

RESOLUTION NO. 422 - 2017

A RESOLUTION AUTHORIZING THE DIVISION OF WATER QUALITY TO PURCHASE SERVICES AND EQUIPMENT FOR REPAIR OF AN EMERGENCY VAPOR SCRUBBER SYSTEM AT THE TOWN BRANCH WASTE WATER TREATMENT PLANT AND AN EMERGENCY VAPOR SCRUBBER SYSTEM AND TWO (2) LOPRO SCRUBBER SYSTEMS AT THE WEST HICKMAN WASTE WATER TREATMENT PLANT, FROM EVOQUA WATER TECHNOLOGIES, LLC, A SOLE SOURCE PROVIDER, AND AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE ANY NECESSARY AGREEMENT WITH EVOQUA WATER TECHNOLOGIES, LLC, RELATED TO THE PROCUREMENT, AT A COST ESTIMATED NOT TO EXCEED \$136,115.00.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Division of Water Quality is authorized to purchase services and equipment for repair of an Emergency Vapor Scrubber System at the Town Branch Waste Water Treatment Plant and an Emergency Vapor Scrubber System and two (2) LoPro Scrubber Systems at the West Hickman Waste Water Treatment Plant, from Evoqua Water Technologies, LLC, a sole source provider, and the Mayor, on behalf of the Lexington-Fayette Urban County Government, be and hereby is authorized to execute any necessary agreement with Evoqua Water Technologies, LLC, related to the procurement.

Section 2 – That an amount, estimated not to exceed the sum of \$136,115.00, be and hereby is approved for payment to Evoqua Water Technologies, LLC, from account #4002 – 303402 – 76101 (\$6,948.00) and from account #4002 – 303403 – 91017 (\$129,167.00).

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: June 22, 2017

MAYOR



ATTEST:



CLERK OF URBAN COUNTY COUNCIL

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JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

Sole Source Purchases are defined clearly, based upon a legitimate need, and are limited to a single supplier. Sole source purchases are normally not allowed except when based upon strong technological grounds such as operational compatibility with existing equipment and related parts or upon a clearly unique and/or cost effective feature requirement. The use of sole source purchases must be justified and shall be limited only to those specific instances in which compatibility or technical performance needs are being satisfied.

Sole Source Services are defined as a service provider providing technical expertise of such a unique nature that the service provider is clearly and justifiably the only practicable source available to provide the service. The justification shall be based on the uniqueness of the service, sole availability at the location required, or warranty or defect correction service obligations of the service provider.

This form must be filled out for the request to purchase any good or non-professional service that requires a competitive procurement process (informal quotes (\$1001-\$10,000), formal quotes (\$10,001 - \$19,999.99), or formal bid (\$20,000 or more) as defined in the LFUCG's Purchasing Manual. This form must be completed in its entirety and attached to the purchase requisition.

Note: Sole Source Purchase requests for goods exceeding \$20,000 will require approval by the Urban County Council by submitting an Administrative Review Form. A copy of this form must be signed off by Central Purchasing and attached to the Administrative Review Form.

Requesting Division

Name: **Tiffany Rank, P. E.**

Division/Dept: **Water Quality**

Phone: **(859)425-2406**

Email: **tiffanyr@lexingtonky.gov**

Type of Purchase: () Goods/Materials/Equipment (X) Services

Cost: **Total Cost: \$136,115.00**

Sole Source Request for the Purchase of: **Manufacturer recommended/required inspection, service and/or component(s) repair/replacement of Emergency Vapor Scrubber Systems (EVSS) and LoPro Scrubber Systems located at the Town Branch and West Hickman WWTP(s).**

One Time Purchase

To Establish Sole Source Provider Contract

(subject to annual review and approval by Central Purchasing and/or Urban County Council)

Vendor Information

Business Name: **Evoqua Water Technologies, LLC**

Contact Name: **Don Orange**

Address: **2650 Tallevast Rd. Sarasota, FL 34243**

Phone: **(941)359-7910 or 1(800)345-3982** Email: **N/A**



JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

STATEMENT OF NEED: (Add additional pages as needed)

My division/department's recommendation for sole source is based upon an objective review of the product/service required and appears to be in the best interest of the LFUCG. I know of no conflict of interest on my part, and I have no personal involvement in any way with this request. No gratuities, favors, or compromising actions have taken place. Neither has my personal familiarity with particular brands, types of equipment, materials, persons or firms been a deciding influence on my request to sole source this purchase when there are other known suppliers to exist.

1. Describe the product or service and list the necessary features this product provides that are not available from any other option.

Evoqua Water Technologies, LLC is the only factory trained and authorized provider of service contracts for the Emergency Vapor Scrubber Systems and LoPro Scrubber Systems in service at the Town Branch and West Hickman WWTP(s).

The services to be performed by Evoqua are;

- Evacuate and dispose of existing chemicals contained in each chemical storage tank associated with each scrubber unit, perform acid wash, as needed, and rinse each chemical storage tank
- Facilitate the re-fill of the appropriate amount and type of chemical for each scrubber unit and tank
- Inspect/calibrate any and all sensors/probes associated with each scrubber unit and repair/replace as necessary
- Inspect and repair/replace any and all ancillary components associated with each scrubber unit to ensure each unit is operating as specified by Original Equipment Manufacturer
- Provide report/invoice for activities associated with each scrubber unit

2. Below are eligible reasons for sole source. Check one and describe.

Licensed or patented product or service. No other vendor provides this. Warranty or defect correction service obligations to the consultant. Describe why it is mandatory to use this licensed or patented product or service.

Existing LFUCG equipment, inventory, custom-built information system, custom-built data inventory system, or similar products or programs. Describe. If product is off-the-shelf, list efforts to find other vendors (i.e. web site search, contacting the manufacturer to see if other dealers are available to service this region, etc.)

Uniqueness of the service. Describe.

The LFUCG has established a standard for this manufacturer, supplier, or provider and there is only one vendor. Attach documentation from manufacturer to confirm that only one dealer provides the product.

Factory-authorized warranty service available only from this single dealer. Sole availability at the location required. Describe.



JUSTIFICATION FOR SOLE SOURCE CERTIFICATION

- Used item with bargain price (describe what a new item would cost). Describe.
- Other – The above reasons are the most common and established causes for an eligible sole source. If you have a different reason, please describe:

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3. Describe efforts to find other vendors or consultants (i.e. phone inquires, web site search, contacting the manufacturer to see if other dealers are available to service region, etc.).

The manufacturer of the aforementioned Emergency Vapor Scrubber Systems and LoPro Scrubber Systems was contacted to identify manufacturer factory trained and/or authorized/recommended service providers to perform recommended service, maintenance and/or repairs. (See attached letter from Evoqua Water Technologies)

4. How was the price offered determined to be fair and reasonable?

(Explain what the basis was for comparison and include cost analyses as applicable.)

As the equipment manufacturer identified Sole Source service provider and after detailed review of scope of work to be perform by Evoqua Water Technologies, LLC the final cost of services to be performed have been determined to be fair and reasonable.

5. Describe any cost savings realized or costs avoided by acquiring the goods/services from this supplier.

For this specific Sole Source Certification request the costs avoided by acquiring the services from this factory trained and authorized service provider is best described by limiting the risk exposure to the Lexington-Fayette Urban County Government by selecting and/or approving the services to be performed by a non-factory trained or authorized service provider that could possibly result in improper/inadequate operation of the Emergency Vapor Scrubber Systems and LoPro Scrubber Systems and thereby posing the risk of serious injury or harm to employees, visitors, the surrounding communities and/or the environment.

James N. Worten
Plant Operations Supervisor Sr.
Department of Environmental Quality & Public Works
Lexington Fayette Urban County Government
Lexington, KY
Office: (859) 272-1713
Email: jworten@lexingtonky.gov
cc: sfarmer@lexingtonky.gov; jnagle@lexingtonky.gov

**RE: ODOR CONTROL CHEMICAL SCRUBBER REPAIRS
WEST HICKMAN AND TOWNE BRANCH TREATMENT PLANTS
LEXINGTON, KY
Evoqua Quote No. 2017-205170**

Thank you for your interest in Evoqua Water Technologies LLC. Evoqua would like to submit the following proposal for repairs to the scrubbers at the ash tank and dewatering building at the West Hickman Treatment Plant.

Ash Tank (LP-3500)

This work involves the major tasks outlined below

- Replace 3" PVC pipe and fittings as needed
- Replace Recirculation Pumps
- Fix cracked ½" PVC pipe
- Repair of piping for chemical tanks
- Replace chemical pump motors and associated check valves
- Remove electrical conduit routing and relocate to remove trip hazard
- Test and repair all electronic components
- Replace calibration cylinders
- Startup the unit and validate the functionality of various gauges, sensors, etc. Also to test for leaks, cracks, etc. in pipes
- It may be necessary to replace some units that can only be evaluated while the units is operating. If these parts require repair/replacement, a separate quote shall be issued

Dewatering Building (LP-7080)

This work involves the major tasks outlined below

- Replace 3" PVC pipe and fittings as needed
- Replace Recirculation Pumps
- Clean up cables
- Empty, clean, and rinse sump
- Replace chemical pump motors and associated check valves
- Replace and rework majority of existing ½" pvc piping, fittings, and flanges
- Remove electrical conduit routing and relocated to remove trip hazard
- Test and repair all electronic components
- Replace calibration cylinders
- Startup the unit and validate the functionality of various gauges, sensors, etc. Also to test for leaks, cracks, etc. in pipes
- It may be necessary to replace some units that can only be evaluated while the units is operating. If these parts require repair/replacement, a separate quote shall be issued

Acid Wash and Service to Cl₂ Building EVSS Scrubber (RJ 2000)

Currently the system is operating with approximately 27 inches of solids. The following is a cost proposal for acid washing the scrubber and minor repairs.

Material provided by Evoqua:

- One (1) Lot of gasketing material
- 200 cubic feet of 3.5" Lantec Packing Media
- Eighteen (18) drums of 20 Baume hydrochloric acid
- Miscellaneous PVC

Services provided by Evoqua:

- Remove spent caustic liquid and rinse water (approx 7,000 gals) to a bulk tanker supplied by the city.
- Acid wash EVSS with HCL (20 Baume) for spent caustic solids removal
- Repack the media and mist eliminator material
- Refill scrubber with 2,000 gallons of 20% grade Membrane Grade Caustic
- Re-gasket the top access ports
- Inspect and replace belts if needed
- Restart system and test run
- Inspection of scrubber nozzle operation
- Inspection of recirculation pump operation

LFUCG shall provide:

- Tanker for caustic and brine removal
- Hoist/lift of pumps during inspection
- Manpower to assist with work specified above under supervision of Evoqua Water Technologies.
- 2,000 gallons of 20% grade Membrane Grade Caustic
- The means to store, transport and dispose of spent caustic, and acid wash brine.

Towne Branch EVSS Repairs

Material provided by Evoqua:

- Miscellaneous PVC

Services provided by Evoqua:

- Remove spent caustic liquid and rinse water (approx 4,000 gals) to a bulk tanker supplied by the city.
- Remove and replace PVC as needed to repair unit
- Refill scrubber with 2,000 gallons of 20% grade Membrane Grade Caustic
- Restart system and test run
- Inspection of scrubber nozzle operation
- Inspection of recirculation pump operation

LFUCG shall provide:

- Tanker for caustic removal
- Manpower to assist with work specified above under supervision of Evoqua Water Technologies.
- 2,000 gallons of 20% grade Membrane Grade Caustic
- The means to store, transport and dispose of spent caustic, and acid wash brine.

Notes:

1. Evoqua shall supply the acid required to complete the acid wash.
2. After completion of the acid wash and start up, should the scrubber need additional repairs, a separate proposal shall be provided for approval.
3. Additional costs may be incurred if circulation pumps are not operating correctly upon Evoqua' arrival.

Price

Evoqua shall provide labor and materials to address the specific repairs outlined in this proposal at the following prices:

West Hickman Ash Tank (Lo-Pro 3800): \$46,635 ~ To Be completed with Scum Project.
West Hickman Dewatering Building (Lo-Pro 7080): \$50,267 — Complete ~ New Pump Installed
Acid Wash and Service to Cl₂ Building EVSS Scrubber (RJ 2000): \$32,265 — Complete
Towne Branch EVSS Repairs (RJ 2000): \$6,948 — Complete

TOTAL FOR ALL WORK: \$136,115

Evoqua can commence the proposed repairs within 3-4 weeks of notice to proceed.

The attached Evoqua Water Technologies Terms and Conditions are considered part of this proposal and shall prevail.

This price associated with this quote will remain in effect for a period of ninety (90) days. If we are not in receipt of an order by the end of this firm price period, we reserve the right to modify the prices quoted.

Thank you again for this opportunity to allow Evoqua to assist you in an odor control program. If you have any questions or need additional information, please contact me at (941) 928-5093.

Evoqua Water Technologies LLC

Donald Orange

Donald Orange
Technical Sales Representative, Municipal Services

**RE: ODOR CONTROL CHEMICAL SCRUBBER REPAIRS
WEST HICKMAN AND TOWNE BRANCH TREATMENT PLANTS
LEXINGTON, KY
Evoqua Quote No. 2017-205170**

Evoqua will process your order when we receive acceptance of this proposal, by signing below and returning to sheri.whalen@Evoqua.com or fax to: (941) 359-7985.

Company Name: _____

This ____ day of _____ Month _____ Year

By: _____

Title: _____

P.O.Number _____

EVOQUA WATER TECHNOLOGIES LLC

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.