

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 19, 2015
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Clayton Lewis, US Engineering Specialist, Division of Engineering *CKL*
RE: Docket No. 150010-WS- Application for staff-assisted rate case in Brevard County
by Aquarina Utilities, Inc.

Please file the attached Aquarina Utilities Final Evoqua quote for the R/O system in the above mentioned Docket File.

Thank you.

Terri Jones

From: Clayton Lewis
Sent: Monday, October 19, 2015 8:49 AM
To: Terri Jones
Cc: Laura King; Stan Rieger
Subject: Quote for Evoqua Reverse Osmosis system - Aquarina Utilities, Inc. - Docket 150010
Attachments: Evoqua Reverse Osmosis Quote Final.pdf

Please file in Docket 150010 – Aquarina Utilities.

Thank you

From: Kevin Burge [<mailto:aquarinautilities@bellsouth.net>]
Sent: Friday, October 16, 2015 10:28 AM
To: Clayton Lewis
Subject: Aquarina Utilities, Inc.

Dear Clayton,

Please find attached the "final" Evoqua quote for the R/O system at Aquarina Utilities, Inc. for our SARC. It does NOT include the cost of installation- apparently we do that- plumbing and electrical- but we will handle that, if you can just get this in to finish up the rate case.

Thanks so much for your patience- the vendor finally told us (information we could have used several month ago) that they usually take 6 months to a year to do a comprehensive quote for a potable water system...

Let us know if we need anything else-

Holly Burge
Account Manager; Aquarina Utilities, Inc.



Capital Quote Number: 2015-92989
 Service Quote Number: 2015-92989 - SC

Proposal For: Aquarina Utilities, Inc.
 Kevin Burge
 7500 S Hwy A1A
 Melbourne Beach, FL 32951
 Phone: 772-708-8350
 aquarinautilities@bellsouth.net

Kevin Barnes
 Evoqua Water Technologies LLC
 4506 L.B McLeod Road, Suite C
 Orlando, FL 32811
 Phone: (407) 496-3877
 kevin.barnes@evoqua.com

Kevin:

Please see attached our firm quote for both the M83 RO and the associated preventative maintenance agreement for this machine only. Per our site visit last week on Friday, October 9 2015, my service manager and I discovered the following:

Current Situation:

You have a single 60 gpm US Filter Valuemax RO (purchased in 2006) being fed by well water to provide to the community. This RO permeate is blended with well water then treated to meet potable standards. The pretreatment consists of filtration and antiscalant feed to reduce scaling of the RO membranes. There have been no recorded issues with the RO or membranes and our evaluation is that the machine is making RO quality water with minimal backpressure. There is an old skid platform that was used for an RO that is no longer on site.

Desired Situation:

You wish to have an additional 90 gpm RO as primary and use the 60 gpm Valuemax as backup with rotation of the units as necessary. You wish to stage the new RO in the location of the previous RO. This quotation is to provide a new RO only to be added as primary.

ITEM PRICING

| Item Number | Description | Reference Number | Qty | Unit Price | Extended Price |
|-------------|-------------------------------------|-------------------|------|---------------------|----------------|
| W3T85209 | RO, M83 18-MEM ECONO ILEC DVRT 460V | M83R018ESYCD | 1 EA | \$47,687.20 | \$47,687.20 |
| W3TSP4148 | LABOR - SYSTEM INSTALLATION | LABOR-SYS INSTALL | 32 H | \$142.00 | \$4,544.00 |
| | | | | Subtotal: | \$52,231.20 |
| | | | | Total Price: | \$52,231.20 |

Payment Terms and Delivery**PO Terms**

Purchaser acknowledges that Seller is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal and usage of the goods and/or services provided under the Contract, including any export license requirements. Purchaser agrees that such goods and/or services shall not at any time directly or indirectly be used, exported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with such applicable export laws and regulations. It shall be a condition of the continuing performance by Seller of its obligations hereunder that compliance with such export laws and regulations be maintained at all times. PURCHASER AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS FROM ANY AND ALL COSTS, LIABILITIES, PENALTIES, SANCTIONS AND FINES RELATED TO NON-COMPLIANCE WITH APPLICABLE EXPORT LAWS AND REGULATIONS.

Shipping Information:

- Freight is FOB - Free on board, freight prepaid and add to invoice.
- Shipping Account Number:

Terms:

- This quote is valid until 12/14/2015
- Payment terms are N30 - Net 30 days with proper credit, and are subject to the attached Evoqua Water Technologies LLC Terms and Conditions
- Pricing listed does not include applicable sales tax.
- New customers are pre-approved to \$1,000. All others will need to fill out a credit application and submit a hardcopy PO (or a "No PO Form").
- We require hard documentation of your ordering for Evoqua to process your order. For your convenience, we can start processing your order by signing and returning:
 - Fax to: (407) 650-3565
 - or Email to: kevin.barnes@evoqua.com
- You may also mail this to:
 - Evoqua Water Technologies LLC
 - 4506 L.B McLeod Road, Suite C
 - Orlando, FL 32811

Project Scope and Responsibilities

| SCOPE # | SCOPE DESCRIPTION | Aquarina | EVOQUA | APPLICABLE | NON-APPLICABLE |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------|------------|----------------|
| 1 | All plumbing utilities to and from the system connection points. RO permeate, concentrate and feed water to be plumbed and connected by others. | X | | X | |
| 2 | All labor & materials to install interconnecting "control" wiring between skids and components within the boundaries of the system location. | | X | X | |
| 3 | All labor and materials to install and terminate "full-load" electrical power to local panels and receptacles. | X | | X | |
| 4 | Equipment off-loading. | X | | X | |
| 5 | Equipment placement. | X | | X | |
| 6 | Concrete slabs, structural work or housecleaning pads. | X | | X | |
| 7 | Core drilling and wall penetrations. | X | | X | |
| 8 | Heavy equipment such as crane, forklift, man-lift etc. | X | | X | |
| 9 | Equipment to be installed on the ground floor with easy access. | X | | X | |
| 10 | Estimate based on normal working hours 8:00am - 5:00pm, Monday - Friday and non-union labor. | | | X | |
| 11 | Revise project drawings to as-built status. | | | | X |
| 12 | Pipe & conduit elevation estimated to be no higher than 10' feet above floor, is easily accessible and can be supported by existing structure. | X | | X | |
| 13 | System Startup. | | X | X | |
| 14 | Expendables such as membranes and pre-filters provided and loaded at start-up | | X | X | |

| SCOPE # | SCOPE DESCRIPTION | Aquarina | EVOQUA | APPLICABLE | NON-APPLICABLE |
|---------|---------------------------------------------------------------|----------|--------|------------|----------------|
| 15 | Completion of Startup Data Documents. | | X | X | |
| 16 | Operator Training. ___2___ hour (s). | | X | X | |
| 17 | Standard OEM Manual: 1 copy (s). | | X | X | |
| 18 | Formal Submittal: 1 copy (s). | | | | X |
| 19 | Informal Submittals: _____ copy(s). | | | | X |
| 20 | Off-site and/or special analytical testing. | | | | X |
| 21 | Travel hours and mileage to and from the jobsite. | | X | X | |
| 22 | Overnight Travel expenses. | | | | X |
| 23 | Freight cost for equipment & materials. | X | | X | |
| 24 | Demolition of existing equipment. | | | | X |
| 25 | Disposal of equipment, medias or materials. | | | | X |
| 26 | Unloading/loading of expendables in existing equipment. | | | | X |
| 27 | Re-installation of existing equipment. | | | | X |
| 28 | Startup of existing equipment. | | | | X |
| 29 | Neutralization of waste water before discharge. | | | | X |
| 30 | Insulation and heat tracing of piping. | | | | X |
| 31 | Standard security requirements. | | | | X |
| 32 | Special safety training requirements. | | | | X |
| 33 | Component field tagging and identification. | | | | X |
| 34 | Labeling of field installed piping and electrical components. | X | | | X |
| 35 | Validation and/or commissioning support. | | | | X |
| 36 | Estimate good for 60 days. | | | X | |

Standard Exclusions

The following is a list of items not normally included with our equipment or assembly and startup services. They are only included if specifically stated otherwise in writing:

- Permits, building inspections, taxes or duties.
- Indoor location for equipment with suitable heat, light and ventilation.
- Civil or concrete work.
- Core drilling or wall penetrations.
- Floor drains, adequately sized and located.
- Weekend or non-day shift work.
- Union or licensed plumbing labor or labor subject to prevailing wage determinations.
- Water main.
- Back-flow preventer(s).
- Electrical load center(s).
- Water heater(s).
- Insulation or heat tracing.
- Gas lines.
- Storage of equipment.
- Demolition, disposal or other work related to existing equipment.
- Field labeling of components or piping.
- Validation assistance or (IQ/OQ/PQ) services.
- Software licenses for programming by others of any supplied PLC or HMI components.

Standard Assumptions

The following is a list of items that apply to all Evoqua Water Technologies projects. These assumptions are in effect unless specifically stated otherwise in writing:

- Interconnecting piping can be supported from walls adjacent to the equipment. Free standing pipe or equipment supports are not required.
- Pipe elevation is no higher than 10 ft above finished floor and easily accessible.
- Equipment is to be installed on a ground floor location with free and clear access.
- All labor estimates are based on normal working hours from 8:00 am - 5:00 pm, Monday - Friday
- Travel time, expenses and mileage to and from customer job site are included in our estimates.

Evoqua Water Technologies Recommendations for Water Damage Prevention

Operator error and unexpected events such as fork-lift induced tank nozzle snap-off, etc. could create a room flooding event. In order to minimize water damage, please consider the recommendations below:

- Install the water treatment system in the basement.
- Properly slope the floor to sumps or floor drains.
- Coat the water treatment room with a water proof sealant.
- Contain the water treatment room (including the door entrance) with a four inch high curb.
- Install a sump pump with level controls to pump out an overflowing sump to a drainage ditch.

- Oversize the floor drains in the water treatment room.
- Set any sensitive equipment on the same floor as the water treatment room and floors below the water treatment room on housekeeping pads.
- If the water purification system must be located above other floors, install drip covers over sensitive equipment located on the floors below.
- Train all personnel where the water system isolation valve is so they can shut-off the feed water supply to the water purification system in an emergency.

EQUIPMENT SERVICES

Preventative Maintenance Agreement - RECOMMENDED

I am pleased to present this Preventative Maintenance Service Agreement proposal for the Evoqua Water Purification system.

This proposal includes a price quotation for the proposed services and a "**Preventative Maintenance Service Agreement**" document, which defines the terms of the maintenance services. In general, the Preventative Maintenance Agreement Program:

- Provides documentation of component operations
- Provides documentation on PM work instructions
- Reduces the likelihood of a major system failure.
- Allows you to schedule downtime for critical services and repairs at YOUR convenience.
- Provides savings through automatic discounts of 10% on Evoqua catalog replacement parts.
- Generally reduces repair costs and protects against unscheduled downtime.
- Provides an annual projected operations cost for services and expendables.
- Provides Priority Emergency Service.

Evoqua Preventative Maintenance Service Agreements provide our customers with:

- Enhanced sustainability and reliability of your water treatment system.
- Extends the life expectancy of your water treatment system.
- Reduces the overall operational costs of your water treatment system.

COVERED EQUIPMENT AND PRICING

The following is a list of the equipment and/or components covered under the service contract and the pricing for the services. Maintenance services in Contracted Services will be provided for the following equipment:

| Equipment Order Number | Equipment Description | Qty |
|------------------------|-------------------------------------|-----|
| W3T85209 | RO, M83 18-MEM ECONO ILEC DVRT 460V | 1 |

Equipment Services Pricing

This Preventative Maintenance Service Agreement covers the period from **11/01/2015** to **10/31/2015**
The Annual Contract Value will be **\$4,652** billable semi-annually @ **\$2,326** on a net 30 days term. Optional billing frequencies are available.

Scheduled visits will be on a semi-annual basis. Catalog repair parts will be offered at a > 10% discount off Evoqua Water Technologies published list price. Contracted materials are already discounted at > 10%.

NOTE: Any Service or products that exceed the quantities listed will be billed at the current contract prices. Items not listed will be billed separately. If we are unable to service the site as prearranged, extra trip charges may be incurred.

NOTE: Water containment is the responsibility of the user and is not the responsibility of Evoqua Water Technologies LLC.

CUSTOMER CONTRACT INFORMATION

ACCEPTANCE:

Purchase Order No.
Date:

Tax Exempt No.
Date:

EVOQUA REPRESENTATIVE

By:
Authorized Signature
Title:

CUSTOMER

By:
Customer
Title:

CONTRACTED SERVICES

Detailed below is a list of maintenance services and frequencies to be provided on the equipment listed in COVERED EQUIPMENT

| Reverse Osmosis System Vantage Series M83 - Model: M83R018ESYCD RO, M83 18-MEM ECONO ILEC DVRT 460V | | | |
|--------------------------------------------------------------------------------------------------------|-----------|-----------------|-------------|
| DESCRIPTION | PM ID | SMART PM ID | FREQUENCY |
| ADJUST FLOWS AND OR PRESSURES[Adjust flows as required and or pressures] | W3TSP4344 | PM000-RO-AD-SOP | Semi-Annual |
| ROUNDS AND READINGS | W3TSP4349 | PM000-RRD-SOP | Semi-Annual |

CONTRACTED MATERIALS

The materials listed below, will be provided as part of the Preventative Maintenance Service Agreement. If additional catalog materials are required, they will be available at a 10% discount.

| Reverse Osmosis System Vantage Series M83 - Model: M83R018ESYCD | | | |
|------------------------------------------------------------------------|---------------------------------------|------------------|--------------------|
| RO, M83 18-MEM ECONO ILEC DVRT 460V | | | |
| EWT PART No | DESCRIPTION | QTY PER EXCHANGE | TOTAL PER CONTRACT |
| W2T1777355 | ROUND HOUSE PREFILTERS-INSTALL PER PM | 7 | 14 |

ADDITIONAL CONSUMABLES NOT INCLUDED IN CONTRACT

Changing of the pretreatment filters between maintenance visits will be the responsibility of the customer. The below consumables can be purchased on as needed basis.

| Item Number | Description | Reference Number | Qty | Unit Price |
|-------------|------------------------|------------------|-----|------------|
| W2T1777355 | ROUND HOUSE PREFILTERS | | 1 | \$7.00 ea. |
| W2T127167 | M83 MEMBRANES | | 1 | \$615 ea. |

ADDITIONAL SERVICES

Additional emergency or service visits are billed at the following rates:

| | | |
|-------------------------------------------------------------------------|-------------|-------------------|
| Normal Business Hours: Monday through Friday 8:00 a.m. to 4:00 pm | \$142.00/hr | 2 hour minimum |
| After Normal Business Hours | \$213.00/hr | 2 hour minimum |
| Weekends: | | |
| Saturdays: | \$213.00/hr | 3 hour minimum |
| Sundays: | \$213.00/hr | 3 hour minimum |

The above rates include travel time to and from the system location. Additional time on site above the minimum will be billed in increments of full hours only.

CUSTOMER RESPONSIBILITY

Detailed below is a list of the customer's responsibilities for providing continual maintenance of the system.

1. Monitor the system daily and record the operating parameters as required in the O & M manual logs or the provided SOP Rounds and Readings Sheets.
2. Perform the Daily and Weekly Preventative Maintenance Tasks as required in the recommended maintenance per unit technology in the O&M manual.
3. Notify EVOQUA Water Technologies by the next business day of any malfunction or operation of the system outside normal operating conditions, as specified upon start-up.
4. Provide for and supply all necessary utilities. Notify EVOQUA Water Technologies by the next business day, of any change in feed water characteristics or the volume of water used.
5. The customer will either provide the labor and/or materials or issue a supplemental Purchase Order for:
 - a. To change expendable DI cartridges, service DI, and filter, if required between scheduled PM Service visits.
 - b. Any additional sanitizations, if required, between scheduled PM Service visits.
 - c. Any repairs that are not specifically covered under the CONTRACTED PREVENTATIVE MAINTENANCE SERVICES of this contract.
6. Provide a minimum of 4 hours down time of the system, for EVOQUA Water Technologies to perform each scheduled PM Service visit.
7. The Customer is suggested to have an inventory of spare parts that are considered typical ware parts. Please consult the manual for a list of suggested spare parts or contact our local EVOQUA Branch Aftermarket Parts Department for the recommend spares for your water treatment system.

Standard Terms :**Standard Terms of Sale**

1. **Applicable Terms.** These terms govern the purchase and sale of equipment, products, related services, leased products, and media goods if any (collectively herein "Work"), referred to in Seller's proposal ("Seller's Documentation"). Whether these terms are included in an offer or an acceptance by Seller, such offer or acceptance is expressly conditioned on Buyer's assent to these terms. Seller rejects all additional or different terms in any of Buyer's forms or documents.
2. **Payment.** Buyer shall pay Seller the full purchase price as set forth in Seller's Documentation. Unless Seller's Documentation specifically provides otherwise, freight, storage, insurance and all taxes, levies, duties, tariffs, permits or license fees or other governmental charges relating to the Work or any incremental increases thereto shall be paid by Buyer. If Seller is required to pay any such charges, Buyer shall immediately reimburse Seller. If Buyer claims a tax or other exemption or direct payment permit, it shall provide Seller with a valid exemption certificate or permit and indemnify, defend and hold Seller harmless from any taxes, costs and penalties arising out of same. All payments are due within 30 days after receipt of invoice. Buyer shall be charged the lower of 1 ½% interest per month or the maximum legal rate on all amounts not received by the due date and shall pay all of Seller's reasonable costs (including attorneys' fees) of collecting amounts due but unpaid. All orders are subject to credit approval by Seller. Back charges without Seller's prior written approval shall not be accepted.
3. **Delivery.** Delivery of the Work shall be in material compliance with the schedule in Seller's Documentation. Unless Seller's Documentation provides otherwise, delivery terms are ExWorks Seller's factory (Incoterms 2010). Title to all Work shall pass upon receipt of payment for the Work under the respective invoice. Unless otherwise agreed to in writing by Seller, shipping dates are approximate only and Seller shall not be liable for any loss or expense (consequential or otherwise) incurred by Buyer or Buyer's customer if Seller fails to meet the specified delivery schedule.
4. **Ownership of Materials and Licenses.** All devices, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data, software and other documents or information prepared or disclosed by Seller, and all related intellectual property rights, shall remain Seller's property. Seller grants Buyer a non-exclusive, non-transferable license to use any such material solely for Buyer's use of the Work. Buyer shall not disclose any such material to third parties without Seller's prior written consent. Buyer grants Seller a non-exclusive, non-transferable license to use Buyer's name and logo for marketing purposes, including but not limited to, press releases, marketing and promotional materials, and web site content.
5. **Changes.** Neither party shall implement any changes in the scope of Work described in Seller's Documentation without a mutually agreed upon change order. Any change to the scope of the Work, delivery schedule for the Work, any Force Majeure Event, any law, rule, regulation, order, code, standard or requirement which requires any change hereunder shall entitle Seller to an equitable adjustment in the price and time of performance.
6. **Force Majeure Event.** Neither Buyer nor Seller shall have any liability for any breach or delay (except for breach of payment obligations) caused by a Force Majeure Event. If a Force Majeure Event exceeds six (6) months in duration, the Seller shall have the right to terminate the Agreement without liability, upon fifteen (15) days written notice to Buyer, and shall be entitled to payment for work performed prior to the date of termination. "Force Majeure Event" shall mean events or circumstances that are beyond the affected party's control and could not reasonably have been easily avoided or overcome by the affected party and are not substantially attributable to the other party. Force Majeure Event may include, but is not limited to, the following circumstances or events: war, act of foreign enemies, terrorism, riot, strike, or lockout by persons other than by Seller or its sub-suppliers, natural catastrophes or (with respect to on-site work), unusual weather conditions.
7. **Warranty.** Subject to the following sentence, Seller warrants to Buyer that the (i) Work shall materially conform to the description in Seller's Documentation and shall be free from defects in material and workmanship and (ii) the Services shall be performed in a timely and workmanlike manner. Determination of suitability of treated water for any use by Buyer shall be the sole and exclusive responsibility of Buyer. The foregoing warranty shall not apply to any Work that is specified or otherwise demanded by Buyer and is not manufactured or selected by Seller, as to which (i) Seller hereby assigns to Buyer, to the extent assignable, any warranties made to Seller and (ii) Seller shall have no other liability to Buyer under warranty, tort or any other legal theory. The Seller warrants the Work, or any components thereof, through the earlier of (i) eighteen (18) months from delivery of the Work or (ii) twelve (12) months from initial operation of the Work or ninety (90) days from the performance of services (the "Warranty Period"). If Buyer gives Seller prompt written notice of breach of this warranty within the Warranty Period, Seller shall, at its sole option and as Buyer's sole and exclusive remedy, repair or replace the subject parts, re-perform the Service or refund the purchase price. Unless otherwise agreed to in writing by Seller, (i) Buyer shall be responsible for any labor required to gain access to the Work so that Seller can assess the available remedies and (ii) Buyer shall be responsible for all costs of installation of repaired or replaced Work. If Seller determines that any claimed breach is not, in fact, covered by this warranty, Buyer shall pay Seller its then customary charges for any repair or replacement made by Seller. Seller's warranty is conditioned on Buyer's (a) operating and maintaining the Work in accordance with Seller's instructions, (b) not making any unauthorized repairs or alterations, and (c) not being in default of any payment obligation to Seller. Seller's warranty does not cover (i) damage caused by chemical action or abrasive material, misuse or improper installation (unless installed by Seller) and (ii) media goods (such as, but not limited to, resin, membranes, or granular activated carbon media) once media goods are installed. THE WARRANTIES SET FORTH IN THIS SECTION 7 ARE THE SELLER'S SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO THE LIMITATION OF LIABILITY PROVISION BELOW. SELLER MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.
8. **Indemnity.** Seller shall indemnify, defend and hold Buyer harmless from any claim, cause of action or liability incurred by Buyer as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by Seller's negligence. Seller shall have the sole authority to direct the defense of and settle any indemnified claim. Seller's indemnification is conditioned on Buyer (a) promptly, within the Warranty Period, notifying Seller of any claim, and (b) providing reasonable cooperation in the defense of any claim.

9. **Assignment.** Neither party may assign this Agreement, in whole or in part, nor any rights or obligations hereunder without the prior written consent of the other party; provided, however, the Seller may assign its rights and obligations under these terms to its affiliates or in connection with the sale or transfer of the Seller's business and Seller may grant a security interest in the Agreement and/or assign proceeds of the agreement without Buyer's consent.
10. **Termination.** Either party may terminate this agreement, upon issuance of a written notice of breach and a thirty (30) day cure period, for a material breach (including but not limited to, filing of bankruptcy, or failure to fulfill the material obligations of this agreement). If Buyer suspends an order without a change order for ninety (90) or more days, Seller may thereafter terminate this Agreement without liability, upon fifteen (15) days written notice to Buyer, and shall be entitled to payment for work performed, whether delivered or undelivered, prior to the date of termination.
11. **Dispute Resolution.** Seller and Buyer shall negotiate in good faith to resolve any dispute relating hereto. If, despite good faith efforts, the parties are unable to resolve a dispute or claim arising out of or relating to this Agreement or its breach, termination, enforcement, interpretation or validity, the parties will first seek to agree on a forum for mediation to be held in a mutually agreeable site. If the parties are unable to resolve the dispute through mediation, then *any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Pittsburgh, Pennsylvania before three arbitrators* who are lawyers experienced in the discipline that is the subject of the dispute and shall be jointly selected by Seller and Buyer. *The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. The Arbitrators shall issue a reasoned decision of a majority of the arbitrators, which shall be the decision of the panel. Judgment may be entered upon the arbitrators' decision in any court of competent jurisdiction. The substantially prevailing party as determined by the arbitrators shall be reimbursed by the other party for all costs, expenses and charges, including without limitation reasonable attorneys' fees, incurred by the prevailing party in connection with the arbitration. For any order shipped outside of the United States, any dispute shall be referred to and finally determined by the International Center for Dispute Resolution in accordance with the provisions of its International Arbitration Rules, enforceable under the New York Convention (Convention on the Recognition and Enforcement of Foreign Arbitral Awards) and the governing language shall be English.*
12. **Export Compliance.** Buyer acknowledges that Seller is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal and usage of the Work provided under this Agreement, including any export license requirements. Buyer agrees that such Work shall not at any time directly or indirectly be used, exported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with such applicable export laws and regulations. It shall be a condition of the continuing performance by Seller of its obligations hereunder that compliance with such export laws and regulations be maintained at all times. BUYER AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS FROM ANY AND ALL COSTS, LIABILITIES, PENALTIES, SANCTIONS AND FINES RELATED TO NON-COMPLIANCE WITH APPLICABLE EXPORT LAWS AND REGULATIONS.
13. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND SELLER'S TOTAL LIABILITY ARISING AT ANY TIME FROM THE SALE OR USE OF THE WORK, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR ALL WARRANTY CLAIMS OR FOR ANY BREACH OR FAILURE TO PERFORM ANY OBLIGATION UNDER THE CONTRACT, SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE WORK. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.
14. **Rental Equipment / Services.** Any leased or rented equipment ("Leased Equipment") provided by Seller shall at all times be the property of Seller with the exception of certain miscellaneous installation materials purchased by the Buyer, and no right or property interest is transferred to the Buyer, except the right to use any such Leased Equipment as provided herein. Buyer agrees that it shall not pledge, lend, or create a security interest in, part with possession of, or relocate the Leased Equipment. Buyer shall be responsible to maintain the Leased Equipment in good and efficient working order. At the end of the initial term specified in the order, the terms shall automatically renew for the identical period unless canceled in writing by Buyer or Seller not sooner than three (3) months nor later than one (1) month from termination of the initial order or any renewal terms. Upon any renewal, Seller shall have the right to issue notice of increased pricing which shall be effective for any renewed terms unless Buyer objects in writing within fifteen (15) days of issuance of said notice. If Buyer timely cancels service in writing prior to the end of the initial or any renewal term this shall not relieve Buyer of its obligations under the order for the monthly rental service charge which shall continue to be due and owing. Upon the expiration or termination of this Agreement, Buyer shall promptly make any Leased Equipment available to Seller for removal. Buyer hereby agrees that it shall grant Seller access to the Leased Equipment location and shall permit Seller to take possession of and remove the Leased Equipment without resort to legal process and hereby releases Seller from any claim or right of action for trespass or damages caused by reason of such entry and removal.
15. **Miscellaneous.** These terms, together with any Contract Documents issued or signed by the Seller, comprise the complete and exclusive statement of the agreement between the parties (the "Agreement") and supersede any terms contained in Buyer's documents, unless separately signed by Seller. No part of the Agreement may be changed or cancelled except by a written document signed by Seller and Buyer. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify the Agreement. To the extent the Agreement is considered a subcontract under Buyer's prime contract with an agency of the United States government, in case of Federal Acquisition Regulations (FARs) flow down terms, Seller will be in compliance with Section 44.403 of the FAR relating to commercial items and those additional clauses as specifically listed in 52.244-6, Subcontracts for Commercial Items (OCT 2014). If any of these terms is unenforceable, such term shall be limited only to the extent necessary to make it enforceable, and all other terms shall remain in full force and effect. The Agreement shall be governed by the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws provisions. Both Buyer and Seller reject the applicability of the United Nations Convention on Contracts for the international sales of goods to the relationship between the parties and to all transactions arising from said relationship.

Accepted by: _____

Print: _____

Date: _____







