



The Regional
Municipality
of Durham

Corporate Services
Department
Legislative Services

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Don Beaton, BCom, M.P.A.
Commissioner of Corporate
Services

September 28, 2022

Mary Medeiros
Clerk
City of Oshawa
50 Centre Street South
Oshawa ON L1H 3Z7

Dear Mary Medeiros:

**RE: Interim Suspension of Service Line Warranties of Canada Inc.
Program (2022-COW-27) - Our File: D04**

Council of the Region of Durham, at its meeting held on September 28,
adopted the following recommendations of the Committee of the Whole:

- "A That to the extent possible, the recommendations approved in Report #2021-W-31 of the Commissioner of Works be repealed;
- B) That Regional staff are directed to continue to carry out repairs to sanitary sewer service connections on private property in accordance with By-law #90-2003;
- C) That Regional staff are directed to reimburse residential customers for repairs carried out pursuant to Council's direction in Recommendation B) of Report #2022-COW-27 with appropriate documentation with funding from user rate financing at the discretion of the Commissioner of Finance; and
- D) That a copy of Report #2022-COW-27 be forwarded to the Durham Local Area Municipalities for information."

Please find enclosed a copy of Report #2022-COW-27 for your information.

Alexander Harras

Alexander Harras
Regional Clerk/Director of Legislative Services

AH/sc

c: J. Presta, Commissioner of Works
E. Baxter-Trahair, Chief Administrative Officer

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 3540.



The Regional Municipality of Durham Report

To: Committee of the Whole
From: Chief Administrative Officer and Commissioner of Works
Report: #2022-COW-27
Date: September 14, 2022

Subject:

Interim Suspension of Service Line Warranties of Canada Inc. Program

Recommendation:

That the Committee of the Whole recommends to Regional Council:

- A) That, to the extent possible, the recommendations approved in Report #2021-W-31 be suspended until the completion of a public education program in 2023;
- B) That Regional staff be directed to contact Service Line Warranties of Canada Inc. to request that they do not accept any new clients in Durham until the completion of a public education program in 2023;
- C) That Regional staff are directed to continue to carry out repairs to sanitary sewer service connections on private property in accordance with By-law #90-2003 as it existed prior to the amendments approved in Report #2021-W-31;
- D) That Regional staff are directed to reimburse residential customers for repairs carried out pursuant to Council's direction in Recommendation C) with appropriate documentation with funding from user rate financing at the discretion of the Commissioner of Finance;
- E) That Regional staff report to Regional Council upon completion of the public education program prior to any communications to the residential water and sanitary sewer customers; and
- F) That copy of this report be forwarded to the Durham Local Area Municipalities for information.

Report:**1. Purpose**

- 1.1 The purpose of this report is to suspend the implementation of recommendations related to sanitary sewer service connections on private property approved in Report #2021-W-31 until the completion of the public education program. Regional staff will report to Regional Council prior to any future direct communications to residential customers.

2. Background

- 2.1 Prior to July 2022, the Regional Municipality of Durham (Region) provided for repair services to 1 metre outside the house foundation. In April 2022, the Sewer System By-law #90-2003 was amended so that the Region would be responsible to repair sanitary sewer service connections only within the public right of way. Regional By-law #90-2003 was changed making residents fully responsible for the sanitary service connection located on private property. The portion of the sanitary sewer connection impacted by this change is shown in Attachment #1.
- 2.2 Residents have always been responsible for their water service connections to the exterior shut off valve, located typically very close to the property line. No change was made regarding water service connections.
- 2.3 At the same time, the Region entered into an agreement with Service Line Warranties of Canada Inc. in 2022. This company provides optional insurance to residents for repairs to residential sewer and water lines. Service Line Warranties of Canada Inc. is a reputable corporation doing business in many Ontario municipalities. Service Line Warranties of Canada Inc. is recognized by the Local Authority Services, which is part of the Association of Municipalities Ontario (AMO). AMO is a not-for-profit group formed and controlled directly by all municipalities in Ontario.
- 2.4 Service Line Warranties of Canada Inc. is allowed to use the Region's logo and in exchange must:
- a. Report to the Region on their activities;
 - b. Meet price limit guarantees; and
 - c. Provide a high level of customer service.

- 2.5 The Region entered into an agreement with Service Line Warranties of Canada Inc. to provide residents with a reputable and reliable option to obtain insurance and to soften the impact of the decrease in service level for sewer users.
- 2.6 At the Works Committee meeting on September 7, 2022, Councillors reported that several residents are confused and concerned about the impact of the change in the By-law and have questions about the insurance offered through Service Line Warranties of Canada Inc. Regional staff have fielded questions and concerns since residents have received their direct letters in the mail. It was highlighted that the additional notice and communications are undertaken prior to program implementation. Delaying the implementation of the amended By-law and the Service Line Warranty Canada program would permit Regional Council to receive further public input and address additional questions or concerns.
- 2.7 The direction proposed in this Report would request that Service Line Warranties of Canada Inc. refrain from signing up new customers and pause any new marketing efforts.
- 2.8 The amended By-Law #90-2003 makes residents responsible for the cost of repairs to the sewer line located on their property. This is a reduction in services funded from the sewer user rates. However, it is an efficient, effective and transparent way of delivering this service. It is consistent with the Region's legal responsibilities which is why this approach is used in all other municipalities.

3. Previous Reports and Decisions

- 3.1 Report #2021-W-31 "Amendment to Regional Water Pollution Control System and Storm Sewer System By-Law #90-2003 and Residential Water and Sanitary Service Connection Protection Plans".

4. Relationship to Strategic Plan

- 4.1 This report aligns with the following strategic goals and priorities in the Durham Region Strategic Plan:

a. Goal 5.1 and 5.2 – Service Excellence

- Optimize resources and partnerships to deliver exceptional quality services and value; and
- Collaborate for a seamless service experience.

5. Conclusion

- 5.1 Regional staff recommend that the implementation of recommendations related to sanitary sewer service connections on private property approved in Report #2021-W-31 be suspended until the completion of the public education program in 2023. Regional staff will report to Regional Council prior to any future direct communications to residential customers.
- 5.2 This report has been reviewed by Legal Services – Corporate Services and the Finance Department and the Commissioner of Finance concurs with the financial recommendations.
- 5.3 For additional information, contact: John Presta, Commissioner of Works, at 905-668-7711, extension 3520.

6. Attachments

Attachment #1: Residential Property Owners Responsibility Sketch

Attachment # 2 Works Committee Report #2021-W-31

Attachment #3: Agreement for Residential Water/Wastewater Warranty
Protection Provider May 19, 2022

Respectfully submitted,

Original signed by:

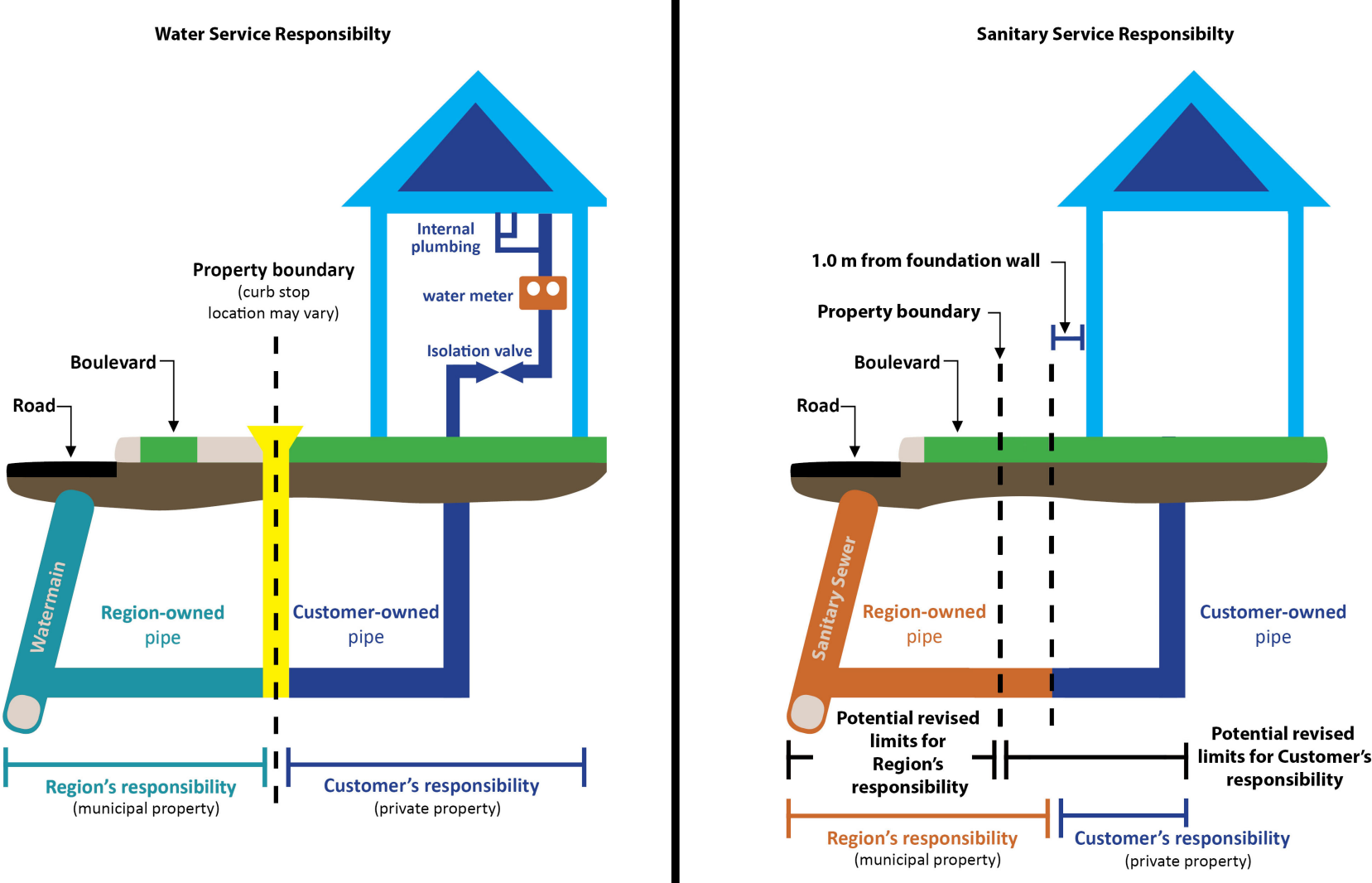
John Presta, P.Eng., MPA
Commissioner of Works

Recommended for Presentation to Committee

Original signed by:

Elaine C. Baxter-Trahair
Chief Administrative Officer

Figure 1: Residential Property Owners Responsibility Sketch



If this information is required in an accessible format, please contact 1-800-372-1102 ext. 3540.



The Regional Municipality of Durham Report

To: Works Committee
From: Commissioner of Works
Report: #2021-W-31
Date: September 8, 2021

Subject:

Amendment to Regional Water Pollution Control System and Storm Sewer System By-Law #90-2003 and Residential Water and Sanitary Service Connection Protection Plans

Recommendations:

That the Works Committee recommends to Regional Council:

- A) That the Regional Water Pollution Control System and Storm Sewer System By-Law #90-2003 be amended by extending a property owner's limit of responsibility for residential sanitary service connections from 1 metre (m) outside the foundation of the home currently to the new limit at the property boundary, to be consistent with the responsibility for water service connection maintenance effective July 1, 2022;
- B) That the Regional Municipality of Durham enter into an agreement that endorses residential water and sanitary service line warranty protection plans with Service Line Warranties of Canada Inc. for an initial two-year period, with a maximum of two, five-year term renewal options for extension, with such extensions subject to Regional Council approval based upon a review of the overall success of the program;
- C) That Regional staff report back to Regional Council prior to the end of the initial two-year period of the agreement to advise if the program is meeting the customer service needs and performance metrics as outlined in the agreement; and

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- D) That the Commissioner of Works be authorized to execute the agreement with Service Line Warranties of Canada Inc. for residential water and sanitary service warranty protection plans, together with such further ancillary documents that may be required, all in a form satisfactory to the Commissioner of Works, Commissioner of Finance, and the Regional Solicitor.
-

Report:**1. Purpose**

- 1.1 The purpose of this report is to obtain approval for the Regional Municipality of Durham (Region) to:
- a. Amend the Regional Water Pollution Control System and Storm Sewer System By-Law #90-2003 to align with the ownership limits of the Regional Water Supply System By-Law #89-2003 as well as most other Ontario municipalities by revising the limit of responsibility for sanitary service connections; and
 - b. Enter into an agreement with Service Line Warranties of Canada Inc. (SLWC) that endorses residential water and sanitary service connection protection plans.

2. Background

- 2.1 The municipal water and sanitary sewerage systems are owned and maintained by the Region and currently service approximately 178,000 residential connections.
- 2.2 Many property owners are not aware of the ownership limits or the responsibilities of water and sanitary sewer service connection lines.
- 2.3 Because service connection failure is often unpredictable, residential property owners may not be prepared to respond quickly or with full knowledge of what is required of them to remedy the situation. Often overwhelmed, property owners will contact the Region seeking assistance for repairs to infrastructure that is not the responsibility of the Region.
- 2.4 Given this situation, opportunities to optimize resources and partnerships to deliver exceptional quality services and value to property owners in keeping with the Region's Strategic Plan were explored by Regional staff.

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- 3. Region's Water Supply System By-Law #89-2003 and Water Pollution Control System and Storm Sewer System By-Law #90-2003**
- 3.1 The Region's water service connection ownership limits are consistent with most Ontario municipalities and do not warrant further review.
- 3.2 The Region's sanitary sewer service connection ownership limits are unique compared to most Ontario municipalities. These limits were reviewed as maintenance work is currently required on private property, presenting a significant risk and associated liability to the Region.
- 3.3 The Region's Water Supply System By-law #89-2003 sets out that the maintenance and repair of the water service connections from the watermain to the property line is the responsibility of the Region, while the section from the property line into the dwelling is the responsibility of the property owner (Attachment #1). When these service connections break or leak on private property, the property owner is informed that it is not the responsibility of the Region to repair or replace the service pipe.
- 3.4 The Region's Water Pollution Control System and Storm Sewer System By-law #90-2003 sets out that the maintenance and repair of the residential sanitary service connection from the sanitary sewer up to one metre (m) from the foundation of the home is the responsibility of the Region, provided there is a 100 millimetre (mm) clean out port in the basement, as work can be completed using trenchless technology. Clean out ports may not exist in older homes. When there are blockages within 1 m from the foundation of the home, the property owner is informed that it is not the responsibility of the Region to repair or replace the service pipe.
- 3.5 Based on the service level review, Regional staff are recommending that the service limit for sanitary service connections be revised from 1 m outside the house foundation to the property limit. This will require property owners to be responsible for repairing/replacing sanitary sewer connections on their property. The Region will no longer have responsibility to repair/replace sanitary sewers located on private property.
- 3.6 An amendment to the Region's Water Pollution Control System and Storm Sewer System By-Law #90-2003 is proposed to align the ownership limits for sanitary sewer connections to be consistent with the water service connections under the Region's Water Supply System By-Law #89-2003. This will also align the Region's level of ownership with most other Ontario municipalities.

3.7 In order to allow a transition period for the proposed service level change, it is recommended that Water Pollution Control System and Storm Sewer System By-Law #90-2003 be amended such that the new service level change have an effective date of July 1, 2022.

3.8 Regional staff will develop and implement a communication strategy to notify rate payers of the recommended change to the service limit for sanitary service connections.

4. Current Maintenance Operations Standard Operating Procedures

4.1 When a property owner has an issue with their water or sanitary service, they typically contact the Region. The Region will first determine the location of the failure/leak and if the issue is determined to be outside the Region's limit of responsibility, the Region will advise the property owner (or the tenant occupant) that all work is the responsibility of the property owner. As private repair requirements are typically unexpected, time consuming and costly, the impacts are often overwhelming on a property owner.

4.2 If it is determined that it is the Region's responsibility to repair the sanitary service, the Region requests that the property owner sign a waiver to confirm that they are aware that the Region will only restore to grade and will not resod, repave the driveway, or reinstall landscaping features such as interlock, retaining walls, etc. due to the extended limits of Regional responsibility onto private property under the current service levels noted in 3.4 above.

4.3 Service connection breaks outside of the Region's responsibility are usually not covered by the home insurance policy, although many companies are starting to offer this as an endorsement to homeowner policies.

5. Sanitary Sewer Service Connection Repair Statistics

5.1 The number of sanitary sewer service calls and the estimated Regional cost for repairs were monitored from May 1 to July 28, 2021 and are as follows:

- a. 418 sanitary sewer service calls were received and investigated with an estimated cost of \$104,500.
- b. 52 sanitary sewer service repairs were completed with an estimated cost of \$238,000.

- c. 61 per cent of the sanitary sewer service repairs were located on private property with an estimated cost of \$99,900.

6. Service Level Review

- 6.1 As part of a service level review, Regional staff researched best management practices based on industry peers within Ontario. This research showed that there are warranty service providers that offer protection plans and programs to residential property owners, including water service connections, sanitary service connections, and internal home plumbing and drainage repair and replacement services.
- 6.2 The services provided by these warranty service providers are completed by private contractors and not municipal forces.
- 6.3 SLWC is an affiliate of Utility Service Partners Private Label Inc (USPPL), an independent provider of service connection warranties in the United States of America. SLWC have been endorsed as a vendor of choice by the Local Authority Service (LAS). LAS was established in 1992 by the Association of Municipalities of Ontario (AMO). LAS works with Ontario municipalities to provide vendors of choice that leverage economies of scale and cooperative procurement efforts.
- 6.4 There are several municipalities in Ontario which have endorsed the services of SLWC to their residential customers including the Region of Peel, City of Hamilton and City of Ottawa. To date there are 62 municipalities which endorse SLWC's warranty services in Ontario. Based on a review of other municipalities' experience with SLWC, the warranty offered appears to be successful and receiving positive feedback from customers.
- 6.5 To participate in this program, municipal endorsement of the program model is required. The Region's endorsement of the warranty program model allows SLWC to effectively market the program to residential property owners.
- 6.6 SLWC would offer the warranty plans to property owners for repairs and replacements to buried water and sanitary services outside of the Region's limit of responsibility for a fixed monthly cost and that SLWC be able to use the Region's logo for marketing purposes.
- 6.7 The Region would have the right to review and approve all marketing material before distribution, with SLWC expected to cover all costs of producing the marketing materials and administering the program.

- 6.8 The warranty protection plans offered by SLWC are entirely optional and there is no obligation for property owners to purchase the warranty plans. The warranty contract will be between the property owner and SLWC only and the option to enter into an agreement with SLWC is completely at the discretion of the property owner.
- 6.9 In addition, most municipalities' service levels include the same limit of responsibility for sanitary service connections as the water service connections which is at the property line.

7. Warranty Coverage, Cost Structure and Billing for Region Property Owners

- 7.1 In general, the warranty coverage offered by SLWC provides property owners with repair services for their buried infrastructure over and above the typical damage claims which may or may not be covered by their home insurance, and where there is no coverage for restoration services.
- 7.2 The service warranty plan is a monthly flat-rate fee in a subscription-based pricing structure with no deductibles or any additional fees to customers. The property owner may still be responsible for additional Regional charges such as isolating a water service to complete a repair.
- 7.3 SLWC will not be entitled to include subscription billing for the warranty plans with utility billing. They will develop, maintain and administer all billing requirements independently. The Region will not be involved in any billing arrangements or disputes.
- 7.4 The scope of SLWC service coverage for water and sanitary sewer service connections will be from the property line to the point where the service connection enters the house foundation, both of which includes any service under a concrete floor. The scope includes locating, excavating and repairing or replacing as required the water and/or sanitary service connections including any damage as a result of thawing of frozen services. An amendment of the service level for sanitary service connections to include the same limits as water services connections would be reflective in the scope of the SLWC coverage.
- 7.5 The warranty would cover any emergency repair required due to reduction in performance caused by normal wear and tear. It would also include a one-year warranty for workmanship and quality of all repair and restoration work performed.

- 7.6 The service warranty currently costs \$6.00 per month with a coverage limit of \$5,000 per occurrence for water services and \$8.00 per month with a coverage limit of \$8,000 per occurrence for sanitary services with basic site restoration.
- 7.7 An enhanced site restoration plan would cost \$10.00 per month with a coverage limit of \$8,000. Basic site restoration services provided by SLWC to the affected area will be limited to filling trenches, mounding (to allow for settling), raking and seeding (weather permitting) and excludes sod. If slab cutting within the foundation walls is necessary to repair a broken sewer line, the resulting trench will be filled with gravel and covered with concrete.
- 7.8 Since the Region only restores the site to grade and does not resod, repave the driveway, or reinstall landscaping features such as interlock, retaining walls, etc. SLWC has a plan that includes enhanced site restoration that provides for additional restoration of the site that is not provided by the Region.
- 7.9 While not included in the Region endorsed offerings, SLWC also offers an in-house plumbing warranty which covers the water and sanitary service pipes inside the house after the point of entry. Coverage also includes broken or leaking water and sanitary lines that may be embedded under the slab or basement floor.
- 7.10 The internal plumbing warranty costs \$9.00 per month with a coverage limit of \$3,000 per occurrence.

8. Financial Implications

- 8.1 All administrative costs associated with the warranty plans from marketing to complete claims handling are the full responsibility of SLWC. The Region will bear no financial costs or liability related to program delivery.
- 8.2 There will be a negligible cost to the Region to administer the agreement with SLWC and to maintain the Region's due diligence throughout the term of the agreement.
- 8.3 As per the City of Hamilton and the Region of Peel agreements with SLWC, there is a five per cent royalty available from SLWC to the Region for the use of the Region's logo and program endorsement.
- 8.4 Similar to the model adopted by the Region of Peel, staff recommends that the Region of Durham opt out of receiving the five per cent royalty and provide those monies back to the property owners as savings on the cost of the warranty. Opting out of the royalty would provide more competitive pricing for property owners both

in the short term and going forward. As of 2020, at the Region of Peel, a royalty of \$55,061 has been reinvested by SLWC into the program to allow for lower warranty rates for their property owners.

8.5 The service warranty costs outlined in the section above do not reflect the Region opting out of receiving royalties.

8.6 Any financial impacts related to the proposed service level for sanitary service connections will be reviewed and reflected in the 2022 Sanitary Sewerage Business Plans and Budget .

9. Agreement

9.1 An agreement in a form acceptable to the Works Department, Legal Services and the Finance Department will be negotiated with SLWC to ensure Regional requirements are met.

9.2 Staff recommend an initial term of the agreement of two years with the Region having the option to extend for two additional five-year periods, subject to Regional Council approval. A report will follow to highlight how the program is being received by property owners prior to any future extension of the term.

9.3 The amount of the commission-based royalty payable to the Region by SLWC in the agreement in exchange for the use of the Region's logo and its endorsement of SLWC's warranty program is five percent of the revenue earned by SLWC from all actively enrolled customers in any of its warranty plans within the geographical boundaries of the Region.

9.4 Under the proposed agreement, Regional staff recommend that SLWC not be required to pay these revenues directly to the Region during the initial two year term and must instead pass these revenues back to property owners as a five percent savings on the cost of their monthly warranty plan premiums. This provision has the effect of immediately reducing the property owner's costs.

9.5 The Region may request a re-evaluation and adjustment to this revenue structure after the initial two-year term of the Agreement, should Regional Council choose to exercise its right to extend the agreement.

9.6 The agreement contains a non-exclusivity provision which allows the Region the opportunity to endorse other parties for the same or similar services as those provided by SLWC or to provide the same or similar services internally, should it so choose. This provides the Region with options with respect to other warranty

providers, as necessary, to ensure continuous service improvements to the Region's property owners.

- 9.7 SLWC is required to indemnify the Region from any liability claims that may arise as a result of its agreement, including the Region's corporate endorsement of the warranty plan programs offered by SLWC and SLWC's use of the Region's logo.
- 9.8 SLWC is also required to provide the Region reports that enable staff to continuously monitor the services provided by SLWC to the Region's property owners to ensure that the program is meeting the customer service levels and performance metric expectations of the Region.

10. Next Steps

- 10.1 Moving forward, Regional staff propose to work with SLWC to identify training and administrative requirements, develop the necessary performance reporting to evaluate the ongoing effectiveness of the agreement and complete the marketing and communications campaign.
- 10.2 Regional staff will review all communications and marketing strategies put forward by SLWC before they are published. Marketing strategies include a letter that would be mailed to property owners, as well as updating the Region's website to outline its endorsement of the SLWC warranty program and the program's benefits to property owners. There will also be a link to the SLWC home webpage where property owners can obtain further information relating to the coverage options and the company.
- 10.3 In all communications, the difference between the municipal and private side services including the property owner's roles and responsibilities associated with private side services will be highlighted.
- 10.4 The Region will not be providing a mailing list for customer distribution. SLWC is expected to determine customer address listings on its own.
- 10.5 Marketing activities by SLWC involving tele-marketing or door-to-door solicitations will be strictly prohibited under the agreement.
- 10.6 Training of Regional staff will be required in order to ensure that questions pertaining to the warranty program can be properly answered.
- 10.7 Regional staff will review and ensure that the terms of the agreement with SLWC are being met. A summary report on the impact to operations and the impact to

property owners will be submitted to the Region by SLWC at the end of the first year and prior to the end of the agreement.

- 10.8 Using the report, Regional staff will assess the success of the program based on the review of established performance reports, customer feedback, adherence by SLWC to its agreement with the Region and the review of any associated internal costs to the Region.
- 10.9 Based on the assessment of the performance of the program prior to the end of the initial two year term of the agreement, Region staff will provide Council with an update on the program to assess performance and outcomes, and an analysis of any other warranty service coverage programs that may have successfully entered the local market. At that point, the Region will have the option to continue with the SLWC program, or partner with other firms, or choose to no longer endorse this type of warranty service coverage program.

11. Relationship to Strategic Plan

- 11.1 This report aligns with the following strategic goals and priorities in the Durham Region Strategic Plan:

Goal 5.1 and 5.2 – Service Excellence

- Optimize resources and partnerships to deliver exceptional quality services and value; and
- Collaborate for a seamless service experience.

12. Conclusion

- 12.1 It is recommended that the Regional Water Pollution Control System and Storm Sewer System By-Law #90-2003 be amended to revise the Region's responsibility for sanitary service connections to the limit of the property line which is consistent with the Regional Water Supply System By-Law #89-2003 as well as with most other Ontario Municipalities.
- 12.2 It is recommended that the Regional Municipality of Durham enter into an agreement with Service Line Warranties of Canada Inc. to provide property owners with the opportunity, at their discretion, to benefit from a Regional Municipality of Durham endorsed water and sanitary service infrastructure warranty program to help mitigate risks and unexpected costs of home ownership.

- 12.3 The program provides affordable protection against significant, unexpected costs of repairing or replacing leaking water and sanitary services and provides timely and high-quality warranty service in adherence to Provincial and Regional standards and codes while minimizing damage to surrounding streets and infrastructure.
- 12.4 The program will also create awareness and inform property owners of their responsibilities when it comes to their water and sanitary service infrastructure.
- 12.5 There would be a negligible cost implication to the Regional Municipality of Durham to participate in the program. Service Line Warranties of Canada Inc. will manage all aspects of the program including marketing, outreach and claims handling. Based on the experience from other municipalities, the Regional Municipality of Durham's internal cost for administration is negligible as customers complaints are potentially reduced.
- 12.6 This report has been reviewed by the Finance Department and the Legal Services Division of the Corporate Services Department.
- 12.7 For additional information, contact: Mike Hubble, Manager, Environmental Services Design, at 905-668-7711, extension 3460.

13. Attachments

Attachment #1: Residential Property Owners Responsibility Sketch

Respectfully submitted,

Original signed by:

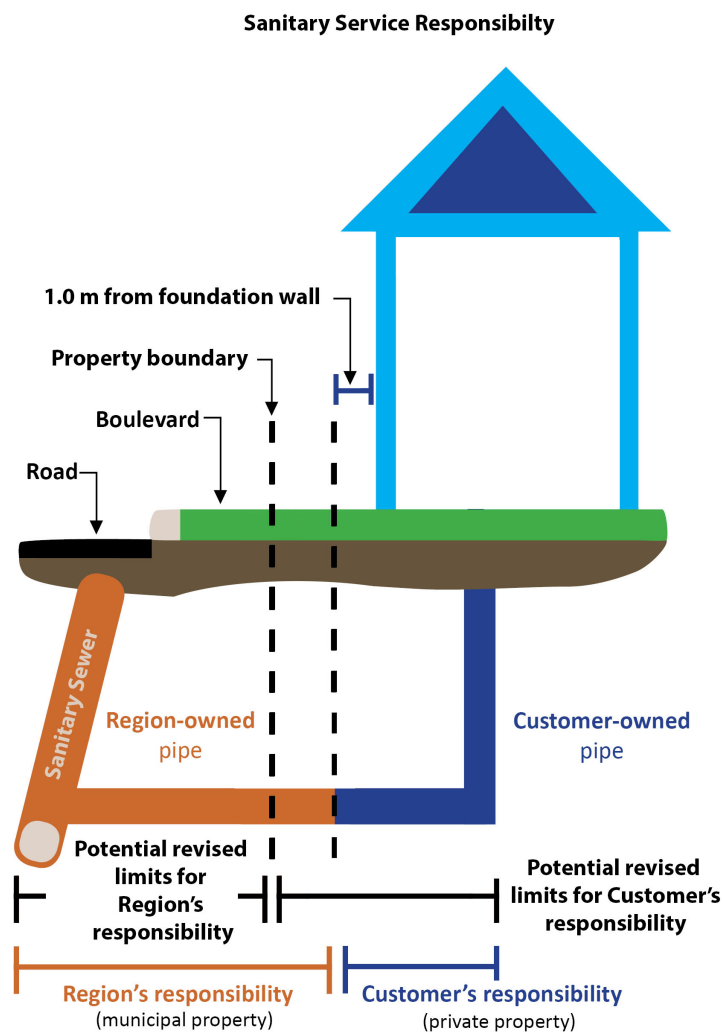
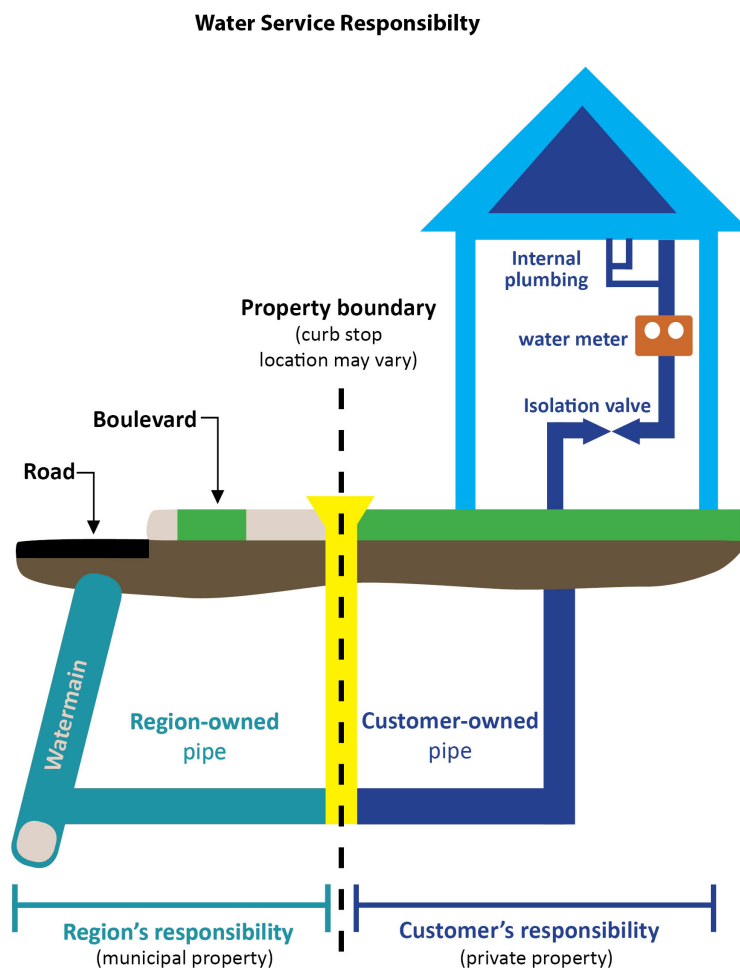
Susan Siopis, P.Eng.
Commissioner of Works

Recommended for Presentation to Committee

Original signed by:

Elaine Baxter-Trahair
Chief Administrative Officer

Figure 1: Residential Property Owners Responsibility Sketch



Attachment #3 to Report #2022-COW-27

AGREEMENT FOR RESIDENTIAL WATER/WASTEWATER WARRANTY PROTECTION PROVIDER

This Agreement ("the Agreement") made as of and effective from 5/19/2022 | 1:23 PM EDT (the "Effective Date").

BETWEEN:

THE REGIONAL MUNICIPALITY OF DURHAM

(the "Region")

- and -

SERVICE LINE WARRANTIES OF CANADA, INC.

(the "Vendor")

WHERE AS:

- A. Residents are responsible for repair and maintenance of water and wastewater infrastructure located on their private properties;
- B. Regional Council approved the recommendations in Report #2021-W-31 to enter into an agreement with the Vendor to endorse the Vendor's warranty services for residential private water and wastewater infrastructure in the Region to its Residents (as defined below in section 1.1 (Interpretation)), in exchange for the Region's corporate endorsement and use of the Region's logo; and,
- C. An agreement has been reached to allow the Vendor to offer the Program to Residents in accordance with the terms and conditions outlined in this Agreement.

In consideration of their respective agreements set out below, the parties covenant and agree as follows:

1. INTERPRETATION

- 1.1 When used in this Agreement, unless the context requires otherwise, the following terms have the meanings set out in this Section:

"Agreement" means this Agreement and all Schedules including any supplemental and amending agreements and/or addenda hereinafter properly executed in writing to supplement or amend the Agreement;

"Business Days" means Monday to Friday inclusive, other than a day that is

Attachment #3 to Report #2022-COW-27

observed as a statutory holiday in the Province of Ontario and/or by the Government of Canada;

"Confidential Information" means any and all information and materials, that:

- (i) are designated in writing, as confidential at the time of disclosure;
- (ii) if disclosed orally or visually, are designated as confidential at the time of disclosure, or
- (iii) a reasonable person, having regard to the circumstances, would regard as confidential;

"Designated Officials" means the Region and Vendor officials responsible for the overall administration of the Agreement as identified in Schedule "B";

"Effective Date" means the date first above written;

"MFIPPA" means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended or replaced from time to time;

"Parent" means HomeServe USA Corp., a corporation organized and existing under the laws of Pennsylvania, and its successors and permitted assigns;

"Party" means the Region or the Vendor and **"Parties"** means the Region and the Vendor, as the context may require;

"PI" means personal information as defined under MFIPPA;

"Program" means the Warranty Plans and Warranty Services (as defined in Schedule A - Services) for private water and wastewater infrastructure in the Region sold by the Vendor to Residents in accordance with the terms of the Agreement;

"Records" means any records, books, electronic data, accounts and documents relating to the Program;

"Residents" means those registered owners of property within the geographical boundaries of the Region that are either connected to the Region's water system, the Region's sewer system or both and specifically excludes commercial property owners and tenants living in residential properties;

"Schedules" means the following schedules which are attached to and form part of the Agreement:

Schedule "A" –	Service
Schedule "B" –	Designated Officials

"Services" means the deliverables for the Program as described in the

Attachment #3 to Report #2022-COW-27

Agreement and Schedule "A"; and

"Term" has the meaning given to it in section 2.

- 1.2 This Agreement including the Schedules and all documents incorporated herein by reference constitutes the entire agreement between the Parties with respect to the subject matter and supersedes all previous understandings, agreements, negotiations and documents collateral, oral or otherwise, existing between the Parties at the Effective Date of the Agreement.
- 1.3 In the event of a conflict or an inconsistency between any of the following documents, such documents shall be interpreted in accordance with the order of priority set out below:
 - a) the Agreement;
 - b) any schedule to the Agreement.

2. TERM AND EXTENSION

- 2.1 The term of the Agreement shall be for a period of two (2) years commencing on the Effective Date and ending on the second anniversary thereof unless otherwise extended or terminated earlier in accordance with the provisions of the Agreement (the "Initial Term").
- 2.2 The Vendor agrees that the Agreement may, at the Region's sole and absolute discretion, be extended for two additional five (5) year periods each (each an "Extension Term"), based upon the same terms and conditions, except for the pricing of the Warranty Plans which may be adjusted by the Vendor as specified in section 11.2 of Schedule A, subject to the Region's approval and the Fees which, if requested by the Region, shall be adjusted by the Vendor as of the effective date of any extension option exercised by the Region by the percentage change in the Consumer Price Index (all items Ontario) since January of the previous year, as published by Statistics Canada. The option to extend shall be exercisable by the Region by giving written notice of each such extension to the Vendor at least thirty (30) days prior to the expiration of the Initial Term or the then current Extension Term, as applicable. The Initial Term together with the applicable Extension Terms is referred to as the "Term".
- 2.3 The Region's decision on whether or not to extend the Initial Term or any applicable Extension Term of the Agreement shall be subject to Regional Council approval, in its sole and absolute discretion which may be unreasonably and arbitrarily withheld, based upon its review of the various reports provided by the Vendor under the terms of the Agreement, the Vendor's pricing for the Warranty Program, the overall success of the Program, and any other information deemed relevant by Regional Council.

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3. SCOPE OF SERVICES, USE OF REGION'S LOGO

- 3.1 During the Term, the Vendor shall be responsible to supply to the satisfaction of the Region, the Services set forth in Schedule "A" in accordance with the terms and conditions set forth in the Agreement.
- 3.2 The Vendor agrees to perform the Services required under the Agreement in a faithful, diligent, and honest manner and agrees:
- (a) to not subcontract the performance of all or any part of the Services without the prior written consent of the Region (which may be unreasonably withheld and may be subject to additional terms and conditions), provided, however, that this provision shall not apply to the Contractor Network described in section 5 of Schedule "A";
 - (b) to supply, at the sole cost and expense of the Vendor, save as may be otherwise provided for in the Agreement, all necessary equipment, supplies, transportation, staff and technical assistance required in order to perform the Services;
 - (c) to provide competent personnel to carry out the Services. Such employees, servants, consultants, agents or sub-contractors, as the case may be, of the Vendor, so engaged in the performance of the Services specified in the Agreement, are hired and dismissed solely by the Vendor and shall be the employees, servants, consultants, agents or sub- contractors, as the case may be, of the Vendor and not the Region. All costs, damages and/or severance shall be at the Vendor's sole expense;
 - (d) to be solely responsible for the payment of all employees, servants, consultants, agents or sub-contractors, as the case may be, engaged or retained by the Vendor for the purpose of providing the Services;
 - (e) it shall be solely responsible for any and all required payments and federal, provincial and local statutory deductions required to be made by it, by law;
 - (f) that the Region is not a party to any contract signed between the Vendor and its customers who choose, at their sole discretion and cost, to participate in the Vendor's Program;
 - (g) to not market the Program or any other services not specified in this Agreement to Residents by way of door to door telemarketing;
 - (h) to not make any representations, verbal or written, to the Residents that the

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Vendor and the Vendor's employees, agents, servants, consultants, subcontractors are acting on behalf of the Region or are the Region's employees, agents, or contractors; and

- (i) that the Region will not participate in the Vendor's delivery of the Services or the Program in any way but has an interest in ensuring that the Region's customers receive good customer service from the Vendor and as such the Vendor will ensure that there is sufficient and timely reporting and feedback provided to the Region by the Vendor, as requested by the Region, on the customer satisfaction of Residents who enter the Program.

- 3.3 The Vendor shall only be entitled to use the Region's logo on marketing materials related to the Services, upon the Region's prior written approval of the materials containing the logo. All vetting and final approval of materials containing the Region's logo as well as the template contract used by the Vendor for the Program, to be signed between the Vendor and the Residential Property Owner who chooses to participate in the Program, will rest with the Region.
- 3.4 The Vendor shall not engage in the marketing or selling of any other services other than the Services specified in this Agreement to Residents nor permit the use of the Region's logo or its Agreement with the Region on any material used in connection with the cross selling or up selling of any product or service outside of the products and Services specifically enumerated within this Agreement, in accordance with the terms specified in this Agreement, or outside of the Agreement under the Vendor's own brand.
- 3.5 The Agreement shall not be deemed or construed to confer upon the Vendor an exclusive right to offer the Services to the Region or its Residents. The Vendor acknowledges that it is providing the Services on a non-exclusive basis. The Region makes no representation regarding the volume of the work or Services required under the Agreement. The Region reserves the right to contract with other parties for the same or similar Services as those provided by the Vendor and reserves the right to obtain the same or similar Services internally.

4. RESPONSIBILITIES OF THE REGION

- 4.1 During the Term, the Region will be responsible for:
 - (a) approving, in its sole and absolute discretion, of the Vendor's marketing plan for the Program offered to Residents;
 - (b) approving, in its sole and absolute discretion, of any requests that it receives from the Vendor to use the Region's logo on any material related to the Program or Services contemplated for in the Agreement; and,

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(c) approving, in its sole and absolute discretion, of the form of contract used by the Vendor to enroll a Resident who wishes to participate in the Program.

5. COMPENSATION FOR SERVICES AND USE OF REGION'S LOGO

- 5.1 The Vendor shall provide the Services specified in the Agreement at no cost to the Region.
- 5.2 The amount of the commission-based royalty ("Fees") payable to the Region by the Vendor in exchange for the use of its logo shall be (5%) five percent of the revenue earned by the Vendor from all actively enrolled customers in any or all of its Warranty Plans (as defined in Schedule A) within the geographical boundaries of the Region. The Vendor shall not be required to pay these Fees directly to the Region and agrees instead to apply the Fees as savings back to Residents enrolled in the Warranty Plans as a reduction to the cost of the Program to them.
- 5.3 All Fees are in Canadian dollars and are exclusive of all taxes now in force or enacted in future.
- 5.4 The Vendor shall provide the Region on a monthly basis with a report on the amount of Fees earned by the Region for all actively enrolled customers of the Vendor as further specified in section 5.2 which shows the Fees earned by the Region during the previous month and how these Fees are being applied as savings to the cost of the Program for Residents.
- 5.5 The Region may request a re-evaluation and adjustment to the Fees after the Initial Term of the Agreement, should Regional Council choose to exercise its right to any applicable Extension Term as provided for in section 2.

6. CHANGES, ALTERATIONS AND ADDITIONAL SERVICES

- 6.1 The Region may in writing at any time before or after the Effective Date of the Agreement or at any time before or after the commencement of the Services delete, vary or otherwise alter (without extending or increasing) the Services.

7. REPRESENTATIONS AND WARRANTIES OF THE VENDOR

- 7.1 The Vendor represents and warrants that:
- (a) it shall carry out its responsibilities under the Agreement in compliance with all applicable federal, provincial and municipal laws including, but not limited to the *Workplace Safety and Insurance Act* 1997, S.O. 1997, c. 16, Sched. A, the *Canadian Charter of Rights and Freedoms*, 1982, and the *Human Rights*

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Code, R.S.O. 1990 c. H.19, as amended or replaced from time to time;

- (b) it shall not cancel or it shall not alter, supersede or cancel its articles of incorporation, or any by-law in any way which would affect its ability to perform its obligations under the Agreement, or which would affect its status as a British Columbia corporation;
- (c) if it carries on business under a registered name or, identifies itself to the public under a registered name, it shall set out both the registered name and the Vendor's legal name in all documents, contracts, invoices, negotiable instruments and orders involving goods or services issued or made by the Vendor related to the Services or the Agreement;
- (d) neither it nor any of its employees, servants, consultants, agents, subcontractors shall be deemed to be officers, agents, employees or officials of the Region;
- (e) in the event that it undergoes a change of control the Vendor shall immediately disclose such change of control to the Region and shall comply with any terms and conditions subsequently prescribed by the Region resulting from the disclosure;
- (f) to obtain, maintain and pay for, at its own expense, all permits, licenses, consents and other authorizations that are deemed by any other body having authority, to be necessary to permit the carrying out of the Services;
- (g) it shall continue to operate under the name Service Line Warranties of Canada, Inc. and shall not file any Articles of Amendment or otherwise take any corporate action to change the corporate name of the Vendor to another name from the Effective Date until the expiry or termination of the Agreement, without the Region's prior written approval, which consent shall not be unreasonably withheld or delayed;

8. CONFLICT OF INTEREST

- 8.1 The Vendor shall ensure that the Services are carried out without a conflict of interest by any person associated with the Region in whatever capacity and the Vendor shall disclose to the Region without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest. For these purposes, a conflict of interest includes a situation in which a person associated with the Program or Services or any member of his or her family is able to benefit financially from his or her involvement in the Program or Services.

Attachment #3 to Report #2022-COW-27**9. INDEMNITY**

- 9.1 The Vendor shall, both during and following the expiry or termination of the Agreement, indemnify, defend and hold harmless the Region, its officers, directors, council members, elected officials, partners, agents, employees and servants from and against any and all claims, losses, damages, fines, penalties, costs (including legal costs), expenses, injury and other actions that are made, sustained, brought, threatened to be brought or instituted against any of them or to which any of them may be liable, in any manner based upon, occasioned by or attributable to:
- (a) any injury or death of a person, or loss or damage to property caused or alleged to be caused by any act, omission or delay on the part of the Vendor or its directors, board members, employees, contractors, subcontractors, and agents in connection with anything purported to be or required to be provided by or done by the Vendor pursuant to the Agreement, the Program, or done otherwise in connection with the Agreement, including the cost of defending a claim asserted by a customer of the Vendor against the Region alleging that the Region is liable in connection with any alleged breach by the Vendor under a warranty plan;
 - (b) any patent, trademark, copyright infringement or other breach of any intellectual property right of any person, for which the Vendor or any subcontractor to the Vendor is responsible;
 - (c) any misuse of the Region's logo or any identifier of the Region which has not been previously approved by the Region; or
 - (d) any claims made against the Region in connection with the Region's endorsement or alleged endorsement of the Vendor or the Vendor's Services, or otherwise in connection with the Region's participation in this Agreement.
- 9.2 The right of indemnification granted to the Region or other person entitled to indemnification under section 9.1 shall extend to any amount paid by that person in the settlement of any claim against it, and in entering into any such settlement, that person may exercise its reasonable discretion as to the amount to be paid, but that person shall serve prior notice of any intended settlement on the Vendor, at least five (5) Business Days prior to agreeing to any such settlement.
- 9.3 The Region may enforce the rights of indemnity conferred on its officers, directors, council members, elected officials, partners, agents, employees and servants under section 9.1 on their behalf and to the same extent as if they were parties to the contract.
- 9.4 This section shall survive the termination or expiry of the Agreement.

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- 10.1 Throughout the Term of the Agreement (including any Extension Term), the Vendor shall obtain and maintain at its own expense, including the cost of any applicable deductible, the following policy of insurance:
- (a) Commercial General Liability Insurance, written on IBC Form 2100 or its equivalent, including but not limited to bodily injury and personal injury liability, property damage, products liability, completed operations liability, owners & contractors protective liability, blanket contractual liability, premises liability, broad form property damage, employer's liability and voluntary compensation and contingent employer's liability coverage, non-owned automobile liability, having an inclusive limit of not less than \$2,000,000 per occurrence. Coverage shall include the Region as an additional insured, to the extent of the Vendor's obligations to the Region under the Agreement.
- 10.2 The policy of insurance shall:
- (a) be recorded as being a primary policy to that of the Region's, in respect of the Vendor's obligations set out in this Agreement, and shall be in a form and issued by an Ontario licensed insurance company, satisfactory to the Region;
 - (b) be maintained continuously during the course of carrying out the Services; or for such period of time as may be required after completion of the Services, as deemed necessary by the Region;
 - (c) contain cross liability and severability of interest provisions, as may be applicable;
 - (d) preclude subrogation claims against the Region and any other person insured under the policy; and
 - (e) provide that at least thirty (30) days prior written notice (ten (10) days in the event of non-payment of premiums) shall be given to the Region by the Insurer before the Insurer or Vendor takes any steps to cancel, terminate, fail to renew, amend or otherwise materially change or modify the insurance or any part thereof.
- 10.3 Any insurance coverage acquired under the Agreement shall in no manner discharge, restrict or limit the liabilities assumed by the Vendor under the Agreement.
- 10.4 The Vendor shall deposit with the Region such evidence of its insurance as provided in or required under the provisions of the Agreement:

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- (a) at the time of execution of the Agreement;
- (b) or in any event prior to commencing the Services; and
- (c) within thirty (30) days of any change in coverage that would modify any previously provided evidence of insurance.

10.5 The Vendor shall not do or omit to do anything that would impair or invalidate the insurance policies.

10.6 Delivery to and examination or approval by the Region of any certificates of insurance or policies of insurance or other evidence of insurance shall not relieve the Vendor of any of its indemnification or insurance obligations under the Agreement. The Region shall be under no duty either to ascertain the existence of or to examine such certificates of insurance or policies of insurance or to advise the Vendor in the event such insurance coverage is not in compliance with the requirements set out in the Agreement.

10.7 This section shall survive any termination or expiry of the Agreement.

11. CONFIDENTIAL INFORMATION

11.1 A Party's Confidential Information does not include information which: (i) is placed in the public domain by that Party; (ii) at the time when it is disclosed or access is granted to the other Party, is known to the other Party free of any restrictions; (iii) is independently developed by the other Party through individuals who have not had either direct or indirect access to the disclosing Party's Confidential Information; and (iv) is disclosed without any restrictions to the other Party by a third party who has a right to make such disclosure to any Person. The above-listed exceptions do not apply in the case of Confidential Information that is also PI.

11.2 A Party will not be liable for the disclosure of the other Party's Confidential Information, if the disclosure is required by any law which is applicable in the Province of Ontario, provided that the Party, to the extent permitted by such law, notifies the other Party as soon as it becomes aware that any such requirement has been or may be imposed.

11.3 Each Party will: (i) use the other Party's Confidential Information only in accordance with the Agreement and only for the purpose of fulfilling its obligations and exercising its rights under the Agreement; (ii) at a minimum, use a reasonable degree of care to protect the other party's Confidential Information; and (iii) disclose the other Party's Confidential Information only to its representatives who have a need to know for purposes described in paragraph above and are obligated to keep the Confidential Information of third parties confidential at least to the same extent as set forth in the Agreement or as required

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by MFIPPA or any other applicable legislation.

11.4 Each Party acknowledges that the Confidential Information of the other Party is of value to the other Party or to its suppliers and that any unauthorized copying, use, disclosure, access or disposition of that Confidential Information will cause irreparable injury to the other Party. Consequently, each Party agrees that in addition to any other remedies that the other Party may have with respect to any unauthorized use or disclosure of its Confidential Information, the other Party will be entitled to seek injunctive and other equitable relief, as a matter of right.

11.5 This section shall survive any termination or expiry of the Agreement.

12. RECORDS AND AUDIT

12.1 The Vendor shall prepare and maintain complete Records of all aspects of the Program and shall retain such Records for seven (7) years following the termination or expiry of the Agreement.

12.2 For the three (3) years following the termination or expiry of the Agreement, the Region may audit the Records of the Vendor, and take copies of such Records, after giving at least twenty (20) Business Days prior written notice to the Vendor.

12.3 This section shall survive any termination or expiry of the Agreement.

13. ACCESS TO INFORMATION AND PRIVACY BREACHES

13.1 The Vendor acknowledges and agrees that:

(a) it will cooperate in handling each Program related access to information request under MFIPPA that the Region receives in accordance with the applicable legislation and that it will cooperate in providing any Records in its custody or control that is required for the Region to process requests for information under MFIPPA or any other applicable legislation;

(b) it will disclose to the Region any Services related privacy breaches immediately after they occur; and

(c) it is responsible for assisting the Region in responding to inquiries and claims from individuals and/or government officials in the event of any privacy breaches.

13.2 This section shall survive any termination or expiry of the Agreement.

14. NOTICE OF DAMAGES OR LOSS

14.1 The Vendor shall give immediate notice, and written notice with complete details

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thereof, to the Region of any accident, injury or harm to any person or any damage or loss of any property of any person at the Region work site which comes to the attention of the Vendor, its officers, employees, members, servants or contractors, notwithstanding that the Region may not have any obligation with respect to same.

15. OCCUPATIONAL HEALTH AND SAFETY, WSIB

- 15.1 The Vendor clearly understands and agrees that it is not, nor is anyone hired by it, covered by the Region under the *Workplace Safety and Insurance Act* S.O. 1997, c.16, Sch. A., as amended or replaced from time to time, and the Vendor shall be responsible for and shall pay all dues and assessments payable under the *Workplace Safety and Insurance Act*, the *Employment Insurance Act*, S.C. 1996, c.23, as amended or replaced from time to time, or any other Act, whether Provincial or Federal, in respect of itself, its employees and operations, and shall furnish the Region, if requested, with such satisfactory evidence that it has complied with the provisions of any such Acts.
- 15.2 The Vendor further confirms that it has both a written occupational health and safety policy and program to implement that policy, and that all of its employees, subcontractors and any other persons performing the Services are appropriately trained, licensed and certified, as required to perform the Services.
- 15.3 If required to be registered with the Workplace Safety and Insurance Board ("WSIB"), the Vendor shall be in good standing with the WSIB at all times during the Term of the Agreement. Following any required registration with the WSIB, if requested by the Region, the Vendor shall produce up-to-date certificates issued by the WSIB to the effect that they have paid in full their assessment based on a true statement of the amount of payrolls. If the Vendor is exempt from WSIB coverage, the Vendor shall provide up-to-date evidence of such exemption satisfactory to the Region, upon the Region's request. The Vendor is responsible for obtaining WSIB Clearance Certificates from all of its subcontractors performing Services pursuant to this Agreement and passing them along to the Region's Designated Official upon the Region's request.

16. DESIGNATED OFFICIALS

- 16.1 The Region and Vendor officials responsible for the overall administration and security of the Agreement are identified in Schedule "B".

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- 17.1 The provisions of this section are in addition to any other rights, privileges and remedies to which the Region is entitled at law, in-equity or otherwise in the Agreement.
- 17.2 The Region may terminate the Agreement immediately upon giving notice to the Vendor, if the Vendor:
- (a) ceases to carry on business in the normal course, makes a general assignment for the benefit of creditors, or becomes subject to any proceeding for liquidation, insolvency or the appointment of a receiver;
 - (b) publicly disparages the Region's logo, its Councilors and/or its officers, directors or employees, or misuses the Region's logo or corporate endorsement;
 - (c) makes an assignment of the Agreement or the Services thereunder or any part thereof, without the prior written consent of the Region;
 - (d) is in breach of section 3.4, 7.1, 8, 11, or 13 of this Agreement; or
 - (e) is in default of any provision of the Agreement that is not cured or addressed by the Vendor to the satisfaction of the Region within seven (7) days of receipt of that notice from the Region.
- 17.3 If the Region terminates the Agreement as a result of an act or *event* of default described in section 17.2, in addition to any other rights, privileges and remedies it is entitled to, the Region may recover from the Vendor loss, damage and expense incurred by the Region or may be incurred by the Region by reason of the Vendor's default.
- 17.4 A waiver of a default as described in section 17.2 shall not extend to, or be taken in any manner whatsoever to affect the rights of the Region with respect to any subsequent default, whether similar or not.
- 17.5 Either Party reserves the right, in its sole discretion, to terminate the Agreement without cause and without any liability, cost or penalty upon ninety (90) days' prior written notice to the other Party.
- 17.6 Any termination under this section shall be without prejudice to the rights and obligations of the Parties accrued to the date of termination.
- 17.7 The express rights of termination in the Agreement are in addition to and shall in no way limit any right or remedies of the Region under the Agreement, at law or in

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equity.

- 17.8 Upon termination of the Agreement each Party will return the other Party's Confidential Information to the Party and destroy any such Confidential Information that cannot be returned.
- 17.9 Upon termination of the Agreement, the Vendor shall, in addition to its other obligations under the Agreement and at law:
- (a) provide the Region with a report detailing the current state of the provision of the Services by the Vendor at the date of termination, and any other information requested by the Region pertaining to the provision of the Services and performance of the Agreement; and
 - (b) promptly end any use of the Region's logo or corporate endorsement; and
 - (c) continue to meet all of its contractual obligations to the Region's residents.

18. NOTICE, ETC.

- 18.1 Any report, notice or communication under the Agreement shall be given in writing by electronic means of communication or by hand delivery or courier to the representative of the Parties noted below at the addresses noted below. Any notice, if sent by means of electronic communication, shall be deemed to have been received on the business day following the sending, or if delivered by hand or courier shall be deemed to have been received at the time it is delivered to the applicable address noted below.

If to the Region:

Attention: John Presta, Works Department
The Regional Municipality of Durham
605 Rossland Rd. East
Whitby, Ontario, L1N6A3
Phone: (905) 668-7711
Email: john.presta@durham.ca

If to the Vendor:

Attention: Jeff Olson, Business Development
Service Line Warranties of Canada, Inc.
150 King Street West, Suite 200
Toronto, ON M5H 1J9
Phone: (954) 542-8231 x284
Email: jolson@slwofc.ca

A Party may from time to time change the representative designated for it under

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this section by giving the other Party prior written notice of the newly designated representative and the date upon which it will become effective.

19. GENERAL

- 19.1 The Agreement may only be modified by a written agreement duly executed by an authorized signing officer of the Parties to the Agreement.
- 19.2 In the event of a dispute, the Party who wishes to raise the dispute will give notice of the dispute (in accordance with section 18) to the other Party. The dispute will be deemed to have arisen on the day that notice is received by the other party. Within five (5) Business Days of the dispute arising, an official from each party will meet and attempt to resolve the dispute. If the officials fail to resolve the dispute within ten (10) Business Days of that meeting, then either Party may pursue any legal option to resolve the dispute.
- 19.3 The Agreement constitutes the complete and exclusive agreement between the parties with respect to its subject matter, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding its subject matter. Except as expressly set out in the Agreement, the Agreement may be changed only by a written document signed by authorized representatives of Vendor and the Region. Should any provision of the Agreement be held to be invalid by a court of competent jurisdiction, then that provision will be enforced to the extent permissible, and all other provisions will remain in effect and are enforceable by the Parties.
- 19.4 The headings used in the Agreement are for convenience of reference only. No provision of the Agreement will be interpreted against any party merely because that party or its legal representative drafted the provision. All remedies are cumulative. Throughout the Agreement, the term "including" or the phrases "e.g.," or "for example" have been used to mean "including, without limitation".
- 19.5 No term of the Agreement will be deemed to be waived by reason of any previous failure to enforce it. No term of the Agreement may be waived except in a writing signed by the party waiving enforcement.
- 19.6 The Vendor may not assign its rights or delegate its duties under the Agreement, either in whole or in part, without the prior written consent of the Region. Subject to that restriction, the Agreement will be binding on, will enure to the benefit of, and will be enforceable against the parties and their respective successors and assigns.
- 19.7 The relationship between the Parties is that of independent contractors. The Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between them. Neither Party will have the power to bind the other without the other Party's prior written consent.

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- 19.8 The Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, without reference to the conflict of laws provisions. The Parties agree to attorn to the jurisdiction of the courts of the Province of Ontario for the conduct of any legal proceedings under, or related to, the Agreement.
- 19.9 The Vendor will not issue any public notice or press release, or otherwise make use of its association with the Region or the Agreement, without the prior written consent of the Region.
- 19.10 Except as expressly provided otherwise in the Agreement, neither Party will be liable for any failure or delay in its performance under the Agreement due to any cause beyond its reasonable control that could not have been avoided by the exercise of reasonable foresight provided that the Party affected by such failure or delay gives the other Party prompt written notice of the cause, and uses reasonable commercial efforts to correct such failure or delay within a reasonable period of time (not to exceed thirty (30) days). Lack of finances or labour disputes shall in no event be deemed to be a cause beyond a Party's reasonable control.

[Signature Page Follows]

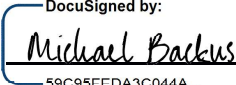
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IN WITNESS WHEREOF the Region and the Vendor have executed the Agreement as of the Effective Date first above written.

THE REGIONAL MUNICIPALITY OF DURHAM

Per: Jenni Demanuele
Name: Jenni Demanuele, CPA, CMA
Title: Acting Commissioner, Works

SERVICE LINE WARRANTIES OF CANADA, INC.

Per: 
Name: Michael Backus
Title: Chief of Sales
I have authority to bind the corporation.

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SCHEDULE "A"

SERVICES

The Services are as follows:

1. DEFINITIONS

"Contractor Network" means a network of contractors to be hired by the Vendor that will carry out the Warranty Services identified in this Agreement.

"Residential Property Owners" mean those registered owners of property within the geographical boundaries of the Region that are either connected to the Region's water system, the Region's sewer system or both and specifically excludes commercial property owners and tenants living in residential properties. Where a property is of mixed use, which includes a residential element, properties will be eligible for Sewer Lateral Warranty Services where the Sewer Lateral does not exceed 6 inches in diameter and for Water Service Warranty Services where the Water Service does not exceed 2 inch in diameter.

"Sewer Lateral" means that defined in "Sewer Lateral-Private Portion".

"Sewer Lateral-Private Portion" refers to the drain pipe extending from a building on private property to the Sewer Lateral-Public Portion. The Sewer Lateral-Private Portion may be used to convey either storm water, sanitary sewage or a combination of both. This is the portion of the Sewer Lateral which is to be covered under the Warranty Services specified in this Agreement.

"Sewer Lateral-Public Portion" refers to the drain pipe extending from private property line to the main sewer that is located on municipally owned property, typically located below the municipal road allowance. The Sewer Lateral-Public Portion may be used to convey either storm water, sanitary sewage or a combination of both. The Region will assume responsibility for all repairs to the Sewer Lateral-Public Portion which are not as a result of work completed to the Sewer Lateral-Private Portion under the Warranty Services.

"Warranty Plans" means Water Service and Sewer Lateral protection plans sold to Residential Property Owners within the Region as a result of this Agreement.

"Warranty Services" mean the performance of those repair, maintenance, replacement and restoration services covered under the Warranty Plans sold to the Residential Property Owner as a result of this Agreement as further specified in this Schedule.

"Water Service" means the water pipe connected to the watermain distribution

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system which is designed to convey water from this system to a property. The property owner is responsible for the portion located between the building and property line. This is the portion of the water pipe which shall be covered under the Warranty Services specified in this Agreement. The Region will assume responsibility for all repairs to the water pipe from the property line to the watermain which are not as a result of work completed under the Warranty Services.

2. WARRANTY SERVICE**2.1 The Vendor shall provide:**

- (a) Water Service warranty protection plans for Residential Property Owners within the Region at an affordable cost;
- (b) Sewer Lateral warranty protection plans for Residential Property Owners within the Region at an affordable cost; and,
- (c) all warranty protection plans to Residential Property Owners within the Region on a strictly optional opt-in basis.

2.2 The Vendor shall not provide services outside of those listed under this Schedule or to Residential Property Owners within the Region unless written consent is received from the Region.**3. COVERAGE****3.1 The Vendor shall provide warranty protection plans which are beneficial and provide value to Residential Property Owners within the Region.****Water Service Coverage****3.2 Warranty protection plan coverage for Water Services offered by the Vendor to Residential Property Owners within the Region shall include the following coverage:**

- (a) repair of a Water Service and related repairs up to a maximum of \$5,000 per service call;
- (b) locating, excavating and repairing or replacing, as required, Water Services;
- (c) damage arising to Water Services as a result of thawing or freezing;
- (d) emergency repair required to Water Services due to reduction in performance caused by normal wear and tear;

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(e) asphalt, concrete and landscaping basic restoration, as required, for each occurrence of repair work undertaken under the plan within the coverage limit;

(f) an one-year warranty for workmanship and quality of all repair and restoration work performed; and

3.3 Water Service warranty protection plan coverage shall not contain exclusion clauses relating to pre-existing conditions or the age of the property.

Sewer Lateral Coverage

3.4 Warranty protection plan coverage for Sewer Laterals offered by the Vendor to Residential Property Owners within the Region shall include:

(a) repair of Sewer Lateral and related repairs up to a maximum of \$8,000 per service call;

(b) locating, excavating and repairing or replacing, as required, Sewer Laterals;

(c) emergency repair required to Sewer Laterals due to reduction in performance caused by normal wear and tear;

(d) damage arising to Sewer Laterals as a result of root infiltration, ponding, back fall, lateral cracks, or calcite which cannot be cut out;

(e) asphalt, concrete and landscaping basic restoration, as required, for each occurrence of repair work undertaken under the plan within the coverage limit; and

(f) an one-year warranty for workmanship and quality of all repair and restoration work performed.

4. MARKETING

4.1 The Vendor will be responsible for the development and administration associated with marketing the program. The Region may, at its sole and absolute discretion, choose to provide information relating to the Warranty Plans to its residents on its website. The Region will retain the right of final approval of all of the Vendor's marketing material related to the warranty program specified in this Schedule, including information on the Vendor's webpage relating to the Services offered to the Region's residents pursuant to the terms of this Agreement.

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- 4.2 The Vendor shall be entitled to use the Region's logo on materials related to the Services, upon the Region's prior written approval of the materials containing the logo in accordance with the terms specified in the Agreement.
- 4.3 Marketing activities involving telemarketing and/or door-to-door solicitation by the Vendor related to the Services are strictly prohibited.
- 4.4 The Region will not be providing the Vendor with a mailing list of its residents. The Vendor is expected to determine customer address listings on its own.
- 4.5 The Vendor shall bear all costs associated with marketing.
- 4.6 The Vendor shall not make any representations to the Residents that the Vendor or the Vendor's employees, agents, servants, and subcontractors are acting on behalf of the Region or are the Region's employees, agents, or contractors.

5. CONTRACTOR NETWORK

- 5.1 The Vendor shall establish a Contractor Network sufficient in size to meet all requests for Warranty Services made by enrolled Residential Property Owners. The Vendor shall establish a Contractor Network that is sufficient in size and scope to compensate for any disruptions to Warranty Services due to disputes with a contractor. The Region will not intervene in any disputes or disagreements between the Vendor and its Contractor Network. The Vendor shall ensure that all contractors within that Contractor Network:
 - (a) have sufficient quantities of materials for use in the provision of the Services identified in this Agreement available at all times;
 - (b) have the ability and equipment to excavate to a depth of at least six (6) meters;
 - (c) hold or have in their employ at all times an individual who holds and maintains all applicable trade licenses and other required licenses and professional designations to perform the Services;
 - (d) perform all works in accordance with all applicable by-laws, laws and regulations including but not limited to the *Occupational Health and Safety Act*, *Workplace Safety and Insurance Act* and any Regulations to those Acts established by the province of Ontario all of which may be amended from time to time;
 - (e) not be permitted to file liens on the property of enrolled Residential Property

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Owners for work relating to the Warranty Services contemplated under this Agreement and the resulting Warranty Plans; and

- (f) carry at a minimum, Commercial General Liability insurance with a minimum limit of \$2,000,000 per occurrence endorsed to include the Vendor and the Region as additional insureds.

Failure of a contractor to hold the appropriate trade licenses in accordance with the requirements above will be deemed to be a default of the Vendor under this Agreement.

6. PLAN ADMINISTRATION

- 6.1 The Vendor shall be responsible for and bear all costs related to all activities involving the sale and administration of Warranty Plans to enrolled Residential Property Owners, including managing its enrollment processes, fielding and responding to requests for service repairs, arranging and providing oversight to its Contractor Network with respect to Warranty Services as well as responding to all billing inquiries, customer complaints and service cancellation issues.

7. CUSTOMER SERVICE

- 7.1 The Vendor shall be responsible for maintaining strong customer service accountability to Residential Property Owners who chose to enroll in its Warranty Plans, including:
 - (a) ensuring that it staffs and maintains a toll-free call center twenty-four (24) hours each day, seven (7) days each week which shall be responsible for receiving all calls related to Warranty Services, handling applications for Warranty Plans, answering customer inquiries, billing and claims requests or complaints;
 - (b) availability of French language services;
 - (c) assuring that it and its Contractor Network maintain reasonable response times including ensuring that customers are contacted to schedule non-emergency repair work by its Contractor Network within seventy-two (72) hours of receiving a request for service;
 - (d) assuring that customers are contacted by a contractor to schedule emergency repairs within twelve (12) hours of receiving a request for service; and,
 - (e) ensuring that all repair work is completed in a reasonable and timely manner thereafter.

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8. MEDIATION AND TRAINING

- 8.1 The Vendor shall establish, to the Region's satisfaction, a mediation program and protocols to handle circumstances where enrolled Residential Property Owners contact the Region directly to inquire about the Warranty Plans or to raise disputes between themselves and the Vendor.
- 8.2 The Vendor shall also provide training to Region staff, to the Region's satisfaction, with respect to the Warranty Plans it offers and how to address calls received by customers.

9. QUALITIES, MATERIALS AND SPECIFICATIONS

- 9.1 The Vendor shall ensure that with respect to performing all Warranty Services contemplated under this Agreement and the resulting Warranty Plans, it and its contractors shall:
- (a) adhere to all applicable, federal, provincial and local environmental and health and safety rules and regulations with respect to performing all Warranty Services;
 - (b) perform all Warranty Services pursuant to valid permits and that all such Warranty Services successfully pass any and all required Region inspections, with the Vendor being expected to cover all expenses related to permit fees and inspections costs; and,
 - (c) maintain a reasonable standard of quality and, at a minimum, meet all and any applicable Ontario building and material requirements and specifications in force at the time that the Warranty Services are performed as well as taking any additional measures and following any additional requirements that the Region requires at the time that the Warranty Services are performed.
- 9.2 The Vendor shall ensure that its Contractor Network leave all job sites in an equal or better state of repair or cleanliness as they were found in, making only those changes necessary to complete the Warranty Services.
- 9.3 The Vendor shall be responsible for all damage to the Sewer Lateral, Sewer Lateral-Public Portion and Water Service located on municipally owned property and/or any third-party property caused by the Vendor or its contractors performing Warranty Services contemplated under this Agreement.

10. MONITORING & REPORTING REQUIREMENTS

- 10.1 In order to measure and ensure continued success of the Warranty Products, the Vendor shall provide the Region with access to its online Partner Portal. Data provided by the Partner Portal include:

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- (a) Contracts and customer totals, available by contract type;
 - (b) Enrollment channel details;
 - (c) Service level metrics including number of service requests, successful repairs, details on services provided, value of services provided, contractor assignments and satisfaction ratings.
- 10.2 In addition to information provided by the online the Partner Portal, Vendor shall provide the Region with a monthly report regarding customer satisfaction.
- 10.3 The Region shall be entitled to audit any and all information provided by the Vendor in order to verify its accuracy. The Region shall provide the Vendor with a minimum of thirty (30) calendar days' notice of its intention to audit and the Vendor shall make available its records in order to facilitate such an audit. Failure to allow such an audit to occur shall constitute a breach of the agreement arising from this Agreement.
- 11. COST STRUCTURE, WARRANTY PLANS PRICING, BILLING & PAYMENT FOR CUSTOMERS**
- 11.1 The Vendor shall offer a monthly flat-rate fee subscription-based pricing structure for Water Service and Sewer Lateral warranty protection plans to Residential Property Owners. The Vendor shall not charge any deductibles or any additional fees to Residential Property Owners who become the Vendor's customers. The Vendor shall structure the subscription fees to be sufficient to cover all related expenses. During the Initial Term of the Agreement, the Vendor shall charge the following fees (in Canadian dollars) for its Warranty Plans:
 - (a) Warranty Plan for Sewer Lateral - \$9.00 per month, \$108.00 annually for \$8,000.00 coverage limit; and,
 - (b) Warranty Plan for Water Lateral - \$6.00 per month, \$72.00 annually for \$5,000.00 coverage limit.
- 11.2 The Vendor shall be able to reevaluate and adjust its pricing for Warranty Plans after the Initial Term of the Agreement, once during any 12-month period, based on increases in the consumer price index ("CPI") for Services in Ontario as defined by Statistics Canada. Any such adjustment shall not exceed the CPI percentage increase over the prior year plus 2 percentage points, unless the Parties agree in writing.
- 11.3 The Vendor shall not be entitled to include subscription billing for Warranty Plans with utility billing. The Vendor shall develop, maintain and administer all billing requirements on its own. The Region will not be involved in any billing arrangements or disputes.

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12. REGION PROGRAM RESTRICTIONS

- 12.1 The Vendor shall not be entitled to access or apply for any grant monies, aid or reimbursement from any program administered by the Region with respect to the delivery of Services contemplated under this Agreement that may otherwise be available to Residential Property Owners.

SCHEDULE "B"

DESIGNATED OFFICIALS

REGION'S DESIGNATED OFFICIAL

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VENDOR'S DESIGNATED OFFICIAL

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