

MARKETING AGREEMENT BETWEEN CITY OF PORT COLBORNE, ONTARIO &
SERVICE LINE WARRANTIES OF CANADA, INC.

This MARKETING AGREEMENT (“**Agreement**”) is entered into by and between the City of Port Colborne, Ontario, a municipal corporation in the Province of Ontario (“**Municipality**”), and Service Line Warranties of Canada, Inc. (“**SLWC**”), a corporation organized under the laws of British Columbia, herein each referred to individually as “**Party**” and collectively as the “**Parties**”. This Agreement shall be effective on the last signature date set forth below (“**Effective Date**”).

RECITALS

WHEREAS, SLWC has entered into a Master Contract with Local Authority Services, a not-for-profit corporation under the laws of Canada and an affiliate of the Association of Municipalities of Ontario, to provide services to participating Ontario municipalities; and

WHEREAS, residential real estate in the Municipality includes sewer and water line laterals and such line laterals are the responsibility of individual property owners in the Municipality (each a “**Residential Property Owner**”); and

WHEREAS, Municipality desires to offer Residential Property Owners the opportunity, but not the obligation, to purchase service lateral plan and other repair plans or services (“**Plans**”); and

WHEREAS, SLWC has agreed to provide the Plans to Residential Property Owners subject to the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby, the Parties agree as follows:

AGREEMENT

1. Municipality hereby grants to SLWC the right to offer the Plans to Residential Property Owners within the Municipality’s boundaries subject to the terms and conditions herein. Municipality agrees to provide SLWC with the applicable postal codes encompassing its municipal boundaries. SLWC agrees to purchase a mailing list from a qualified third-party provider covering those postal codes.

2. Municipality hereby grants to SLWC a non-exclusive license (“**License**”) to use Municipality’s name and logo on letterhead, advertising and marketing materials to be sent to Residential Property Owners from time to time, all at SLWC’s sole cost and expense and subject

to Municipality's prior review and approval, which will not be unreasonably conditioned, delayed, or withheld.

3. a) The term of this Agreement ("**Term**") shall be three (3) years from the Effective Date. The Agreement will automatically renew for additional one (1) year terms ("**Renewal Term**") unless one of the Parties gives the other written notice at least ninety (90) days prior to the end of the Term or a Renewal Term that the Party does not intend to renew this Agreement.

b) The Municipality may terminate this Agreement thirty (30) days after giving written notice to SLWC that SLWC is in material breach of this Agreement if said breach is not cured during said thirty (30) period. During the Term, SLWC shall conduct marketing campaigns at the times and prices indicated on **Exhibit "A"** attached hereto.

4. As consideration for such License, SLWC will pay to Municipality five percent (5%) of revenue for Plans collected from Residential Property Owners ("**License Fee**") during each calendar year during the Term or any Renewal Term. The License Fee is paid once per calendar year in a lump sum. The first payment shall be due by January 30th of the year following the first year of the Term. For example, if the Term were to begin on September first, the first payment of the License Fee would be paid by January 30th of the following year. Successive License Fee payments shall be made on an annual basis throughout the Term and any Renewal Term, due and payable on January 30th of the succeeding year. SLWC shall include with the License Fee payment to Municipality a statement signed by an SLWC corporate officer certifying the amount of revenue from Plans with respect to the applicable Term or Renewal Term. Municipality will have the right, at its sole expense, to conduct an annual audit, upon reasonable notice and during normal business hours, of SLWC's books and records pertaining to revenue generated by this Agreement while this Agreement is in effect and for one (1) year after any termination of this Agreement.

5. SLWC hereby agrees to protect, indemnify, and hold the Municipality, its elected officials, officers, employees and agents (collectively or individually, "**Indemnitee**"), harmless from and against any and all [third party] claims, damages, losses, expenses, suits, actions, decrees, judgments, awards, attorneys' fees and court costs (individually or collectively, "**Claim**"), which an Indemnitee may suffer or which may be sought against or are recovered or obtainable from an Indemnitee, as a result of, or by reason of, or arising out of or in consequence of any act or omission, negligent or otherwise, of the SLWC or its officers, employees, contractors, subcontractors, agents or anyone who is directly or indirectly employed by, or is acting in concert with, SLWC or its officers, its employees, contractors, subcontractors, or agents in the performance of this Agreement; provided that the applicable Indemnitee notifies SLWC of any such Claim within a time that does not prejudice the ability of SLWC to defend against such Claim. Any Indemnitee hereunder may participate in its, his, or her own defense, but will be responsible for all costs incurred in connection with such participation in such defense.

6. Any notice required to be given hereunder shall be deemed to have been given when notice is (i) received by the Party to whom it is directed by certified or registered mail (return receipt requested) or delivery service (with written confirmation of delivery), (ii) telephonically faxed to the telephone number below provided that confirmation of transmission is received

thereof, or (iii) by e-mail to the applicable address noted below, with confirmation of delivery and receipt. Any notice, if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the business day following the delivery of such notice, 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. The notice shall be sent as follows:

To: Municipality:
ATTN: Darlene Suddard, Manager of Water/Wastewater
City of Port Colborne
66 Charlotte Street
Port Colborne, ON L3K 3C8
Phone: (905) 835-2900 x 256
Email: Darlene.Suddard@portcolborne.ca

ATTN: Chris Kalimootoo, Director of Public Works
City of Port Colborne
66 Charlotte Street
Port Colborne, ON L3K 3C8
Phone: (905) 835-2900 x223
Email: Chris.Kalimootoo@portcolborne.ca

To: SLWC:
ATTN: Senior Manager, Partner Acquisition, Business Development
Service Line Warranties of Canada, Inc.
150 King Street West, Suite 200
Toronto, ON M5H 1J9
Phone: (416) 400-2022
E-mail: elise.dostal@homeserveusa.com

A Party may from time to time change the representative designated for it under this section by giving the other Party prior written notice of the newly designated representative and the date upon which such designation will become effective.

7. No Third Party Beneficiary. Nothing expressed or implied in this Agreement is intended, or should be construed, to confer upon or give any person or entity not a party to this Agreement any third party beneficiary rights, interests, or remedies under or by reason of any term, provision, condition, undertaking, warranty, representation, or agreement contained in this Agreement.

8. Modifications or Amendments/Entire Agreement. All of the representations and obligations of the Parties are contained herein, and no modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a party unless in writing signed by that Party or a duly authorized agent of that Party empowered by a written authority signed by that party. The waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that

provision by the same party, or of any other provision or condition of the Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable for whatever reason, the remaining provisions not so declared shall, nevertheless, continue in full force and effect, without being impaired in any manner whatsoever.

9. Authority. Each Party, or responsible representative thereof, has read this Agreement and understands the contents thereof. The person(s) executing this Agreement on behalf of each Party is empowered to do so and thereby bind the respective Party.

10. This Agreement and the License granted herein may not be assigned by SLWC without the previous written consent of the Municipality, such consent not to be unreasonably withheld.

11. This Agreement may be executed in counterparts, all such counterparts will constitute the same contract and the signature of any Party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter.

12. Any litigation related to this Agreement shall be brought and prosecuted exclusively in courts of the Province of Ontario. The governing law shall be the laws of Ontario and the laws of Canada applicable therein.

13. The above Recitals are incorporated by this reference and expressly made part of this Agreement.

IN WITNESS WHEREOF, The Parties hereto have executed this Agreement on the day and year first written below.

City of Port Colborne

By: _____

Name: William C. Steele

Title: Mayor

Date:

By: _____

Name: Nicole Rubli

Title: Acting City Clerk

Date:

Service Line Warranties of Canada, Inc.

By: _____

Name: Michael Backus

Title: Chief Sales Officer

Date:

Exhibit A
Service Line Warranty Program
City of Port Colborne, ON
Term Sheet
March 24, 2022

- I. Initial Term. Three Years.
- II. License Fee – 5% of revenue for Plans collected from Residential Property Owners, paid annually, for:
 - a. Municipality logo on letterhead, advertising and marketing materials
 - b. Signature by Municipality official
- III. Products
 - a. External water service line plan (initially \$6.00 per month)
 - b. External sewer/septic line plan (initially \$8.00 per month)
 - c. In-home plumbing plan (initially \$9.00 per month)

Pricing does not include taxes. Company may adjust the foregoing Product fees once every twelve (12) months during the Term or any Renewal Term 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 change over the prior year plus 2 percentage points unless the Parties agree in writing.
- IV. Scope of Coverage
 - a. External water service line plan:
 - i. Covers Residential Property Owner responsibility: From the property line to the external wall of the home.
 - ii. Covers thawing of frozen external water lines.
 - iii. Covers well service lines if applicable.
 - b. External sewer/septic line plan:
 - i. Covers Residential Property Owner responsibility: From the exit point of the home to the property line.
 - ii. Covers septic lines if applicable.
 - c. In-home plumbing plan:
 - i. Water supply pipes and drainage pipes within the interior of the home.
- V. Marketing Campaigns. SLWC shall have the right to conduct up to three campaigns per year (each campaign consists of two mailings) and such other channels as may be mutually agreed.