

## **STAFF REPORT**

**To:** Coastside County Water District Board of Directors

**From:** Mary Rogren, General Manager

**Agenda:** May 13, 2025

**Report Date:** May 9, 2025

**Agenda Title:** Waive the District's Procedural Requirements for Sealed Competitive Bids and Authorize the General Manager to Purchase a Monoclor Residual Control System for El Granada Tank 3.

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### **Recommendation/Motion:**

**Waive the District's competitive bidding requirements of Resolution 2016-09 and authorize the General Manager to purchase a Monoclor Residual Control System for El Granada Tank 3 from Cleanwater1, Inc. for a not-to-exceed amount of \$148,350 (plus applicable taxes).**

### **Background:**

A residual control system (RCS) is used to maintain a consistent level of disinfectant throughout a water distribution system or, in this case, a storage tank. The system involves monitoring chlorine residual levels, analyzing water quality, and automatically adjusting disinfectant dosage to maintain the desired level.

The existing system servicing El Granada Tank 3 is 25+ years old and is beyond its useful life. This system maintains the chlorine residual in El Granada Tank 3 and zone four of the District's distribution system. Staff have determined that the proposed Monoclor RCS will produce a more consistent chlorine residual and can reduce the production of disinfection byproducts. (See Exhibit A.) This system will also reduce chemical use, staff time and provide for more consistent water chemistry.

District staff will install the unit and will have the District's controls contractor perform the SCADA integration. Note that District staff has surveyed other Bay Area users of the Monoclor RCS, and the feedback regarding quality, reliability and functionality has been excellent.

**Determination of Waiving Competitive Bidding Requirements:**

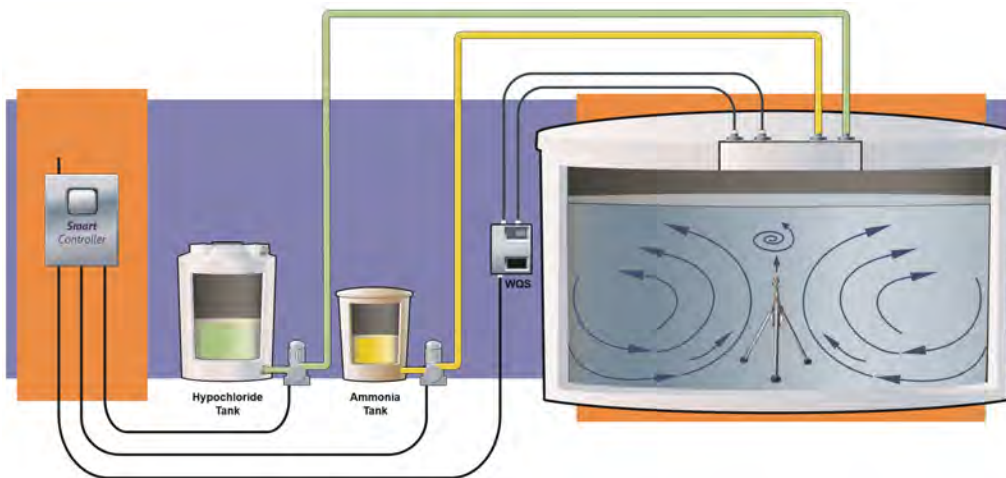
Staff is requesting approval to purchase a Monoclor RCS in the total amount of \$148,350 and to waive the competitive bidding requirements of Resolution 2016-09 in order to sole source the purchase from Cleanwater1, Inc. The District has been working with Cleanwater1 on distribution system water quality improvement initiatives including tank mixing, THM aeration and residual boosting for many years, and is confident in their ability to perform.

Cleanwater1, Inc. is the exclusive distributor of Monoclor Residual Control Systems and has a shop in Milpitas. If the District requested bids from other vendors those vendors would have to obtain pricing from Cleanwater1, Inc.

The Monoclor RCS will take ~12-14 weeks to arrive after design submittals are approved.

**Fiscal Impact: \$148,350 (plus applicable taxes).**

**FIRM PROPOSAL**  
**MONOCLOR<sup>®</sup>**  
**RESIDUAL CONTROL SYSTEM**  
**FOR**  
**COASTSIDE COUNTY, CA**  
**0.25MG EL GRANADA TANK 3**



PSI Water Technologies, Inc. File No.: P19-4290-1 (Firm) Rev-1  
CA Contractor's License: #877235

Prepared on: April 11, 2025

**SALES REPRESENTATIVE**

Cleanwater<sup>1</sup>, Inc.  
Ethan Brooke  
550 Sycamore Dr.  
Milpitas, CA 95035  
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# **PSI WATER TECHNOLOGIES**

A cleanwater<sup>1</sup> Company

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**IMPORTANT NOTICE:** All the information in this Proposal is confidential and has been prepared for Buyer's use solely in considering the purchase of the Equipment described. Transmission of all or any part of this Proposal to others or use by Buyer for other purposes is unauthorized without Seller's advance written consent.

# PSI WATER TECHNOLOGIES

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April 11, 2025

Darin Sturdivan  
Supervisor  
Coastside County Water District, CA.

Re: Monoclor<sup>®</sup> Residual Control System for Coastside County Water District, CA.  
PSI Water Technologies, Inc. File No.: P19-4290-1 (Firm) Rev-1

Dear Darin,

Thank you for your interest in PSI Water Technologies, Inc. (PSI), a cleanwater<sup>1</sup> company. We have prepared this firm proposal for providing a Monoclor<sup>®</sup> Residual Control Systems (RCS) for the **0.25 MG El Granada Tank 3**. Our proposal is based on the following design criteria:

## Design Criteria

Reservoir Diameter, ft	50.0
Reservoir Height, ft	32.0
Maximum Capacity, MG	0.25
Average Flow, MGD	0.25 (Assumed)
Reservoir Type	Above Ground
Disinfectant	Chlorine
Power Supply	120VAC/1PH
Desired Chlorine Residual, ppm	0.7

## System Features & Advantages

The Monoclor<sup>®</sup> RCS is an intelligent, automated disinfectant boosting system that gives operators the ability to set and control residual levels in water storage tanks and key locations in the distribution system. The Monoclor<sup>®</sup> RCS utilizes advanced water quality sensors, powerful active mixing, an automated chemical feed system, and an advanced control algorithm to set and maintain residual levels in water storage tanks and distribution systems. The Monoclor<sup>®</sup> RCS has been tested and validated through extensive laboratory testing and many full-scale installations over the last 5 years.

Our Monoclor<sup>®</sup> RCS consists of all equipment essential for a complete system, including:

1. Accurate chemical dosing at the correct ratio
2. Proper mixing to ensure a homogenous water body that will not stratify
3. High energy mixing that ensures instantaneous reaction of introduced chemicals
4. Real-time monitoring and control logic to maintain or achieve equilibrium by responding to dynamic reservoir conditions

The Monoclor<sup>®</sup> RCS enables operators to:

# PSI WATER TECHNOLOGIES

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1. Set and maintain consistent disinfectant levels in storage tanks and key locations in the distribution system
2. Continuously blend disinfectant residual and eliminate thermal and chemical stratification
3. Eliminate costly and labor-intensive manual boosting
4. Quickly counteract adverse water quality changes, such as low residual
5. Optimize and balance disinfectant levels across a water distribution system

A detailed scope of supply and the firm price is listed in Section 1 of this proposal.

Our scope of supply follows in Section 1 and our proposal acceptance in Section 2. Section 3 includes our terms and conditions. **The pricing is valid for 120 days.**

We look forward to working with you on this project. If we can be of any further assistance, please do not hesitate to contact me on (917) 501-7358.

Thank you.

Sincerely,

Ethan Brooke  
Regional Sales Manager

Cc: Solomon Bruce-Oliver, PSI Water Technologies, Inc.

# **PSI WATER TECHNOLOGIES**

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## **SECTION 1**

### **SCOPE OF SUPPLY**

- A. Scope of Supply by PSI
- B. Scope of Work by Others
- C. Clarifications
- D. Terms of Payment
- E. Delivery

# PSI WATER TECHNOLOGIES

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## A. SCOPE OF SUPPLY BY PSI – MONOCLOR® RCS

The following equipment and services constitute our scope of work. All equipment will be manufactured in accordance with the descriptions below.

<u>No</u>	<u>Item Description</u>	<u>Qty.</u>
1.	<b>Smart Control Center, SCC1000</b> <ul style="list-style-type: none"><li>Allen-Bradley MicroLogix 1400 Programmable Logic Controller (PLC)</li><li>Magelis DT351 7.4" HMI: Color LCD touch screen</li><li>Communication: Ethernet based access to HMI software from computer or smartphone within same network</li><li>Remote Monitoring Telemetry</li><li>Water Quality Station Communication: Two wire twisted cable</li><li>Chemical Dosing Controller: RS-485 port for chemical feed system communications</li><li>SCADA: Modbus TCP/IP standard, analog output available if necessary</li><li>Enclosure: Equal to or greater than Type 4 rating</li></ul>	1
2.	<b>Chemical Feed System – Chlorine</b> <ul style="list-style-type: none"><li>Skid: Black polypropylene</li><li>Pump: Watson Marlow Q Dos 20 Peristaltic Pump, 5.3 GPH @ 100 PSI</li><li>Piping: PVC schedule 80</li><li>Secondary Containment: 9 gallons secondary containment</li><li>Controller - Input/Output: 4 digital inputs, 2 digital outputs, 2 analog inputs, 1 analog output</li><li>Controller - Communication: Modbus RS-485 with Smart Control Center</li><li>Controller - Pump Control Option: Digital relay, analog (4-20 mA), power switch</li><li>Accessories:<ul style="list-style-type: none"><li>Spare Pump Head</li><li>Calibration Column</li><li>Pressure Relief Valve</li><li>Wye Strainer</li><li>Pressure Transmitter</li><li>Back Pressure Regulator</li></ul></li></ul>	1
3.	<b>Water Quality Station, WQS1000</b> <ul style="list-style-type: none"><li>Water Connection: 3/8" Push-connect</li><li>Sampling Flow Rate: 10 GPH</li></ul>	1



# PSI WATER TECHNOLOGIES

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No	Item Description	Qty.
	<ul style="list-style-type: none"> <li>▪ Connectivity: Modbus RS485 Connection</li> <li>▪ Data Logging: Real-time DAQ on USB flash drive</li> <li>▪ Measurement - Total Chlorine: Dual Amperometric reagent less online sensor, 0-10 PPM measuring range, 0.01 PPM resolution</li> <li>▪ Measurement – ORP Sensor (Platinum Extended Tip)</li> <li>▪ Measurement - Temperature: 32-212° F measuring range, 0.1° F resolution</li> <li>▪ Measurement - pH: 0-14 measuring range, 0.01 resolution</li> <li>▪ Measurement - Water Level (optional): pressure transducer, resolution of 1% maximum scale</li> <li>▪ Enclosure: Equal to or greater than Type 3R rating</li> </ul>	
4.	<b>Sample Pump</b> <ul style="list-style-type: none"> <li>▪ MFG: Micropump Model I Drive GJ Series</li> <li>▪ 24VDC</li> </ul>	1
5.	<b>Hypochlorite Storage Tank</b> , including: <ul style="list-style-type: none"> <li>▪ Double Wall LLDPE Construction</li> <li>▪ 5 Gallon Capacity (Nominal)</li> <li>▪ Radar Level Transmitter</li> <li>▪ Top Manway</li> <li>▪ Tank Fittings</li> <li>▪ Dimensions: 14" L x 14" W x 13.5" H</li> </ul>	1
6.	<b>Suspended Chlorine Injection Stem</b>	1
7.	<b>Manufacturer's Services for Installation Inspection, System Start-Up, and Operator Training (2 Days at the Jobsite)</b>	Included
8.	<b>Submittal and Operation &amp; Maintenance Manual as Follows</b> <ul style="list-style-type: none"> <li>▪ Submittal: Sent Electronically</li> <li>▪ O&amp;M Manual: Sent Electronically</li> </ul>	Included
9.	<b>FOB Factory, Milpitas, CA with Full Freight Allowed to Jobsite, Coastside County WD, CA</b>	Included
	<b>FIRM PRICE [ITEMS 1-9]</b>	<b>[US] \$148,350</b>

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## ADDER: ACTIVE HEADSPACE VENTILATION SYSTEM

<u>No</u>	<u>Item Description</u>	<u>Qty.</u>
10.	<b>Active Headspace Ventilation System, PPV-200</b> <ul style="list-style-type: none"><li>▪ Motor: Standard 480 VAC, 3-Phase, 60 Hz</li><li>▪ Power Switch: NEMA 1 safety disconnect switch</li><li>▪ Air Flow: 1,500 CFM @ 0.50 in. H<sub>2</sub>O Static Pressure</li><li>▪ Motor Power: 0.5 HP</li><li>▪ Nominal Power Draw: 0.28 kW</li><li>▪ Dimension (L x W x D): 35" x 35" x 27"</li><li>▪ Weight: 148 lbs.</li><li>▪ Material: Powder-coated aluminum</li><li>▪ Filters: Standard one-inch</li><li>▪ Mounting Curb</li></ul>	1
11.	<b>Active Headspace Ventilation System Control Center with SCADA Compatibility</b> , including: <b>NEMA 4 Enclosure:</b> <ul style="list-style-type: none"><li>▪ Lockable and weather resistant</li><li>▪ Overall weight of control center 55 lbs.</li><li>▪ Green and Red LED Indicator lights to display motor status</li><li>▪ White LED Indicator light to display power</li><li>▪ Cooling fan</li></ul> <b>Motor Controller/VFD:</b> <ul style="list-style-type: none"><li>▪ Allen Bradley</li><li>▪ Customer Input: 120VAC single phase</li><li>▪ VFD Output: 240VAC three phase rated to 1.0 HP</li><li>▪ HOA Switch</li><li>▪ Manual speed control</li><li>▪ Thermal shut-off protection built-in</li><li>▪ Current overload protection built-in</li><li>▪ Sine filter</li><li>▪ Branch-circuit protection</li></ul> <b>SCADA outputs included:</b> <ul style="list-style-type: none"><li>▪ Digital Output signal indicating motor running</li><li>▪ Digital Output signal indicating fault</li><li>▪ Digital Input/output signal for remote motor on/off</li><li>▪ RS-485 or Dry Contact connections</li><li>▪ 4-20mA signal</li></ul>	1
12.	<b>Manufacturer's Field Services (in English only)</b> , including: <ul style="list-style-type: none"><li>• Installation Inspection</li><li>• System Start-Up</li><li>• Operator Training</li></ul>	Included

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<u>No</u>	<u>Item Description</u>	<u>Qty.</u>
13.	<b>Submittal and Operation &amp; Maintenance Manual as Follows (In English Only)</b> <ul style="list-style-type: none"><li>▪ Submittals: Qty. One (1) Sent Electronically</li><li>▪ O&amp;M Manual: Qty. One (1) Sent Electronically</li></ul>	Included
14.	<b>FOB Factory, Milpitas, CA with Full Freight Allowed to Jobsite, Coastside County WD, CA.</b>	Included
	<b>ADDER PRICE [ITEMS 10-14]</b>	<b>[US] \$31,000</b>

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## B. SCOPE OF WORK BY OTHERS

1. **PAX PWM<sub>150</sub> Water Mixer (Existing)**
2. **Sample Tap**
3. Secondary containment of all equipment and piping.
4. 12.5% Sodium Hypochlorite supply.
5. Sample tap for Water Quality Station.
6. Equipment unloading and installation.
7. All civil works and concrete pad for equipment.
8. Any underground or structural work.
9. Anchor bolts and seismic restraints.
10. Heat tracing and insulation of all interconnecting equipment.
11. Room ventilation, air conditioning or lighting.
12. **Electrical power requirements:**
  - Sample Pump, (120VAC/1Ph/60 Hz for 20A)
  - Water Quality Station (100-240VAC/1Ph/60Hz for 10A)
  - Smart Control Center (100-120VAC/1PH/60Hz for 10A)
  - Chemical Feed Skid (100-120VAC/1Ph/60Hz for 10A).
13. Any video recording.
14. Electrical power to control panel.
15. Any electrical conduit runs.
16. Any tank recoating services, labor, or parts.
17. All hose, pipe and tubing supports, strut, and clamps.
18. Freeze protection for all tubing and piping external to the reservoir, if required.
19. All electrical conduit, wiring, electrical material (including disconnect switches), etc. between control panel, hypochlorite tank, metering pumps, SCADA, etc.
20. Hatch penetrations or modifications.
21. Any tank hatch or roof penetrations.
22. All electrical conduit, wiring, electrical material, etc. between control panel, SCADA, etc.
23. All taxes, fees, duties, tariffs and other customs clearance costs, lien waivers, bonds and licenses.
24. Any permitting or regulatory approvals.
25. Any items not explicitly listed under Scope of Work by PSI above.

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## C. CLARIFICATIONS

1. The equipment pricing is based on the information provided in the Application Datasheet (ADS). In the event of additional information or specification provided, the equipment scope may need to be revised and priced accordingly.
2. PSI estimates a 10% TTHM Removal rate (Not Guaranteed) with the inclusion of the Blower.  
  
The THM removal rate is assuming a 100% Chloroform speciation. A different speciation will result in different performance results.
3. The power requirement for the Active Headspace Ventilation System Control Center is 120VAC/1Ph/30A.
4. All equipment excluding PAX Mixers must be installed in an indoor location. A shed or enclosure is not included in the proposal.
5. The sample water flow is 10 GPH. The sample water is assumed to be pumped to the Water Quality Station and then routed back into the tank.
6. Reservoir Low Water Level must be above 6' for PAX Mixer to function properly.
7. PSI recommends adding secondary containment to Hypochlorite chemical feed lines. When possible, trenching these lines underground would be optimal.
8. The performance of the Monoclor<sup>®</sup> RCS design reported in this document is dependent on the tank operations data provided in the design criteria and may vary significantly under different operating conditions and/or scenarios.

## D. TERMS OF PAYMENT

- Twenty Percent (20%) Payment Invoiced on Approved Submittals
- Seventy Five Percent (75%) Payment Invoiced on Equipment Shipment
- Five Percent (5%) Payment at Startup
- Net 30 Days
- Price Valid for 30 Days

## E. DELIVERY

- Submittal: 6 - 8 Weeks After Receipt of Fully Executed Order
- Equipment Shipment: 12 - 14 Weeks After Approval of Submittals

# **PSI WATER TECHNOLOGIES**

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## **SECTION 2**

### **PROPOSAL ACCEPTANCE**

# PSI WATER TECHNOLOGIES

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## Monoclor® Residual Control System

PSI Water Technologies, Inc. File No.: P19-4290-1 (FIRM) Rev-1

- 1) PSI Water Technologies, Inc. (Seller) proposes to furnish the equipment described in this proposal. Any items not shown above as detailed under "SCOPE OF WORK BY PSI" are EXCLUDED. In addition:
  - a. Seller's price will be held valid for a period of 30 days from the date of this proposal ("Proposal Date"). Seller shall have the right to reprice this proposal if the Buyer's order is received more than 30 days beyond the Proposal Date or delivery more than 365 days after commercial agreement.
  - b. Prices are in US Dollars.
  - c. Local or state taxes are not included in this proposal.
- 2) This proposal by Seller is contingent upon: (i) Seller's written acceptance of the signed proposal, a purchase order, or other document issued by the Buyer in response to this proposal; and (ii) Buyer's assent to the terms and conditions contained in this proposal, such terms to take precedence in the event of conflict with any other terms or documents incorporated into the contract arising out of this proposal unless otherwise agreed in a writing, signed by Seller; and (iii) satisfactory completion of an anti-corruption due diligence review, if applicable.
- 3) All of the information supplied by Seller in connection with this proposal (including drawings, designs and specifications) (the "Information") is confidential and/or proprietary and has been prepared for Buyer's use solely in evaluating the purchase of the equipment and/or services described herein. Transmission of all or any part of the Information to others, or use by Buyer for any purpose other than such evaluation, is expressly prohibited without Seller's prior written consent.
- 4) Please return a signed copy of this proposal or address and send your purchase order to:  
PSI Water Technologies, Inc.  
550 Sycamore Drive  
Milpitas, CA 95035  
Attn: Guy Chadwell  
Phone: 408.819.3043  
Fax: 408.866.4660  
E-mail: orders@ cleanwater1.com

Thank you for your interest in PSI Water Technologies, Inc. We are committed to meeting your expectations.

### Proposal Acceptance

An authorized signature indicates Buyer's acceptance of this proposal, including without limitation Seller's Terms and Conditions below.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Buyer's Name (printed)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Buyer's Authorized Signature

\_\_\_\_\_  
Requested Arrival Date

Bill To Name: _____	Ship To Name: _____
Bill To Email: _____	Ship To Email: _____
Bill To Phone: _____	Ship To Phone: _____
Bill to Address: _____	Ship to Address: _____
_____ City State Zip	_____ City State Zip

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## SECTION 3

### **TERMS AND CONDITIONS**

1. **Applicable Terms.** These terms govern Seller's sale, and Buyer's purchase, of the products and/or services referred to in Seller's proposal or quotation (collectively, the "Products"). The front page of Buyer's purchase order (disregarding any reference to terms and conditions and any provisions that conflict herewith), if any, together with the description of the Products in Seller's proposal or quotation and these terms and conditions comprise the complete and exclusive agreement between the parties (the "Agreement") related to the purchase and sale of the Products. All prior communications, documents, negotiations and representations, if any, are merged herein. Whether these terms are included in an offer or an acceptance by Seller, such offer or acceptance is conditioned on Buyer's assent to these terms. Any additional, different or conflicting terms contained in Buyer's request for proposal, specifications, purchase order or any other written or oral communication from Buyer shall not be binding in any way on Seller, whether or not they would materially alter this document, and Seller hereby objects thereto. All orders are subject to prior credit approval by Seller.

2. **Pricing.** The prices shall be: (a) as stated in Seller's proposal or order acknowledgment, or (b) if none are stated, Seller's standard prices in effect at the time of release for shipment.

3. **Payment.** Unless otherwise stated, all payments shall be net 30 days from invoice date payable in United States Dollars. Unless provided otherwise in Seller's proposal, 20% of the purchase price will be invoiced on approved submittals, 75% will be invoiced on shipment, and 5% invoice at startup. If Buyer fails to make any payment to Seller when due, Buyer's entire account(s) with Seller will become immediately due and payable without notice or demand. Buyer will pay 1½% interest per month, compounded monthly, on all amounts not received by the due date. Buyer hereby grants Seller a purchase money security interest in the Products until such time as Seller is fully paid. Buyer will assist Seller in taking action to perfect and protect Seller's security interest. Seller may make partial shipments, in which case, Buyer shall pay for each shipment in accordance with the terms hereof.

4. **Taxes, Shipping, Packing.** Except to the extent expressly stated otherwise in these terms or in Seller's proposal or quotation, prices do not include any freight, storage, insurance, taxes, excises, fees, duties or other government charges, and Buyer shall pay such amounts or reimburse Seller for any such amounts Seller pays. 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. Prices include the costs of Seller's standard domestic packing only. Any deviation from standard packing (domestic or export) shall result in extra charges. Any and all increases, changes, adjustments, or surcharges (including fuel surcharges) which may arise in connection with the freight charges, rates or classification included as part of this Agreement, shall be for the Buyer's account.

5. **Delivery.** Products shall be delivered F.O.B. Seller's point of shipment or Ex Works Seller's point of shipment if being delivered outside the United States. All delivery dates are estimated and are dependent in part upon prompt receipt of all necessary information from Buyer, including submittal approvals, if applicable, and all required commercial documentation. Seller will make a good faith effort to complete delivery of the Products on the date and to the location specified in writing by Buyer, but Seller assumes no liability for loss or damage due to delay or inability to deliver, whether or not such loss or damage was made known to Seller. If Buyer causes or requests a shipment delay, or if Seller ships or delivers the Products erroneously as a result of inaccurate, incomplete or misleading information supplied by Buyer or its agents or representatives, storage and all other additional costs and risks will be borne solely by Buyer. Any claims for Products damaged or lost in transit ("Transit Losses") must be made by Buyer to the carrier and reported to Seller within one business day following delivery to Buyer.



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6. Inspection and Acceptance. Buyer will have seven days from the date Buyer receives any Products to inspect such Products for defects and nonconformance which are not due to Transit Losses, and to notify Seller, in writing, of any defects, nonconformance or rejection of such Products. After such seven-day period, Buyer will be deemed to have irrevocably accepted the Products, if not previously accepted. After such acceptance, Buyer will have no right to reject or revoke acceptance of the Products for any reason.

7. Returns and Cancellation. Buyer may not return custom engineered Products. Buyer may return other Products only with Seller's prior written approval, which may be withheld in Seller's sole discretion. Any authorized return will be subject to payment of a restocking charge and will be allowed only if the subject Product: (i) is in new condition, suitable for resale, and (ii) has not been used, installed, modified, altered or damaged. The restocking charge for authorized returns will be no less than (x) 25% of the purchase price, net of any freight charges included in the purchase price, plus (y) 100% of freight costs incurred by Seller. Buyer is responsible for the payment or reimbursement of return freight charges. Returns will be shipped F.O.B. Seller's location. Seller may, but will not be obligated to, treat any cancellation of an accepted order as an authorized return.

8. Force Majeure. Seller will have no liability for any breach caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, delay of carriers, failure of normal sources of supply, act of government, epidemic or other public health crisis, or any other cause beyond Seller's reasonable control.

9. Warranty. If the Trihalomethane Removal System being supplied includes a PAX Mixer, the PAX Mixer is warranted as set forth in the Warranty Attachment hereto. Seller warrants that all other Products will be free from defects in material and workmanship for 12 months from initial operation or 18 months from shipment, whichever is earlier (the "Warranty Period"). Seller's warranties are conditioned on (i) the Product being stored, handled, installed, started-up, operated and maintained in accordance with Seller's instructions, (ii) no repairs, modifications or alterations being made to the Product other than by Seller or its authorized representatives, (iii) Buyer providing prompt written notice of any warranty claims within the Warranty Period; (iv) Seller's verification of the claimed breach of warranty; and (v) at Seller's discretion, Buyer either removing and shipping the Product or non-conforming part thereof to Seller, at Buyer's expense, or Buyer granting Seller access to the Product at all reasonable times and locations to assess the warranty claims. Seller's warranties do not apply to software and do not cover ordinary wear and tear.

The sole remedy of Buyer or the initial end-user of the Project for any breach of Seller's warranty is limited to Seller's choice of repair or replacement of the Product, or non-conforming parts thereof F.O.B. jobsite, or refund of the purchase price for the subject Product or part. The warranty on repaired or replacement Products or component parts is limited to the remainder of the original Warranty Period and otherwise subject to the terms of this warranty. Buyer or the initial end-user shall be responsible for (i) any labor required to remove or gain access to the Product so that Seller can assess the available remedies; and (ii) all costs of installation of repaired or replacement Products or component parts.

THE WARRANTIES SET FORTH IN THIS SECTION 9 AND IN THE WARRANTY ATTACHMENT HERETO ARE INTENDED TO BE SELLER'S SOLE AND EXCLUSIVE WARRANTIES, AND SELLER'S WARRANTIES ARE SUBJECT TO SECTION 10 BELOW. SELLER MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES THAT MIGHT ARISE FROM COURSE OF DEALING OR USAGE OF TRADE. NOTWITHSTANDING THE FOREGOING, IF IT IS ALLEGED OR DETERMINED THAT SELLER HAS MADE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BY COURSE OF DEALING OR USAGE OF TRADE, SUCH OTHER WARRANTIES SHALL BE SUBJECT TO ALL THE CONDITIONS, LIMITATIONS AND PROCEDURES SET FORTH IN THIS SECTION 9, THE WARRANTY ATTACHMENT HERETO, AND SECTION 10 BELOW.

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10. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, SELLER WILL 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 PRODUCTS WILL NOT EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCTS. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY. THE REMEDIES SET FORTH IN THIS AGREEMENT ARE INTENDED TO CONSTITUTE A COMPLETE ALLOCATION OF THE RISKS BETWEEN THE PARTIES, AND BUYER ACKNOWLEDGES THAT IT IS KNOWINGLY LIMITING THE REMEDIES THAT MIGHT OTHERWISE BE AVAILABLE TO BUYER. BECAUSE THIS AGREEMENT AND THE PRICE PAID REFLECT SUCH ALLOCATION, THE REMEDIES PROVIDED TO BUYER HEREUNDER WILL NOT HAVE FAILED OF THEIR ESSENTIAL PURPOSE EVEN IF THEY OPERATE TO BAR RECOVERY FOR CERTAIN DAMAGES THAT BUYER MAY INCUR.

11. Remedies of Seller. Any of the following will constitute an event of default which will enable Seller, at its option and without liability to Buyer, to cancel any unexecuted portion of the order that is the subject of this Agreement and to exercise any other right or remedy expressed herein or otherwise available at law or in equity: (i) the failure of Buyer to make any payment required hereunder when due ("Payment Default") or to perform any other term or condition contained herein; (ii) the insolvency of Buyer or its failure to pay its debts as they mature, an assignment by Buyer for the benefit of its creditors, the appointment of a receiver for Buyer or for the materials covered by this Agreement, or the filing of any petition to adjudicate Buyer bankrupt; (iii) a failure by Buyer to provide adequate assurance of performance within ten days after a justified demand by Seller; or (iv) if Seller, in good faith, believes that Buyer's prospect of performance under this Agreement is impaired. Seller's obligations under Section 9 hereof will be suspended during the pendency of any Payment Default. No such suspension will extend Seller's obligations under Section 9 beyond the Warranty Period provided therein. Seller's election of any remedy in the event of a default by Buyer will not preclude Seller from exercising any other remedy available to Seller hereunder or at law or in equity for the same or any other default. In the event it becomes necessary to incur any expense for collection of any overdue account, Seller's collection charges, including attorneys' fees and expenses, will be added to the balance due and Buyer will pay all such charges together with interest thereon from the date incurred in accordance with Section 3.

12. Equal Employment Opportunity. Seller is an equal opportunity employer. The parties shall, as applicable, abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a), 41 CFR 60-741.5(a) and Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A) (relating to the notice of employee rights under federal labor laws), and these laws and regulations are incorporated herein by reference.

13. Export Compliance. Buyer acknowledges that Seller is required to comply with applicable export laws and regulations relating to the sale, export, transfer, assignment, disposal, and use of the Products provided under this Agreement, including any export license requirements. Buyer agrees that such Products 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 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 WILL INDEMNIFY, DEFEND AND HOLD SELLER HARMLESS FROM ANY AND ALL COSTS, LIABILITIES, PENALTIES, SANCTIONS AND FINES RELATED TO NON-COMPLIANCE WITH APPLICABLE EXPORT LAWS AND REGULATIONS.

14. Miscellaneous. No part of this Agreement may be changed or cancelled except by a written document signed by Seller and Buyer. As used in this Agreement, "including" and its variants mean "including without limitation" and its variants. No course of dealing or performance, usage of trade, or failure to enforce any term will be used to modify the Agreement. Buyer acknowledges that it has not relied upon any letters of intent, agreements, promises, negotiations, statements or representations other than those expressly set forth in this Agreement and that no such extraneous document or other communication shall be of any force or effect. Buyer agrees and warrants that in entering into this Agreement, Buyer is relying solely upon the information

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contained in this Agreement and not in reliance upon any other information. If any of these terms is unenforceable, such term will be limited only to the extent necessary to make it enforceable, and all other terms will remain in full force and effect. Buyer may not assign this Agreement without Seller's prior written consent. This Agreement will be governed by the laws of the State of California without regard to its conflict of laws provisions. The application of the United Nations Convention on Contracts for the International Sale of Goods is excluded. Any bond issued by Seller in connection with the sale of the Products shall remain in effect for a maximum of two (2) years after acceptance of the Products, and the only warranty, guaranty or Product performance obligations covered thereby shall be those at Section 9 above. Buyer covenants to return any such bond to Seller upon the earlier to occur of (x) the expiration of the Warranty Period, and (y) the expiration of the aforesaid two-year period. All Product performance obligations of Seller are contingent on the conditions of and within the tank in which the Products are installed being as specified by Seller and will be considered satisfied and discharged upon successful completion of the initial Product performance testing. EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY IN RESPECT OF ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING IN CONNECTION WITH THE TRANSACTION CONTEMPLATED HEREBY.