

# WaterTrax USA, Inc. Customer Service Agreement

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Between:

City Of Fresno, Dept. Of Public Utilities, Water  
Division  
1910 E. University Ave.  
Fresno, CA 93703-2988

- and -

WaterTrax USA Inc.  
1420 – 5<sup>th</sup> Ave, Suite 2200  
Seattle, WA 98101  
USA

WaterTrax USA, Inc. (“WaterTrax”) provides its online data-management service for water quality and operating data presently located at [www.watertrax.com](http://www.watertrax.com) (“the Service”) to the City of Fresno, a California municipal corporation, (“Subscriber”) upon the terms and conditions set out below. By using the Service, Subscriber agrees to abide by the terms of this Customer Service Agreement (“Agreement”).

- 1. Services and Payment.** WaterTrax hereby agrees to provide the Service and Subscriber agrees to pay the Subscription Fee (the “Fee”), all as outlined in Schedule A, and as provided in the proposal document dated June 9, 2014 provided to the Subscriber (the “Proposal”). The parties can agree from time to time to vary the Service offered or the Fee, provided that such agreement is in writing. In addition, WaterTrax will provide Technical Support Services (“Support”) as outlined in Schedule C, and after sales service consisting of Implementation and Training Services as outlined in Schedule D.
- 2. License.** WaterTrax grants Subscriber a non-exclusive, non-transferable, limited license (1) to access and use the Service and WaterTrax data (“WaterTrax Data”) and (2) to post Subscriber’s data (“Subscriber’s Data”) to the Service, and (3) to use the WaterTrax Data solely with respect to Subscriber’s water systems, facilities and sampling points, as outlined in Schedule A. Subscriber’s Data shall include all information provided through configuration of the Service, and laboratory and operational readings submitted by Subscriber, or by any party authorized by Subscriber to submit Subscriber’s Data to the Service.
- 3. Registered Users.** Subscriber’s license to the Service entitles Subscriber to designate a limited number of Registered Users (“Users”) to access the Service as listed in Schedule B. Each User shall be assigned a Login Identification, which will include a username and password. All Users of the Service are subject to all the terms and conditions of this Agreement. Subscriber is responsible for all access to the Service and use of the Data by Subscriber's personnel or designated Users, whether or not Subscriber has knowledge of or authorizes such use. Subscriber shall assign to the Users one of the permissions levels as outlined in Schedule B. Subscriber is responsible for ensuring that all relevant contact information of the Users (such as legal names, email addresses, telephone numbers, etc.) is correctly set-up in the Service. WaterTrax shall have the right at all times to ensure that the number and identity of Users is limited to those specified in Schedule B. It is not permissible to share Login Identifications between individuals or transfer Login Identifications to other parties without prior written permission of WaterTrax.
- 4. Lab Authorization.** If some or all of the Subscriber’s Data will be posted to the Service by a third party Laboratory, then Subscriber agrees to forward and have each Laboratory sign Laboratory Authorization as per Schedule E. Subscriber shall forward a signed copy of each Lab Authorization by mail, fax, or email to WaterTrax.
- 5. Technical and Administrative Contacts.** The names of Subscriber’s technical and administrative contacts (the “Subscriber’s Representatives”) for all communications between Subscriber and WaterTrax pertaining to this Agreement are set out in the attached Schedule B. Subscriber represents that the Subscriber’s Representatives have the power to act on behalf of Subscriber with respect to this Agreement. Subscriber may change these contacts by providing written notice to WaterTrax.
- 6. Compliance with Law.** In providing the services required under this Agreement, WaterTrax shall at all times comply with all applicable laws of the United States, the State of California and Subscriber, and with all applicable regulations promulgated by Federal, State, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

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7. **Term.** This term of this Agreement is detailed in Schedule A.
8. **Intellectual Property.** WaterTrax, the WaterTrax logo and other WaterTrax logos and product and service names are trademarks of WaterTrax (the "WaterTrax Marks"), whether or not registered. Without WaterTrax prior permission, Subscriber agrees not to display or use, in any manner, the WaterTrax Marks.

Subscriber acknowledges and agrees that the Service, the interface to it (including without limitation data entry screens and reports generated by the Service) and all software used in connection with the Service contain proprietary and confidential information that is protected by applicable intellectual property and other laws. Subscriber agrees not to use such property, including without limitation trade-marks, patents and other intellectual property of WaterTrax except as expressly authorized by this Agreement. Except as expressly authorized by WaterTrax, Subscriber agrees not to modify, rent, lease, loan, sell, distribute or create derivative works or businesses based on the Service, in whole or in part.

9. **Warranty and Indemnification.** WaterTrax warrants that the materials, equipment, devices or processes (including, without limitation, any software or components of any database system) provided by WaterTrax are free from trademark, copyright and patent infringements. WaterTrax shall indemnify and hold harmless, protect and defend Subscriber and each of its officers, officials, employees, agents, and volunteers, at WaterTrax' sole cost and expense from and against all claims arising from all suits of law or actions of every nature for or on account of the infringement of any patents, trademarks or copyrights by reason of the use of any proprietary materials, equipment, devices or processes, originally incorporated, or provided and used, by WaterTrax in the performance of the work or services provided under this Agreement.
10. **Prohibited Uses.** Subscriber agrees not to access the Service by any means other than through the interface that is provided by WaterTrax for use in accessing the Service. Subscriber shall not access the Service for the purpose of data mining or extracting content from the Service beyond Subscriber's end use. Subscriber shall not resell the WaterTrax Data or Service to third parties, in whole or in part. Without limiting the generality of the foregoing, Subscriber shall not use the Service except for its own Subscriber's Data. Subscriber may not use the Service or WaterTrax Data for any purpose not expressly provided for in this Agreement.

The Service has been designed so that each Subscriber's Data can only be accessed by that Subscriber (including Subscriber's Users) so that each User can access only the information to which it is entitled as determined by Subscriber. Subscriber agrees that it will not attempt to access, download, copy or otherwise use any information provided by the Service that Subscriber is not authorized to access, and Subscriber agrees to ensure that each individual User authorized by Subscriber does not do so or attempt to do so. If, however, Subscriber or any User authorized by Subscriber does access, receive or otherwise obtain any such unauthorized information, then Subscriber agrees to treat such information as strictly confidential and promptly notify WaterTrax, and not to download, copy, transmit or otherwise use any of such unauthorized information, except as may be expressly authorized by WaterTrax.

11. **Privacy.** WaterTrax will at all times comply with the Privacy Policy as posted on its website at [www.watertrax.com](http://www.watertrax.com).
12. **Security.** WaterTrax will maintain the Service at a reputable third party Internet service provider and hosting facility, where commercially reasonable security precautions are taken to prevent unauthorized access to the Service. Subscriber acknowledges that, notwithstanding such security precautions, use of, or connection to the Internet provides the opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to the Service and Subscriber's Data. ACCORDINGLY, WATERTRAX CANNOT AND DOES NOT GUARANTY THE PRIVACY, SECURITY, OR AUTHENTICITY OF ANY INFORMATION SO TRANSMITTED OR STORED IN ANY SYSTEM CONNECTED TO THE INTERNET.

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13. **Rights in Data.** All property rights in the Subscriber's Data that is provided by Subscriber, or by any party authorized by Subscriber to submit data to the Service, including without limitation copyrights, are and shall continue to be the exclusive property of Subscriber. Subscriber acknowledges and agrees that WaterTrax may disclose Subscriber's Data if required to do so by law or with prior written consent of the Subscriber. WaterTrax may provide statistical information, using Subscriber's data, to third parties, but such information will not include personally identifying information. WaterTrax may access Subscriber's Data to respond to service or technical problems with the Service.

WaterTrax shall retain Subscriber's Data for a period of thirty (30) days after expiration or termination of this Agreement. After thirty (30) days, WaterTrax may delete and destroy all Subscriber's Data without notice or further liability to the Subscriber.

WaterTrax reserves the right to establish (and notify the Subscriber of) a maximum amount of memory or other computer storage and a maximum amount of Subscriber's Data that Subscriber may post, store, or transmit on or through the Service.

14. **Responsibility.** Subscriber will ensure that all information submitted to the Service by Subscriber, or by any party authorized by Subscriber to submit Subscriber's Data to the Service, complies with current data format requirements specified by WaterTrax, and that all parties having an interest in such information have consented to the information being submitted. Failure to comply with data formats may see Subscriber's Data rejected, or improperly posted or acted upon. Subscriber shall, at all times, ensure that all appropriate user and default settings have been selected. Subscriber also acknowledges that WaterTrax does not check user or default settings or Subscriber's Data posted to Subscriber's database file for accuracy. Subscriber is responsible for all access to the Service and use of the Subscriber's Data by Subscriber's personnel or the use of Subscriber's account, whether or not Subscriber has knowledge of or authorizes such use. Subscriber and Users shall maintain the confidentiality of password and account log-in identification.

15. **Indemnification.** Each of WaterTrax and Subscriber shall indemnify, hold harmless and defend each other and their respective officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of the negligence or material default of the other party in the performance of this Agreement.

If WaterTrax should subcontract all or any portion of the work to be performed under this Agreement, WaterTrax shall require each subcontractor to indemnify, hold harmless and defend Subscriber and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

16. **Dealing with Third Parties.** Subscriber's correspondence or business dealings with third parties accessed through the Service, including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between Subscriber and such third parties. Subscriber agrees that WaterTrax is not responsible or liable for any loss or damage of any sort incurred as the result of any such dealings.

The Service may provide, or third parties may provide, links to other World Wide Web sites or resources. Because WaterTrax has no control over such sites and resources, Subscriber acknowledges and agrees that WaterTrax is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. Subscriber further acknowledges and agrees that WaterTrax shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

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**17. Warranty.**

WaterTrax warrants that:

(I) It has the power, authority and capacity, and has received all necessary authorizations and approvals, to enter into this Agreement, (II) it owns or has all rights in and to the intellectual property rights in the Service necessary to grant the licenses granted in this Agreement, (III) the use of the Service in accordance with the terms of this Agreement does not , and will not infringe on the intellectual property rights of a third party, (IV) the Service will conform to the written descriptions that have been provided to the Subscriber as are set out in the Schedules to this Agreement and that are found at [www.watertrax.com](http://www.watertrax.com) at the date of this Agreement, (V) WaterTrax will take all reasonable steps to ensure the Service will be free of viruses, malicious codes and spy-ware throughout the term of this Agreement, (VI) WaterTrax will undertake all reasonable efforts to correct any material errors in the service.

**18. Disclaimer and Limitation of Liability.**

EXCEPT AS PROVIDED IN THE WARRANTY ABOVE SUBSCRIBER EXPRESSLY UNDERSTANDS AND AGREES THAT:

SUBSCRIBER'S USE OF THE SERVICE IS AT SUBSCRIBER'S SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS.

WATERTRAX MAKES NO REPRESENTATION OR WARRANTY THAT (I) THE SERVICE WILL MEET SUBSCRIBER'S REQUIREMENTS, (II) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (III) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (IV) THE PERFORMANCE OF THE INTERNET WILL BE UNINTERRUPTED OR PERFORM AT SPECIFIED RATES, (V) SUBSCRIBER'S INTERNET SERVICE PROVIDER WILL PROVIDE UNINTERRUPTED SERVICE OR PERFORM AT SPECIFIED RATES, AND (VI) SUBSCRIBER'S EMAIL SERVICE WILL PERFORM AS WARRANTED.

SUBSCRIBER EXPRESSLY UNDERSTANDS AND AGREES THAT WATERTRAX SHALL NOT BE LIABLE FOR ANY, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF REVENUES, PROFITS, GOODWILL, USE, SUBSCRIBER'S DATA, BODILY INJURY OR PROPERTY DAMAGE, FAILURE TO REALIZE EXPECTED SAVINGS, OR OTHER INTANGIBLE LOSSES (EVEN IF WATERTRAX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (I) THE USE OR THE INABILITY TO USE THE SERVICE; (II) INVALID DESTINATIONS, TRANSMISSION ERRORS, OR UNAUTHORIZED ACCESS TO OR ALTERATION OF SUBSCRIBER'S TRANSMISSIONS OR SUBSCRIBER'S DATA.

NO CLAIM, REGARDLESS OF FORM, MAY BE MADE OR ACTION BROUGHT BY EITHER PARTY MORE THAN ONE YEAR AFTER THE BASIS FOR THE CLAIM BECOMES KNOWN TO THE PARTY ASSERTING IT.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WATERTRAX LIABILITY TO SUBSCRIBER PURSUANT TO THIS AGREEMENT, INCLUDING LEGAL FEES AND AWARDBLE COSTS, SHALL NEVER EXCEED THE AMOUNT PAID BY SUBSCRIBER TO WATERTRAX FOR THE USE OF THE SERVICE IN THE PREVIOUS TWELVE MONTHS.

19. **After Sales Service** – The after sales services as outlined in Schedule D will be performed as a condition of this contract. If after sales services are performed on-site at the Subscriber's place of business, due to staff availability, these services may be performed by professional staff employed by WTRX Holdings Inc., a related Canadian corporation offering the same services as WaterTrax USA Inc.

**WaterTrax USA, Inc.**  
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20. **Termination for Breach:** Upon the occurrence of any of the following events: (i) the other party materially breaches or defaults in any of the material terms or conditions of this Agreement, (ii) the other party makes any assignment for the benefit of creditors, is insolvent or unable to pay its debts as they mature in the ordinary course of business, or (iii) any proceedings are instituted by or against the other party in bankruptcy or under any insolvency laws or for reorganization, receivership or dissolution, then the non-defaulting party may give the other party written notice of such default and an opportunity to cure the default within thirty (30) days after receipt of such notice, failing which the non-defaulting party may cancel this Agreement without notice.
21. **Effect of Termination:** Notwithstanding the foregoing, upon termination WaterTrax shall provide reasonable assistance to Subscriber in the migration of its Subscriber's Data as reasonably requested by Subscriber. Subscriber agrees to pay in advance for all such services rendered to Subscriber (data migration fees shall not be assessed if WaterTrax is the party in breach). Subscriber shall pay WaterTrax all other accrued and unpaid fees concurrently with giving notice of termination.
22. **Insurance:** WaterTrax will comply with the insurance requirements as outlined in Schedule G. In addition, in the sole event of non-appropriation relating to this Agreement, Subscriber shall have the right to terminate this Agreement at the end of any Subscriber's Fiscal Year, in the manner and subject to the terms specified in this paragraph. C Subscriber shall endeavor to give written notice of such termination not less than thirty (30) days prior to the end of such Fiscal Year, and shall notify CSC of any anticipated termination. For purposes of this Agreement, "Fiscal Year" shall mean the twelve month fiscal period of the Subscriber which commences on July 1 in every year and ends on the following June 30. For purposes of this paragraph, "non-appropriation" shall mean the failure of the City of Fresno or its governing body to appropriate money for any Fiscal Year of the City of Fresno sufficient for the continued performance of this Agreement by Subscriber.
23. **Publicity.** WaterTrax may use Subscriber's name as part of a general list of customers and may refer to Subscriber as a user of the Service in general advertising and marketing materials. Each party shall obtain the other's permission prior to using the other party's name for any other marketing or promotional purposes. The parties agree that any press release or other public comments issued by either party relating to this agreement will be prepared jointly between WaterTrax and the Subscriber.
24. **Force Majeure.** Neither party is liable for any delay, interruption or failure in the performance of its obligations if caused by acts of God, war (declared or undeclared), fire, flood, storm, slide, earthquake, power failure, inability to obtain equipment, supplies or other facilities not caused by a failure to pay, labour disputes, or other similar event beyond the control of the party affected which may prevent or delay such performance. If any such act or event occurs or is likely to occur, the party affected shall promptly notify the other, giving particulars of the event. The party so affected shall use reasonable efforts to eliminate or remedy the event.
25. **Notices.** All notices required to be given to WaterTrax shall be given to WaterTrax as set out in the Schedule B. Any notice required to be given by WaterTrax may be given by e-mail to the address of Subscriber's Technical and Administrative Contact.
26. **Counterparts/Facsimile.** This agreement may be executed in two counterparts, each of which will be deemed to be an original, and both of which together shall constitute one agreement. This Agreement may be executed via facsimile.
27. **Sole Agreement.** This Agreement constitutes the sole agreement between the parties, and without limiting the generality of the foregoing the Terms of Service contained on WaterTrax web-site [www.watertrax.com](http://www.watertrax.com), or any amendment or substitution of them, do not form part of any contract between Subscriber and WaterTrax.
28. **Governing Law and Venue.** The laws of the State of California govern this Agreement and all disputes arising out of it shall be submitted to a court of competent jurisdiction. Venue for the purposes of the filing of any action regarding enforcement or interpretation of this agreement, and any rights and duties hereunder shall be Fresno County, California.
29. **Assignment.** This Agreement may not be assigned by Subscriber without WaterTrax' consent, such consent not to be unreasonably withheld.

**WaterTrax USA, Inc.**  
**Customer Service Agreement**

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30. **General Provisions.** No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision nor shall such a waiver constitute a continuing waiver unless otherwise expressly provided in writing duly executed by the party to be bound. This Agreement is binding upon the successors to and permitted assigns of the parties.
31. **Headings.** The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.
32. **Severability.** The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.
33. **Interpretation.** The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning
34. **Attorney's Fees.** If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.
35. **Exhibits.** Each exhibit and attachment referenced in this Agreement is, by the reference,
36. **Precedence of Documents.** Precedence of Documents. In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.
37. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.
38. **No Third Party Beneficiaries.** The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.
39. **Extent of Agreement.** Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both Subscriber and WaterTrax.

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IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

**CITY OF FRESNO,  
A California municipal corporation**

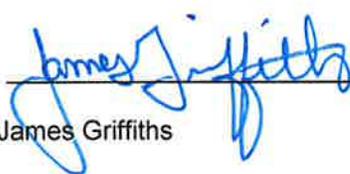
**WATERTRAX USA, INC.  
EIN 75-3053215**

By: 

Name: Gary Watahira

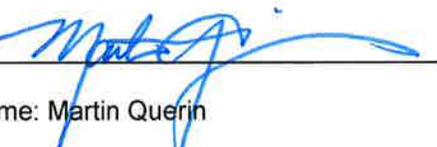
Title: Purchasing Manager

Department: Finance Department/Purchasing

By: 

Name: James Griffiths

Title: General Manager, Secretary and Treasurer

By: 

Name: Martin Querin

Title: Assistant Director

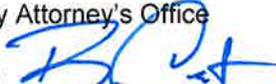
Department: Public Utilities, Water Division

ATTEST:

YVONNE SPENCE, CMC  
City Clerk

By:   
Deputy 7/18/2014

APPROVED AS TO FORM:  
City Attorney's Office

By:   
Brandon M. Collet  
Deputy City Attorney

Date: 7/18/14

Addresses:

CITY:  
City of Fresno  
Attention: Robert Little  
Water System Supervisor  
1910 E. University Ave  
Fresno, CA, 93703  
Phone: (559) 621 5355  
FAX: (559) 457 1440

CONSULTANT:  
WaterTrax USA, Inc.  
Attention: James Griffiths  
General Manager  
Suite 2200, 1420 5<sup>th</sup> Avenue  
Seattle, WA, 98101  
Phone: (604) 630 3702  
FAX: (604) 484 8669

**WaterTrax USA, Inc.**  
**Customer Service Agreement**

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Attachments:

1. Schedule A – Description of Service and Payment Terms
2. Schedule B – Registered Users
3. Schedule C – Technical Support Services
4. Schedule D – Implementation and Training Services
5. Schedule E – Laboratory Authorization
6. Schedule F – Description of Service
7. Schedule G – Insurance

## Schedule A Description of Service and Payment Terms

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1. **Description.** WaterTrax Service - providing an online data management solution to keep track of water quality and operating data for water systems.
2. **Effective Date and Term.** This Agreement comes into effect on the date the training takes place or the date stated on the first invoice if later, and shall be considered the date the Service is available to the Subscriber. The Agreement continues for a period of one (1) year.
3. **Payment Terms.** In consideration of the use of the Service, Subscriber shall pay WaterTrax the Subscription Fee for a period of one (1) year stated below on the Effective Date. Any applicable taxes are not included in this fee.
4. **Subscription Fee for Water Systems/Facilities under Agreement.** The Subscriber agrees to pay the Subscription Fee for use of the WaterTrax Information Management Modules listed in the table below for one (1) water system serving a total population of approximately 510,000.

Module	Subscription Fee
Drinking Water Data Management	\$20,000
Sampling Planner Module	\$4,000
Complaint Management Module	\$2,000
Mapping Module	No fee
<b>Total Subscription Fee</b>	<b>\$26,000</b>

Subscriber acknowledges that changes in the information above and in Schedule B (number of water systems, serviced populations, number of users) may require adjustments in pricing. Subscriber certifies that the information is accurate and agrees to notify WaterTrax of any material change in the information.

5. **Late Fees.** If any payment due under this Agreement is more than 30 days overdue, WaterTrax may charge interest at the rate of 1.5% per month.
6. **Modifications.** WaterTrax may from time to time modify or enhance the Service. WaterTrax will endeavour to give Subscriber notice of this. Unless explicitly stated otherwise, any new features that augment or enhance the Service are subject to the terms of this Agreement. WaterTrax is not responsible for the installation, configuration or maintenance of the Subscriber's LAN or WAN or software associated with such networks, or any third party network or connection such as provided by Subscriber's internet service provider required in order to access and use the Service. WaterTrax reserves the right to interrupt access to the service from time to time for regular maintenance, and will endeavour to give Subscriber notice of such scheduled maintenance.

## Schedule B Registered Users

### 1. Registered Users

Title	Number of Registered Users	Functionality in the Service
Administrator	2	<ul style="list-style-type: none"> <li>• Set account preferences</li> <li>• Add/edit/delete users with any permission level</li> <li>• Everything below</li> </ul>
Owner	0	<ul style="list-style-type: none"> <li>• Add/edit/delete users with permission levels of System User, Data User or Viewer</li> <li>• Everything below</li> </ul>
System User	6	<ul style="list-style-type: none"> <li>• Add/edit/delete water system data such as facility, sampling point, and measurement information (including Alert levels for measurements)</li> <li>• Set/Edit Global Alerts (and individual LDX alerts at sampling pts)</li> <li>• Set/Edit Report Comparisons</li> <li>• Generate/Print/Save/Export Management Reports</li> <li>• Everything below</li> </ul>
Data User	10	<ul style="list-style-type: none"> <li>• Add/edit/delete data records</li> <li>• Everything below</li> </ul>
Viewer	3	<ul style="list-style-type: none"> <li>• View water system data and data records</li> <li>• View Information</li> <li>• Receive email and onscreen alerts</li> </ul>
<b>Total</b>	<b>21</b>	

**Note:** The number of each user type can be adjusted as long as the total number of users remains the same

### 2. Subscriber Technical and Administrative Contacts

Name	Title	Contact Details
Bob Little	Water Quality Supervisor	P: (559) 621-5355 Email: <a href="mailto:bob.little@fresno.gov">bob.little@fresno.gov</a>

### 3. WaterTrax Technical and Administrative Contacts

Name	Contact Details
Technical Support	P: 1 866 812 2233 Email: <a href="mailto:support@watertrax.com">support@watertrax.com</a>
Administrative James Griffiths, General Manager	P: 1 866 812 2233 Email: <a href="mailto:james.griffiths@watertrax.com">james.griffiths@watertrax.com</a>

**Schedule C**  
**Technical Support Services**

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1. **Technical Support Services.** WaterTrax shall provide Technical Support Services as described below.

<b>Support Service</b>	<b>Description</b>	<b>Price</b>
1. Phone and Email Support for authorized users (A)	Telephone support available from 8:00 AM to 5:00 PM PST, Monday to Friday excluding holidays. P: 1 866 812 2233 (Ext 8593) Email: <a href="mailto:support@watertrax.com">support@watertrax.com</a>	Included

(A) Authorized users are those who have received appropriate training in the use of the Service by WaterTrax personnel or a User with equivalent experience.

## Schedule D Implementation and Training Services

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1. **Initial Setup and Training.** Upon completion of initial setup and training, WaterTrax shall invoice the Subscriber \$9,900 plus training expenses (estimated to be approximately \$1,800) for the following scope of work

Project initiation / management.
Establishing and configuring your WaterTrax account
Training
Initial quality control audit of your lab data uploads
Sampling Planner setup and training
Complaint Management setup and training
Mapping setup and training
Historical data upload

Any additional materials, living and travel expenses will be invoiced at standard rates and based on actual disbursements. Any applicable taxes are not included in these fees.

2. **Additional Training Services - Existing Users.** WaterTrax is available to provide specific training to existing Users of the Service at the request of the Subscriber. Such services will be charged based upon the requested scope of training services at the current WaterTrax Professional Services rates.
3. **Additional Training Services - New Users.** If new Users are added to the Subscription, they will require to be trained. WaterTrax is available to provide training to new Users of the Service and such training will be provided at the current WaterTrax Professional Services rates.
4. **Historical Data Upload -** WaterTrax is available to provide professional services to configure the upload file and upload historical data into your WaterTrax database at the request of the Subscriber. Such services will be charged based upon the requested scope of historical data upload at the current WaterTrax Professional Services rates.
5. **Custom Development -** WaterTrax can provide custom development services to enhance/modify the WaterTrax Service to meet the specific needs of the Subscriber at your request. Such services will be charged based upon the requested scope of Custom Development at the current WaterTrax Professional Services rates
6. **Account Audits / QC –** Following the initial quality control audit, WaterTrax is available to provide follow up audits of your account setup and lab data uploads to ensure consistent database setup and data entry procedures are in place and being followed by your users. Such services will be charged based upon the requested scope and frequency of the audits at the current WaterTrax Professional Services rates.

**Schedule E  
Laboratory Authorization**

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Date: 15 July 14

To: BSK Associates

**Re: WaterTrax Online Data Management Service located at www.watertrax.com (the "Service")**

You are hereby requested to submit water quality test reports in their entirety (i.e. analytical results for all analytes tested for all samples submitted) to the Service using the WaterTrax report file standard when test samples have been submitted to you and are identified with WaterTrax tracking information. The Undersigned hereby designates you as a User of the Service and you are hereby authorized to access and use the Service on our behalf solely for the purpose of posting our water quality data to the Service. You are authorized to make arrangements with WaterTrax with respect to the posting of our data, file formats, and other posting protocols and procedures. You are responsible for the accuracy and completeness of submitted reports to us through the Service.

You are hereby authorized to provide copies of our laboratory reports to WaterTrax in hardcopy or electronic form for purposes of data transfer quality control, upon the request of WaterTrax.

We have agreed with WaterTrax that the intellectual property in the Service belongs to WaterTrax and we will not use all or any part of it except as expressly authorized, and that if any information or Data is made available to us we will treat it as strictly confidential. By acting under this authorization, you agree to do the same. By requesting data transfer to WaterTrax, we are accepting certain methodologies and presentation formats (including analyte and unit names) that are used in the Service.

This authorization is not intended to change the terms of our relationship with you, and does not change any pre-existing reporting procedures that we have established with you, particularly with respect statutory obligations and to warnings that you may give us with respect to potentially hazardous conditions. If you have any questions about this, please contact us directly.

This authorization may be revoked at any time by notice in writing delivered to you.

You agree to indemnify and hold harmless WaterTrax against any liability or claim of any person that is attributable to the improper use of the Service by you.

The Service is provided on an "as is" and "as available" basis. WaterTrax liability to us (and you) is contractually limited.

Please sign and return a copy to our attention.

**"Subscriber"**

City of Fresno, Water Div. 501  
Company

Robert Little  
Name

  
Signature

15 July 14  
Date

**ACKNOWLEDGED by Laboratory**

BSK Associates  
Company

Kasanna Carter  
Name

  
Signature

7/15/14  
Date

## **Schedule E Laboratory Authorization**

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### DEFINITIONS

“Data” means information posted on the Service with respect to a Subscriber’s water system.

“Subscriber” means a party that has contracted with WaterTrax to use the Service.

“User” means a registered user designated by Subscriber to access the Service.

“WaterTrax” means WaterTrax USA, Inc., a company incorporated in the State of Washington.

## Schedule G Insurance

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The WaterTrax Software Solutions are a web-based centralized information system, which enables the management of drinking water, wastewater (including biosolids), source control / pretreatment, stormwater and/or environmental monitoring information over the internet. The Service is fully hosted, operated, and maintained by WaterTrax under the subscription fee and *includes* technical and IT support for client staff and laboratories. The Service includes:

**A consolidated and structured database** - WaterTrax employs an intuitive data management architecture that is configurable for consolidating all monitoring data collected by your organization. The database builds a history of the information at each sampling point and provides system-wide information that is easy to locate, share, and understand.

**Laboratory data transfer integration** – The WaterTrax electronic data transfer format allows external analytical laboratories to electronically transfer laboratory test data directly into your WaterTrax database without human intervention. Each of your contract labs are able to log into a separate “lab” account to upload laboratory test data directly into your WaterTrax database without having direct access to your account

**Industrial self-monitoring electronic data transfer integration** – The WaterTrax electronic data transfer format allows self-monitoring industries to electronically transfer their wastewater discharge monitoring results directly into your WaterTrax database without human intervention. Each self-monitoring industry is able to log into a separate account to upload their discharge data directory into your WaterTrax database without having direct access to your account.

**Alerting and notification** - WaterTrax provides an alerting mechanism for screening monitoring results. Data received from field technicians, entered by operators or transmitted from laboratories are automatically checked against your defined alert levels as soon as the data is entered into WaterTrax. Alert notifications are sent to appropriate personnel if results exceed preset operating ranges.

**Reports** – WaterTrax provides a robust reporting engine that allows users to create ad-hoc reports in minutes or save routine report templates for reproduction on a monthly, quarterly or annual frequency. Thousands of historical records can be exported into pdf or Excel spreadsheet or graphical format in a manner of minutes rather than days or weeks.

**Sampling Planner Module**– The WaterTrax Sampling Planner module automates the tracking of compliance with all your sampling requirements. Sampling Planner can be set up to send e-mail reminders of upcoming sampling requirements and alerts for missed samples and/or laboratory data uploads.

**Mapping Module** – The WaterTrax Mapping module integrates the familiar and easy-to-use Google mapping application with your WaterTrax database allowing users to visually display sampling points, analysis results and alerts on a mapping interface for quick system performance verification and root-cause analysis.

**Complaint Management Module** - the WaterTrax Complaint Management module allows users to record and maintain a history of consumer complaints and operational incidents and map those complaints on the Google map interface for cluster analysis.

**Secure data, complete maintenance, and backup** - WaterTrax employs industry standard practices for data security and reliability and provides technical services to support and maintain the database.

**Web-based** - WaterTrax is web-based allowing easy access and sharing of information for all users from your own and partner organizations. Information is accessible simultaneously by all authorized users anywhere they have internet access.

Schedule G  
Insurance

V. INSURANCE. Throughout the life of this Contract, the Contractor shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VII" in Bests Insurance Rating Guide, or (ii) authorized by the City's Risk Manager. The following policies of insurance are required:

a. COMMERCIAL GENERAL LIABILITY insurance which shall include contractual, products and completed operations coverages, bodily injury and property damage liability insurance with combined single limits of not less than \$1,000,000 per occurrence.

b. WORKERS' COMPENSATION insurance as required under the California Labor Code.

The above described policies of insurance shall be endorsed to provide an unrestricted 30-day written notice in favor of the City, of policy cancellation, ~~change or reduction of coverage;~~ except for the Workers' Compensation policy which shall provide a ten (10) day written notice of such cancellation; ~~[material]~~ change or reduction of coverage. In the event any policies are due to expire during the term of this Contract, the Contractor shall provide a new certificate evidencing renewal of such policy ~~not less than fifteen~~ ~~[within five]~~ (15[5]) days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation, ~~[material]~~ change or reduction in coverage, the Contractor shall file with City a certified copy of the new or renewal policy and certificates for such policy.

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The General Liability insurance policy shall be written on an occurrence form and shall name the City of Fresno, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so the Contractor's insurance shall be primary and no contribution shall be required of the City. The Contractor shall furnish the City with the certificate(s) and applicable endorsements for ALL required insurance prior to City's execution of the contract.  The Contractor shall furnish the City with copies of the actual [general liability] policies upon the request of the City's [City's] Risk Manager at any time during the life of the Contract or any extension [such time as a claim is made against the Contractor and the City for which the City is to be defended as an additional insured.

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If at any time during the life of the Contract or any extension, the Contractor fails to maintain the required insurance in full force and effect, all work under this Contract shall be discontinued immediately, and all payments due or that become due to the Contractor shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this

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