

APPENDIX B
LIQUIDATED DAMAGES AND CREDIT ASSESSMENTS
SINGLE-SPACE METERS

I. DEFINITIONS:

In addition to the definitions in the Agreement and the Statement of Work, the following definitions shall pertain to the terms used within this document:

- A. "Consumables" shall mean items that are not subject to credit assessments and/or loss compensation, such as ticket roll paper and attached graphic panels and signs.
- B. "Failure" or "Fail" shall refer to functionality described under the column heading "Description of Failure" in the tables herein that is below the threshold set out in the column titled "Threshold for LD Assessment" of said tables for a particular hardware or software requirement.
- C. "Vandalism" shall mean any willful damage caused to the Meter which affects the appearance or operation of the Meter or interferes with the normal use of the Meter.

II. GENERAL EXCLUSIONS:

Liquidated damages and credit assessments shall not be imposed for the following Failures or to the extent the following are solely responsible for noncompliance with the Performance Standards:

- 1. Unavoidable Delays.
- 2. Failures that are self-corrected by the Meters within agreed performance specifications (e.g., clock re-syncs).
- 3. Infant mortality, i.e., parts Failure during the first 60 Days after installation of the Meters, provided that such parts are replaced within seven Days of the Failure.
- 4. Failures in Meters that are being field tested on new software or hardware during the mutually agreed upon field test period.
- 5. Failure of Consumables.
- 6. Failure as a result of use of replacement parts for the Meters other than those authorized by the Contractor.
- 7. Failures that are solely caused by the negligent actions or inactions of SFMTA or its contractors or subcontractors.
- 8. Failure of third-party providers of electrical power, internet access or cellular communications.

III. LIQUIDATED DAMAGES:

The Contractor acknowledges that its failure to perform certain obligations under this Agreement during the respective time limits imposed will cause the SFMTA to incur cost and inconvenience not contemplated under this Agreement, which cost and inconvenience will constitute damage to the SFMTA, the City and the public, and that the exact amount of such damage will be extremely difficult or impractical to fix. The SFMTA and Contractor agree that the amounts described as liquidated damages in this Agreement are not penalties, but represent a fair and reasonable estimate of the damages that the SFMTA will incur by reason of Contractor's failure to perform, and are fair compensation to City for its losses. Failure by the SFMTA to impose credit assessments for specified violations will not be a waiver of the right to enforce this Section, nor will it constitute a waiver of any other right of the SFMTA under this Agreement.

The SFMTA may deduct a sum representing the liquidated damages assessed from any money due to Contractor under this Agreement. Should an assessment take place, the SFMTA will send written notification to the Contractor for its information. Assessments within a given month shall not exceed 35 percent of the Monthly Operational Expenses paid to Contractor. Excess liquidated damages (over a monthly cap) will be carried over to the following month.

If two or more Failures are determined for a particular event, Contractor will be charged for the Failure with the highest assessment.

Where, under the provisions below, SFMTA is required to issue a written warning to Contractor prior to assessment of liquidated damages, Contractor's obligation to repair, replace, correct, adjust, or modify a Failure shall not commence until the date SFMTA issues such written warning, which written warning shall include a reasonable description of the nature of the Failure as known to SFMTA at the time. Any extensions to the cure period must be authorized by the SFMTA in writing.

Where, under the provisions below, SFMTA is not required to issue a written warning to Contractor prior to assessment of liquidated damages, SFMTA, as soon as practicable after the failure, will send a written notice of assessment to Contractor, setting forth a reasonable description of the nature of the failure, as known to SFMTA at the time, and the amount of the assessment.

SFMTA will make full assessments of liquidated damages with a monthly assessment (items 1, 36a, 37, 38, 39, 40, 41, 42, 43, 44, 45, and 46) regardless of whether a Failure is cured prior to the end of the month.

	<u>Description of Failure:</u>	<u>Threshold for LD Assessment:</u>	<u>Potential Assessment:</u>
1a	A Failure of the Meters that results in either no payment transaction being Accepted by the Meters (e.g., Meters allow free parking during enforcement hours) or application of the wrong rates.	During Operating Hours, a single Failure that exceeds 20% of the total Meters installed and accepted, or multiple Failures in one Day that together exceed 20%. Multiple Failures that cumulatively exceed 30% over a one-week period. A single Failure of the same Meters that continues for more than one Day shall be considered to be a Multiple Failure for each Day.	No warning will be issued prior to assessment of liquidated damages for this Failure. The Contractor may be assessed liquidated damages based on ADR* Loss multiplied by the total number of affected Meters.
1b	A Failure (during a Special Event) of the Meters in Special Event areas that results in either no payment transaction being Accepted by the Meters (e.g., Meters allow free parking during enforcement hours) or application of the wrong rates (e.g., although properly configured, Meter does not charge Special Event rates)	During Operating Hours, a single Failure that exceeds 20% of the total Meters installed and accepted in Special Event areas or multiple Failures in one Day in Special Event areas that together exceed 20%. Multiple Failures in Special Event areas that cumulatively exceed 30% over a one-week period. A single Failure of the same Meters that continues for more than one Day shall be considered to be a Multiple Failure for each Day.	No warning will be issued prior to assessment of liquidated damages for this Failure. The Contractor may be assessed liquidated damages based on ASEDR** multiplied by the total number of affected Meters.

*Average Daily Revenue (ADR) for Failed Meters is equal to the actual revenue collected for the Failed Meters for the 90-Day period prior to the date of Failure (excluding Meters in Special Event areas during a Special Event) divided by 90, divided by the number of Failed Meters.

**Average Special Event Daily Revenue (ASEDR) for Failed Meters is equal to the actual revenue collected for the Failed Meters for the last 10 Special Events in the 12-month period prior to the date of Failure divided by 10 divided by the number of Failed Meters.

Actual Meter revenue will be based on data in the MMS.

Examples:

ADR:

- *Inventory of Accepted Meters: 25,000*
- *Systemwide Failure affected 30% of the inventory, or 7,500 Meters for 10 Days.*
- *Calculations:*
 - o *Revenue collected in prior 90 days for 7,500 Meters = \$3,375,000*
 - o *ADR will be \$3,375,000 **divided by** 90 Days and **divided by** 7,500 Meters **equals** \$5 per Meter/ per Day.*
 - o *For 10 Days of Failure MMS reported total revenue for 7,500 affected Meters as \$150,000 dollars.*
 - o *LD for such Failure would be calculated as 7,500 multiplied by \$5 AMDR **multiplied by** 10 Days **minus** \$150,000 **equals** \$225,000 dollars.*

ASEDR:

- *City total SS Meters inventory: 25,000*
- *System-wide Failure occurred and affected 22% of the inventory or 5,500 Meters for 2 Days.*
- *Contract Administrator or Designee will perform the following calculations.*
 - o *For the last 10 special events from the date of failure MMS reported total revenue for 5,500 affected Meters as \$385,000 dollars*
 - o *ASEDR will be \$385,000 **divided by** 10 events and **divided by** 5,500 Meters **equals** \$7 per Meter/ per Day.*
 - o *For 2 Days of Failure MMS reported total revenue for 5,500 affected Meters as \$55,000 dollars.*
 - o *LD for such Failure would be calculated as 5,500 multiplied by \$7 ASEDR **multiplied by** 2 Days **minus** \$55,000 **equals** \$22,000 dollars.*

	<u>Description of Failure:</u>	<u>Threshold for LD Assessment:</u>	<u>Potential Assessment:</u>
2	The Contractor Fails to maintain Payment Card Industry Data Security Standard Certification.	Any lapse in requirements as described in Section I.A.7.a of the Statement of Work.	No warning will be issued prior to assessment of liquidated damages for this Failure. The Contractor may be assessed liquidated damages of \$30,000 the first month of non-compliance and \$40,000 for each additional month until the Failure is cured. For all future such Failures, the Contractor will be assessed liquidated damages in the amount of \$45,000 per month until the Failure is cured.
3	The Contractor Fails to comply with the Batches Delivery Schedule	See Contractor Delivery Schedule – Appendix D.	No warning will be issued prior to assessment of liquidated damages for this Failure. The Contractor may be assessed liquidated damages of \$3,000 per Day per Deliverable until the Failure is cured.

	Description of Failure:	Threshold for LD Assessment:	Potential Assessment:
4	Meter Fails to provide a customer the proper time purchased.	(Applies to items 4-11) More than two percent of Accepted Meters Fail at any one time.	(Applies to items 4-11) The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure the Failure within seven Days thereafter. If the Failure is not cured within allotted time frame, the Contractor may be assessed liquidated damages of \$10 per Failing metered space per Day, from the date of the initial Failure until the Failure is cured. For all future such Failures the Contractor may be assessed liquidated damages of \$15 per metered space per Day until the Failure is cured.
5	Meter Fails to wirelessly communicate all payment statuses to its respective MMS (coins, smart cards, credit card etc.) even though the wireless network is available.		
6	The Contractor Fails to transmit evidence of a transaction paid via pay-by-phone vendor to the Meter within 60 seconds after pay-by-phone transactions are received from PBP vendor.		
7	Meter gives a customer time when the space is programmed as "No Parking."		
8	Meter Fails to provide accurate visual enforcement indication as programmed on the front and the back of the Meter.		
9	Meter Fails to display, retain, or deliver a time-stamped "out of order" message to MMS.		
10	Meter Fails to transmit a requested alarm when malfunctioning (e.g., coin jam, card reader jam, low battery, out of order).		
11	Subject to Section II.A.3 of Appendix A (SOW), Failure of a new coin discrimination parameter change to be sent to a Meter wirelessly.		

	Description of Failure:	Threshold LD Assessment:	Potential Assessment:
12	The Contractor Fails to deliver accurate rate changes to its Meters, in accordance with the schedule agreed to by the Parties.	(Applies to items 12-16) More than two percent of Accepted Meters Fail at any one time.	(Applies to items 12-16) The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure the Failure within 72 hours thereafter. If the Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$10 per Failing metered space per Day, from the date of the initial Failure until the Failure is cured. For all future such Failures, the Contractor may be assessed liquidated damages in the amount of \$15 per Failing metered space per Day until the Failure is cured.
13	The Contractor Fails to deliver accurate time limit changes to its Meters in accordance with the schedule agreed to by the Parties.		
14	The Contractor Fails to deliver accurate operational hours changes to its Meters in accordance with the schedule agreed to by the Parties.		
15	The Contractor Fails to deliver accurate display configuration changes to its Meters in accordance with the schedule agreed to by the Parties.		
16	The Contractor Fails to modify its modem settings (e.g. time the modem is required to listen for PBP transaction data) accurately and in accordance with the schedule agreed to by the Parties.		

	<u>Description of Failure:</u>	<u>Threshold LD Assessment:</u>	<u>Potential Assessment:</u>
17a	Meters' internal clocks drift more than two seconds per Day.	More than two percent of the Accepted Meters, over a period of three consecutive Days.	The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within seven Days thereafter,. If the Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$10 per Failing metered space per Day, from the date of the initial Failure until the Failure is cured. For all future such Failures, the Contractor may be assessed liquidated damages in the amount of \$15 per Failing metered space per Day until the Failure is cured.
17b	Meter Fails to synch its internal clock with the MMS on all call-in events.	More than two percent of the Accepted Meters, over a period of three consecutive Days.	The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within seven Days thereafter. If the Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$10 per Failing metered space per Day, from the date of the initial Failure until the Failure is cured. For all future such Failures, the Contractor may be assessed liquidated damages in the amount of \$15 per Failing metered space per Day until the Failure is cured.

	<u>Description of Failure:</u>	<u>Threshold LD Assessment:</u>	<u>Potential Assessment:</u>
18	Subject to Subsections c and e of Section II.A.3, Failure of a Meter to properly recognize and credit time for new coins issued by the U.S. Mint.	None	The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within three Days thereafter. If the Failure is not cured within the allotted time frame the Contractor may be assessed liquidated damages of \$10 per Failing metered space per Day, from the date of the initial Failure until the Failure is cured. For all future Failures the Contractor may be assessed liquidated damages in the amount of \$15 per Failing metered space per calendar Day until the Failure is cured.

	<u>Description of Failure:</u>	<u>Threshold LD Assessment:</u>	<u>Potential Assessment:</u>
19	Failure to deliver any custom report by the mutually agreed-upon date.	Not applicable	The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within 14 Days thereafter. If the Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$50 per missed report per Day until the Failure is cured. For all future such Failures, the Contractor may be assessed liquidated damages in the amount of \$75 per Day for each missed report until the Failure is cured.
20	Failure to make a custom report available to run in the MMS during the contract period.		
21	Failure of more than two percent of the Accepted Meters to download the Hotlist within 24 hours.	Not applicable	The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within three Days thereafter, unless an extension is authorized by the SFMTA in writing. If the Failure is not cured within allotted time frame, the Contractor may be assessed liquidated damages of \$100 per Day until the Failure is cured. For all future such Failures, the Contractor may be assessed liquidated damages in the amount of \$150 per Day until the Failure is cured.
22	Failure of the MMS to update Hotlist within 24 hours.		
23	Failure of the Meter to reject a card that is on the Hotlist.		
24	Failure of the Contractor to return a call from SFMTA within 15 minutes. (Tech. Spec. Sec. I.A.2.a.ii.)	none	The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. If the Failure occurs a second time, the Contractor may be assessed liquidated damages of \$100 per incident. For all future such Failures, the Contractor may be assessed liquidated damages in the amount of \$150 per incident.

	<u>Description of Failure:</u>	<u>Threshold for LD Assessment:</u>	<u>Potential Assessment:</u>
25a	<p>Failure of the Meter to maintain 99% accuracy in its audit of daily revenue that passes through the Meter payment systems.</p> <p>(Coins: Comparison will be made between MMS collection report and physical coin count.)</p> <p>(Credit Card: Comparison will be made between the Gateway report and the bank deposit.)</p>	Discrepancy of more than 1% in audit of daily revenue	At the end of each month, and prior to assessment of liquidated damages, the SFMTA will issue a written warning to Contractor if the Failure threshold has been reached on any day of the month. The Contractor shall cure each Failure within seven Days after receipt of the warning. If any Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$100 per Day per Failure until the Failure is cured.
25b	<p>Failure of the Meter to maintain 99% accuracy in its audit of total monthly revenue that passes through the Meter Payment systems.</p> <p>(Coin, credit card and smart card revenue: Comparison will be made between MMS, financial reports and the SFMTA databases.)</p>	Discrepancy of more than 1% in audit of monthly revenue	At the end of each month, and prior to assessment of liquidated damages, the SFMTA will issue a written warning to Contractor if the Failure threshold has been reached for the month. The Contractor shall cure a monthly Failure within seven Days after receipt of the warning. If the Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$100 per Day until the Failure is cured.
26	Contractor Fails to deliver historical data older than 24 months (e.g., revenue, revenue collections, maintenance events, alarms, payment) in CSV format within the time frame requested by SFMTA.	none	The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within seven Days thereafter. If the Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$100 per Day until the Failure is cured. For all future such Failures, the Contractor may be assessed liquidated damages in the amount of \$150 per Day until the Failure is cured.

	<u>Description of Failure:</u>	<u>Threshold for LD Assessment:</u>	<u>Potential Assessment:</u>
27	Failure to deliver 99 percent of all data (e.g., CSV files) to the SFMTA daily as defined in Attachments 1-11.	none	The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within three Days thereafter. If the Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$500 per Day until the Failure is cured. For any future such Failures, the Contractor may be assessed liquidated damages in the amount of \$750 per Day until the Failure is cured.
28	Failure to deliver 99 percent of all XML data feed to the SFMTA within 60 seconds of transmission.		
29	Failure of the Contractor's MMS to process any XML file (e.g., price schedule, special event spreadsheet) as defined in Attachments 1-11.		
30	A User with operable computers and broadband internet connection is unable to log in to the MMS (mobile and stand-alone), within 60 seconds. (Sec. III.A.1.a.)	none	The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within seven Days thereafter. If the Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$500 per Day until the Failure is cured. For any future such Failures, the Contractor may be assessed liquidated damages in the amount of \$750 per Day until the Failure is cured.
31	A User with operable computers and broadband internet connection receives an error code from the MMS.		
32	With the exception of mutually agreed-upon downtime, the MMS or any component of the MMS Fails to be available for use (e.g., the server is down, the internet connection at the data center is not functioning, a hard drive Failure on one of the storage servers) more frequently than once per 30-Day period.		

	<u>Description of Failure:</u>	<u>Threshold for LD Assessment:</u>	<u>Potential Assessment:</u>
33	Failure of the Contractor to make available custom fields within its MMS by a mutually agreed- upon timeframe.	not applicable	The SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within 14 Days thereafter. If the Failure is not cured within the allotted time frame the Contractor may be assessed liquidated damages of \$500 per Day until the Failure is cured. For any future such Failures, the Contractor may be assessed liquidated damages in the amount of \$750 per Day until the Failure is cured.
34	Meter Fails to transmit data to the MMS within 120 seconds of transmission.	Five percent of average daily transactions. Percentage shall be calculated once a month on the anniversary Day of the Notice to Proceed.	SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within 14 Days thereafter. If the Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$500 per Day until the Failure is cured. For all future such Failures, the Contractor may be assessed liquidated damages without benefit of warning in the amount of \$750 per Day until the Failure is cured.
35	MMS Fails to transmit transactional data to the SFMTA within 10 seconds of transmission.		

	<u>Description of Failure:</u>	<u>Threshold for LD Assessment:</u>	<u>Potential Assessment:</u>
36a	Contractor Fails to provide an SFTP site with a file structure within 60 Days of the Notice to Proceed, as described in Sections III.B.1.c and III.B.1.d of the Statement of Work.	No compliance by Day 61.	No warning will be issued prior to assessment of liquidated damages for this Failure. The Contractor may be assessed liquidated damages at the rate of \$1,000 per month until the Failure is cured.
36b	Contractor Fails to maintain a functional SFTP site for the term of the Agreement, as described in Section III.B.1.c of the Statement of Work.	No functionality of the FTP site for a continuous two-week period.	SFMTA will issue a written warning to Contractor prior to assessment of liquidated damages. The Contractor shall cure within seven Days thereafter. If the Failure is not cured within the allotted time frame, the Contractor may be assessed liquidated damages of \$500 per week until the Failure is cured. For all future such Failures, the Contractor may be assessed liquidated damages without benefit of warning in the amount of \$750 per week until the Failure is cured.
37	User is not, within 90 days of the Notice to Proceed, able to program and re-program Meters in batches, whether or not the original programming within the selected batch was the same, and without affecting other parameters of the original Meter Behavior.	No compliance on Day 91.	No warning will be issued prior to assessment of liquidated damages for this Failure. Beginning on the 91 st Day after the Notice to Proceed, the Contractor may be assessed liquidated damages at the rate of \$1,000 per month until the Failure is cured.

	<u>Description of Failure:</u>	<u>Threshold for LD Assessment:</u>	<u>Potential Assessment:</u>
38	MMS Fails to allow the SFMTA, within 90 Days of the Notice to Proceed, to select any subset of meters using any combination of standard and user-defined filters and an effective date, and generate an XML file as specified in Attachment 7 “Reconciliation XML specification” and deposit it in the Contractor’s SFTP site for pickup by SFMTA.	No compliance on Day 91.	No warning will be issued prior to assessment of liquidated damages for this Failure. Beginning on the 91 st Day after the Notice to Proceed, the Contractor may be assessed liquidated damages at the rate of \$500 per month until the Failure is cured.
39	MMS Customization has not been provided within 60 days of the Notice to Proceed, as described in Sections III.B.6 j of the Statement of Work.	No compliance on Day 61.	No warning will be issued prior to assessment of liquidated damages for this Failure. Beginning on the 61 st Day after the Notice to Proceed, the Contractor may be assessed liquidated damages at the rate of \$500 per month until the Failure is cured.
40	MMS Customization has not been provided within 90 days of the Notice to Proceed of the Agreement as described in Sections III.B.6 g, h and k in the Statement of Work.	No compliance on Day 91.	No warning will be issued prior to assessment of liquidated damages for this Failure. Beginning on the 91 st Day after the Notice to Proceed, the Contractor may be assessed liquidated damages at the rate of \$500 per functional requirement per month until the Failure is cured.
41	MMS Customization has not been provided within 120 days of the Notice to Proceed, as described in Sections III.B.6 l in the Statement of Work.	No compliance on Day 121.	No warning will be issued prior to assessment of liquidated damages for this Failure. Beginning on the 121 st Day after the Notice to Proceed, the Contractor may be assessed liquidated damages at the rate of \$500 per month until the Failure is cured.

	<u>Description of Failure:</u>	<u>Threshold for LD Assessment:</u>	<u>Potential Assessment:</u>
42	MMS Fails to allow for import of data in batch files within 120 Days of the Notice to Proceed.	No compliance on Day 121.	No warning will be issued prior to assessment of liquidated damages for this Failure. Beginning on the 121 st Day after the Notice to Proceed, the Contractor may be assessed liquidated damages at the rate of \$500 per month until the Failure is cured.
43	The SFMTA is unable to upload a CSV file to the MMS containing Backend Setting on a per-Meter basis within 120 Days of the Notice to Proceed.	No compliance on Day 121.	No warning will be issued prior to assessment of liquidated damages for this Failure. Beginning on the 121 st Day after the Notice to Proceed, the Contractor may be assessed liquidated damages at the rate of \$500 per month until the Failure is cured.
44	User is unable to select the unit that serves as a basis for each default payment setting for coins and cards within 90 Days of the Notice to Proceed.	No compliance on Day 91.	No warning will be issued prior to assessment of liquidated damages for this Failure. Beginning on the 91 st Day after the Notice to Proceed, the Contractor may be assessed liquidated damages at the rate of \$500 per month until the Failure is cured.
45	MMS Fails to accept programming for special overrides or exceptions in accordance with Attachment 4 – Special Event pricing and regulation XML specifications within 60 Days of the Notice to Proceed.	No compliance on Day 61.	No warning will be issued prior to assessment of liquidated damages for this Failure. Beginning on the 61 st Day after the Notice to Proceed, the Contractor may be assessed liquidated damages at the rate of \$500 per month until the Failure is cured.

	<u>Description of Failure:</u>	<u>Threshold for LD Assessment:</u>	<u>Potential Assessment:</u>
46	Contractor Fails to provide Special Event Programming functionality within 90 Days of the Notice to Proceed as described in Section III.B.14 b of the Statement of Work.	No compliance on Day 91.	No warning will be issued prior to assessment of liquidated damages for this Failure. Beginning on the 91 st Day after the Notice to Proceed, the Contractor may be assessed liquidated damages at the rate of \$3,000 per month until the Failure is cured.

CREDIT ASSESSMENTS:

Contractor agrees that in certain instances of Failure of performance of the Meters, the City will suffer loss of revenue and other damages in an amount that can reasonably be calculated. The Contractor agrees that such loss of revenue ("credit assessments") as set forth below may be deducted by the City from payments to Contractor under the Agreement as they accrue. Should an assessment take place, the SFMTA will send written notification to the Contractor for its information. Assessments within a given month shall not exceed 35 percent of the Monthly Operational Expenses paid to Contractor. Excess liquidated damages (over a monthly cap) will be carried over to the following month.

1. The SFMTA will monitor the Performance Standards listed for compliance with the requirements of the Agreement and share information monthly with the Contractor to provide early indication of potential issues. These standards are meant to be systematic performance issues.
2. If there is a Failure in the performance of the Meters as provided below, the SFMTA will notify the Contractor in writing, with supporting performance data.
3. Contractor shall review the potential performance deviation data and respond within five Days with acknowledgement of a potential Performance Standard Failure (or lack thereof) and potential causes. Failure to respond to the notice in a timely manner may result in liquidated damages to the SFMTA of \$1,000 per Day.
4. Contractor shall cure the Failure within seven Days of the Failure unless SFMTA agrees to extend the time to cure. If the Failure is not repaired within seven Days of acknowledgement (unless additional cure time has been granted), SFMTA will cure the Failure and the Contractor agrees that the SFMTA shall be entitled to Credit Assessments as set forth below:
 - a. All labor costs incurred by SFMTA associated with repairing or replacing parts required to cure the Failure (e.g., labor costs, including overhead, for the following classifications: Class 7444 (Parking Meter Repairer) and Class 7243 (Parking Meter Repair Supervisor)). Administrative costs shall also be included.
 - b. The cost of any materials or parts required to cure the Failure.
 - c. Any costs of disposal of Meters associated with the Failure if SFMTA is required to repair the Failure.
 - d. Revenue losses directly associated with this Failure, retroactive to seven Days after the date of the Failure, per Meter, until the Failure is cured. Revenue loss shall be calculated based on ADR for the Meter in question.
 - e. A list of Failures of Performances Standards in this category follows below:

	<u>Description of Failure:</u>	<u>Threshold</u>
1	CPU/Motherboard Failure.	More than two percent of Accepted Meters.
2	A battery Fails to last for 12 months.	
3	The jam detection mechanism Fails to detect metallic or non-metallic jams.	
4	Meter Modem Failure	
5	Meter Antenna Failure	
6	Keypad or button Failure.	
7	Failure of the single-space Meter Mechanism and Meter dome (if required) to securely fit in the MacKay MKH4500 Meter case.	
8	Any keypad or button proves to be non-weather-proof or becomes corroded.	