

YADKIN COUNTY
NORTH CAROLINA

AGREEMENT FOR SERVICES

(Munis Contract Number) _____

This Agreement is made and entered into this 1st day of July, 20 16
("Effective Date") between Yadkin County, North Carolina ("County") and
Cummins Atlantic ("Provider").

WHEREAS, the County and the Provider wish to enter into a contract under which the Provider will provide certain specified services and/or materials to the County in exchange for payment. NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, conditions, and agreements herein, the County and the Provider agree as follows:

1. **Services To Be Performed.** The Provider agrees to perform the services and to provide the materials (all collectively called the "Services") for the County as authorized by the County Manager. Provider acknowledges that this Agreement does not guarantee that the County will assign the Provider any work; however, that the County from time to time may request the Provider to perform services for Yadkin County.

The Provider warrants that all materials it provides shall be of good quality and shall meet industry standards and the County's expectations and approval, and the Provider warrants that it shall perform all Services in a good and workmanlike manner, in accordance with industry standards and the County's expectations, and to the County's full satisfaction.

See "Exhibit A" attached hereto and incorporated as if fully setout herein. "Exhibit A" lists in detail the scope of services to be provided under this contract. Any changes to "Exhibit A" must be approved by the County Manager, in writing, prior to the service being provided.

2. **Term of the Agreement.** (Check the one provision that applies.)

☒ This Agreement shall end on June 30th, 20 17.

☐ This Agreement shall continue until the Provider has completed the Services to the County's satisfaction.

☐ This Agreement shall continue until terminated in accordance with Section 8 of the Agreement.

3. **Payment to the Provider.**

- ☐ The County shall pay the Provider \$ _____ every _____.
- ☒ The County shall pay the Provider a total of \$ 4,652.00 for all Services performed under this Agreement. The Provider will invoice the County for Services as they are performed, but no more frequently than monthly.

In accordance with Item 3, Payment to the Provider, the County agrees to pay the Provider for Services satisfactorily performed in accordance with this Agreement. The County shall pay each properly submitted invoice within thirty (30) days of its submission. Each invoice shall document, to the County's satisfaction, the work performed and the basis for the amount of payment sought. If the Provider fails to perform in accordance with this Agreement, the County may, without penalty, withhold any payment(s) associated with Services not properly performed until and unless the Provider completes or corrects its performance, as applicable. The County's remedies under this Agreement are not exclusive and are in addition to all other rights and remedies provided by law.

4. **E-Verify.** North Carolina General Statutes prohibit counties from entering into contracts with contractors and subcontractors under the formal bid process and/or proposals who have not complied with the requirement of Article 2 of Chapter 64 of the NC General Statutes. Said Article 2 of Chapter 64 states *The prohibition applies to all contracts subject to G.S. 143-129, which are purchase contracts with an estimated cost of \$90,000 or more, and construction or repair contracts with an estimated cost of \$500,000 or more. GS 143-129 applies to virtually all public entities, including cities, counties, local school boards, water and sewer authorities, and other special purpose local government districts and authorities.* The Contractor must submit the E-Verify Affidavit with bid proposals and/or contracts as required by NC General Statutes.

5. **Non-waiver.** If the County at any time does not require the Provider to satisfy any of the Provider's obligations under this Agreement, or if the County fails at any time to exercise any right or privilege granted to it by this Agreement, that shall not waive or limit the County's ability to require the Provider to satisfy those obligations in the future or the County's ability to enforce its rights or privileges in the future. If the County waives any breach of this Agreement by the Provider that shall not be deemed a waiver of any later breach by the Provider, nor shall it be deemed a waiver of this section of the Agreement.

6. **Independent Contractor.** For purposes of this Agreement, the Provider at all times shall be considered an independent contractor, and the County shall not be deemed the employer of the Provider or of any of the Provider's agents or employees, nor shall the County be responsible for the actions or omissions of the Provider or its agents and employees. For purposes of this Agreement, the Provider and its agents and employees shall not be deemed an employee of the County for any purpose, including (by example only and not for purposes of limitation) federal or state income taxation, unemployment benefits, or worker's compensation benefits.

7. **Insurance.** During this Agreement's term, the Provider shall maintain at its sole expense all insurances as set out in this section. All insurance policies shall be issued by a company authorized to issue insurance in the State of North Carolina. Before beginning to perform under this Agreement, the Provider shall provide the County with a certificate of insurance showing that all insurance required by this Agreement is in effect, and the Provider shall keep that certificate current by submitting to the County updated certificates as the Provider's insurance policies are renewed or otherwise modified. The Provider shall notify the County immediately if any insurance required by this Agreement will be or has been cancelled or not renewed or if the amount of coverage of any such insurance will be or has been reduced.

The Provider shall maintain worker's compensation insurance as required by North Carolina law to cover all of the Provider's employees engaged in any work under the Agreement.

The Provider shall also maintain the following insurance to cover its performance under this Agreement during the Agreement's term:

- General commercial liability in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate.
- Workers' Compensation in the amount of \$500,000 employer's liability.
- Automobile liability covering all owned, hired, and non-owned vehicles used in connection with this Agreement. The minimum combined single limit shall be \$1,000,000 for bodily injury and property damage; and \$1,000,000 uninsured/underinsured motorist coverage.

8. **Indemnity.** The Provider agrees that it shall defend, indemnify, and hold harmless the County and its officials, employees, and agents from and against any and all losses, liabilities, claims, demands, suits, costs, damages, or expenses (including reasonable attorneys' fees) arising from or related to this Agreement and/or the Services, including (by example only and not for purposes of limitation) those for bodily injury, death, or property damage. The Provider's obligations under this section shall survive termination of this Agreement.

9. **Termination.** Notwithstanding any other provision of this Agreement, this Agreement may be terminated at any time by mutual written agreement of the County and the Provider, or it may be terminated by the County upon ten (10) days' written notice to the Provider. Ten days' written notice for termination by the County is not required if the County is terminating because the Provider has breached the Agreement.

10. **Entire Agreement.** This Agreement (including any attached Exhibits) constitute the complete and entire Agreement between the County and the Provider concerning the subject matter of the Agreement and supersedes any and all prior agreements, discussions, understandings, promises, or representations concerning that subject matter. This Agreement may be modified only by a writing signed by both the County and the Provider.

11. **Governing Law and Forum for Disputes.** This Agreement shall be governed by the laws of the State of North Carolina without regard to North Carolina's choice of law provisions. Any lawsuit or other legal proceeding concerning this Agreement and/or the Services must be filed in Yadkin County, North Carolina, unless it is properly filed in Federal Court, in which case it must be filed in the Federal District Court for the Middle District of North Carolina.

12. **Severance Clause.** If any part of this Agreement is deemed unenforceable by a court of competent jurisdiction, then that part shall be enforced to the greatest extent legally possible, and the rest of this Agreement will remain in full force and effect.

13. **Compliance With Laws.** The Provider acknowledges and agrees that it will perform all Services and will satisfy all of its obligations under this Agreement in full compliance with all applicable federal, state, and local laws and regulations.

14. **Repair of Damages.** The Provider shall promptly and fully repair any damages that it or its employees or agents cause to the County's property. Alternatively, the County may choose in its discretion to require the Provider to fully compensate the County for any such damages rather than have the Provider repair them.

15. **Titles and Headings.** Titles and headings used in this Agreement are for convenience only and do not limit or modify the language within each section of this Agreement.

16. **Non-Assignment.** The Provider may not assign its rights or obligations under this Agreement, nor may it sub-contract any part of this Agreement, without written approval from the County.

17. **Notices.** Any notice or communication to the County or the Provider for purposes of this Agreement shall be delivered or shall be deposited in the United States Mail, first class, addressed to the addressee below:

THE COUNTY

Yadkin County Sheriff's Office
Sheriff W.R. Oliver
PO Box 443 - 210 E Hemlock Street
Yadkinville, NC 27055
Ph: 336/679-4217, Fax: 336/679-7982

THE PROVIDER

Cummins Atlantic LLC
Doug McGrigor
512 Teague Street
Greensboro, NC 27406
Office: 336/275-4531 ext: 301
Cell: 336/362-9288

18. **Number and gender.** This Agreement's use of singular, plural, masculine, feminine, and neuter pronouns shall include the others as the context may require.

19. Exhibits. To the extent of a conflict between the above language of this Agreement and any attachments, the above language of this Agreement will control.

IN WITNESS WHEREOF, the County and the Provider have caused this Agreement to be executed as of the Effective Date.

THE COUNTY

BY: 

Name: Lisa Hughes

Title: County Manager

THE PROVIDER

BY: 

Name: Doug McGrigor

Title: Manager

This instrument has been pre-audited in
the manner required by the Local
Government Budget and Fiscal Control Act.


Yadkin County Finance Officer

Digitally signed by Gary
DN: cn=Gary, o=Finance, ou=Yadkin Co,
email=gproc@yadkincourtnc.gov, c=US
Date: 2016.08.03 12:02:18 -0400

EXHIBIT A

TO AGREEMENT TO SERVICES

Below is a detailed listing of the scope of services to be provided under this contract. Any changes to "Exhibit A" must be approved by the County Manager, in writing, prior to the service being provided. (The detailed listing of the scope of services may also be described on one or more sheets attached hereto and incorporated herein, but each must be signed by the Provider and the County.)

See Attached:

- *Letter
- *Planned Maintenance Agreement
- *Scope of Service
- *COLI
- *Iran Divestment Act



3/4/2016

Yadkin County Sheriff's Office
210 East Hemlock St.
POB 443
Yadkinville, NC
27055

Attn: Sheriff William Oliver

RE: Power Generation Planned Maintenance Agreement

Your emergency power generation equipment was designed to provide protection for your most critical needs during a power outage. In order to ensure your emergency power will be available when it is truly needed, it is essential to properly maintain your equipment.

Enclosed you will find our proposal to provide Planned Maintenance on your power generation system. The scope of service proposed has been specifically designed to properly maintain the entire system according to manufacturers' recommendations and takes into account Cummins Atlantic's decades of industry experience. Please contact me with any questions you may have.

Our team is available 24 hours a day, seven days a week should you experience any problem or have specific questions regarding your power generation system. Cummins Atlantic has over 70 mobile service technicians, factory trained and certified, equipped with the latest troubleshooting equipment and software, properly calibrated tooling, supported by a team of field service engineers and \$1.0M of service parts to support our customers.

In order to execute the agreement please sign and return via fax, email, or drop the agreement in the US mail to: Planned Maintenance Administration Group, 3900 Deepwater Terminal Road, Richmond, VA 23234. We will promptly reply with a fully executed agreement and initiate the scheduling process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Doug McGrigor'.

Doug McGrigor
Service Sales Rep
Office: (336) 275-4531 x301
Cell: (336) 362-9288
Email: stephen.mcgrigor@cummins.com

Cummins Atlantic LLC
Planned Maintenance Administrative Group
3900 Deepwater Terminal Road
Richmond, VA 23234
Fax: (804) 232-7428

Service Locations: Charlotte, Greensboro, Kenly - NC; Charleston, Columbia, Myrtle Beach, Spartanburg - SC; Chesapeake, Richmond, Roanoke, Winchester - VA

Email: pm.service@cumminsatlantic.com
Website: cumminsatlantic.com



Atlantic

Greensboro
512 Teague Street
Greensboro, NC 27406
Phone: (336) 275-4531

PLANNED MAINTENANCE AGREEMENT

| Customer Address | Customer Contact | Quote Information |
|---|--|--|
| Yadkin County Sheriff's Office 210 East Hemlock St. POB 443 Yadkinville, NC 27055 Customer #: 1 Payment Type: Pay As You Go | Name: Sheriff William Oliver Phone: (336) 679-4217 Cell: Fax: E-mail: roliver@yadkincountync.gov | Quote Date: 3/4/2016 Quote Expires: 5/3/2016 Quote ID: QT-9573 Quoted By: Doug McGrigor Quote Term: 1 Year |

Total Agreement Amount:*

\$4,651.75

*Quote does not include applicable taxes

Total agreement amount does not include applicable taxes.
Please do not pay from this document, you will be invoiced later.

Please return signed agreement to:
Cummins Atlantic LLC
Attn: PEM Administration Group
3900 Deepwater Terminal Road
Richmond, VA 23234
Email: pm.service@cumminsatlantic.com
Fax: (804) 232-7428

Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to buy from Seller, the foregoing products/services upon the terms and conditions set forth in the "Planned Equipment Maintenance Agreement Terms and Conditions" attached hereto, which are hereby incorporated herein by reference.

Customer Approval (Quote ID: QT-9573)

Cummins Atlantic LLC

Signature: _____

Signature: _____

Date: _____

Date: _____

Please return this sheet only.

PLANNED MAINTENANCE AGREEMENT TERMS AND CONDITIONS

Proposal for: Yadkin County Sheriff's Office

Quote ID: QT-9573

Agreement offered is valid for acceptance until 5/3/2016

This Agreement, when accepted by you and approved by a Cummins Atlantic LLC, LLC (the "Company") authorized representative, will constitute the entire exclusive agreement between us for the services to be. All prior oral or written understandings are superseded by this agreement. The parties hereto intend that the terms and conditions contained herein will exclusively govern the services to be provided. This Agreement may not be amended unless agreed to in writing by an authorized representative of the Company.

Scope of Services

The Company shall perform maintenance on the equipment listed on the front side of this Agreement. The scope of these maintenance services is more fully described in the "Scope of Services". No other work, materials or activities are included in this agreement unless agreed to in supplemental documentation.

Agreement Term - Automatic Renewal Provision

If you elect the automatic renewal provision, this Agreement will automatically renew at the end of the initial term for a period equal to the initial term (the "Renewal Term"). In such event, cost increases for the Renewal Term will not exceed three (3%) percent per year. Either party has the right to terminate this Agreement with thirty (30) days prior written notice, unless the work has already been performed.

Maintenance Service

All services hereunder will be performed between 7:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays unless agreed to in writing by the Company prior to the execution of this Agreement.

Coverage and Limitations

The Company warrants and agrees that all parts and materials shall be suitable for the use intended. For any parts manufactured by Cummins Inc. (CMI) or its subsidiaries, the only warranty that applies is the written Limited Warranty provided by CMI for that part. Limited Warranties may apply for select parts provided by third party manufacturers only to the extent as defined in writing by the third party component manufacturer's warranty. The sole remedy is the repair or replacement of the affected part by Company's discretion.

NO OTHER WARRANTIES APPLY, INCLUDING IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL THE COMPANY BE LIABLE FOR LOSS OF PROFITS OR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES CAUSED BY PRODUCTS OR SERVICES THAT WE SUPPLY.

The Company is not responsible for any expenses for damages, including materials or labor, to repair damage caused by abuse, accident, theft, acts of third party, operation of equipment in a manner outside of the operations recommendation of the Company for such equipment, or force of nature, or if repairs or servicing are performed by a party other than the Company. The Company shall not be responsible for failure to render service or repairs for causes beyond its control, including strikes and labor disputes.

Payment Terms

Payment terms are Net 30 from date of invoice.

General

1. You represent that you own the equipment subject to this Agreement, or, if you are not the owner, that you have the authority to enter into this Agreement.

2. Any notice or other communication given hereunder shall be in writing and mailed to address shown on this Agreement. Any such notice shall be deemed given when deposited in the United States mail. Any notices to be provided to the Company shall be mailed to:

Cummins Atlantic LLC
Attn: PM Administration Group
3900 Deepwater Terminal Road
Richmond, VA 23234

3. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

Rev January 2014



Atlantic

Power Generation System Planned Maintenance

INSPECTION

(MONTHLY, QUARTERLY OR ONE-TIME PER YEAR)

Safety

- Perform Lock Out Tag Out procedure (LOTO)

Battery & Battery Charger System

- Check/record battery charger functions & charge rate
- Check connections, termination cleanliness and security
- Check electrolyte level, vent caps and all cells in the starting batteries
- Check specific gravity of batteries
- Test starting batteries with electronic analyzer
- Check starter connections and wiring
- Check starting voltage

Fuel System

- Inspect main tank/day tank fuel level & test transfer pump operation
- Inspect tank vents & overflow piping
- Inspect gaseous fuel regulator vent (natural gas only)
- Inspect all fuel hoses, clamps, pipes, components, vents and fittings
- Inspect governor linkage and oil level (if applicable)
- Drain condensation from fuel/water separators
- Obtain fuel sample & inspect for contamination
- Optional – fuel sample for laboratory analysis*

Engine Cooling System

- Inspect water pump, all hoses and clamps for leaks, coolant level and condition
- Inspect radiator condition
- Observe coolant heater operations
- Inspect drive belts, observe alignment and deflection
- Utilize SCA test strip to record coolant properties
- Inspect radiator surfaces, shrouds and barriers for obstruction
- Optional – coolant sample for laboratory analysis*

Housekeeping

- General cleaning of enclosure interior, genset and ATS

Engine & Lubrication System

- Inspect lubrication system for leaks & visually check oil level
- Inspect crankcase ventilation system
- Inspect spark ignited ignition system
- Inspect oil heater operation (if applicable)

Intake/Exhaust System

- Inspect air cleaner restriction indicator
- Inspect air cleaner element and entire intake system
- Inspect entire exhaust system and rain cap
- Inspect louver operations
- Inspect spark arrestor
- Empty condensate trap on silencer

Generator Controls & Power Connections

- Visually inspect all engine mounted wiring, senders and devices
- Visually inspect all control mounted components and wiring
- Inspect generator heater operation
- Lamp test all lights and indicators
- Visually inspect breaker and power connections
- Manually operate generator main breaker(s) open and closed

**NOTE: Will not exercise breakers or contactors on a paralleling device.

Generator Operations

- Start, observe, & record generator and equipment operation
- Verify engine and generator safeties for proper operation
- Inspect duct work, louver motors, controls & test as appropriate
- System test with or without load

Automatic Transfer Switch

- Visually inspect all power and control wiring
- Visually inspect switch mechanism and enclosure
- Visually inspect controls and time delays settings
- Verify function of exercise clock

FULL SERVICE

Lubrication Oil & Filtration Service

- Change engine lubrication oil
- Change primary lubrication and bypass filters
- Change fuel and coolant filters
- Post lube service operation of genset (unloaded) at rated temperature
- Optional – oil sample for laboratory analysis*

Operational & Functional Review of Generator Critical Components

- Inspect engine cooling fan & fan drives for excessive wear or shaft wobble
- Check all pulleys, belt tensioners, slack adjusters & idler pulleys for travel, wear & overall condition
- Inspect/lubricate drive bearings, gear or belt drives

*Additional Charge

Additional Services and Repairs

Quotes provided in accordance with customer requirements by service offerings. Any additional repairs, parts or services which are required will be brought to the attention of the owner. Repairs will only be made after proper authorization from the owner is given to Cummins Atlantic, LLC. Any additional repairs, maintenance or service performed by Cummins Atlantic, LLC for a Planned Equipment Maintenance Agreement holder will be at current Cummins Atlantic, LLC planned maintenance labor rates


RFP Number (if applicable): _____

Name of Vendor or Bidder: Commonwealth, LLC

**IRAN DIVESTMENT ACT CERTIFICATION
REQUIRED BY N.C.G.S. 143C-6A-5(a)**

As of the date listed below, the vendor or bidder listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 143-6A-4.

The undersigned hereby certifies that he or she is authorized by the vendor or bidder listed above to make the foregoing statement.

| | |
|---|-----------------------|
|  | <u>3/30/16</u> |
| Signature | Date |
| <u>S. D. McGibbon</u> | <u>P.M. Sales Mgr</u> |
| Printed Name | Title |

Notes to persons signing this form:

N.C.G.S. 143C-6A-5(a) requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

- When a bid is submitted
- When a contract is entered into (if the certification was not already made when the vendor made its bid)
- When a contract is renewed or assigned

N.C.G.S. 143C-6A-5(b) requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and will be updated every 180 days.