chlorine, Aluminum, 116L

Consumable Items – Initial Supply of items below only. Replacement consumable items must be purchased by customer.

10	17152395	Dust filter/Water stop for Ventis Pump
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