

SERVICES AGREEMENT
(Purchase Order # TBD)

This agreement ("Agreement") between the City of Duluth, a Minnesota municipal corporation ("City") and EVOQUA WATER TECHNOLOGIES, LLC ("Evoqua" or "Service Provider"), with offices located at 500 Horizon Drive, Suite 503, Chalfont, PA 18914.

WHEREAS, City desires to enter into an agreement with a service provider to provide repair services to the Rex Traveling Water Screen;

WHEREAS, City requested a proposal for repair services to the Rex Traveling Water Screen (the "Services");

WHEREAS, Evoqua is in the business of providing Rex traveling water screen repair services to its customers;

WHEREAS, Evoqua submitted a proposal and has represented itself as fully capable of providing the Services to its customers and that it is qualified and willing to perform such services;

WHEREAS, after review of the proposal the City wishes to engage Evoqua to provide the Services;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

City and Service Provider hereby agree to the following terms and conditions:

1. Services. Service Provider shall provide the following Services:

Repair services of the Rex traveling water screen, described in more detail in the Proposal attached to this Agreement as Exhibit A and incorporated by reference.

2. Rates/Price and Payment for Services. The rates (the "Rates") for the Services are outlined in Exhibit A. The total amount payable under this agreement shall not exceed forty-seven thousand, four hundred ninety and 00/100 dollars (\$47,490.00) unless the contract is modified by formal amendment. Payments shall be made from fund 510-500-1955-5404. Service Provider shall be paid for the Services within thirty (30) days of the City's receipt of an invoice.

3. Term; Termination. The term of this Agreement shall commence on date of attestation and shall continue, unless earlier terminated as provided for herein, for a period ending March 31, 2021 (the "Term"). Either party may terminate this Agreement at any time prior to the end of the Term due to the other party's material breach of any of its obligations hereunder, which breach has not been cured to the non-breaching party's reasonable satisfaction within a reasonable time, not to exceed ten (10) business days, after receipt of written notice specifying such breach.

4. Representations and Warranties. Service Provider represents and warrants that:

i. Service Provider shall perform its respective duties in a professional and diligent manner in the best interests of City and in compliance with all applicable laws.

ii. Service Provider and all personnel to be provided by it hereunder have sufficient training and experience to perform the duties set forth herein and are in good standing with all applicable licensing requirements.

5. Insurance.

A. Service Provider shall provide and maintain in full force and effect during the life of this Agreement the following minimum amounts of insurance:

- (1) Workers compensation insurance in accordance with applicable law.
- (2) Public Liability and Automobile Liability Insurance with limits not less than \$1,500,000 Single Limit and twice the limits provided when a claim arises out of the release or threatened release of a hazardous substance; and shall provide for the following: Liability for Premises, Operations, Completed Operations, Independent Contractors, and Contractual Liability.
- (3) City of Duluth shall be named as an Additional Insured under the Public Liability and Automobile Liability and Service Provider will provide Certificate of Insurance evidencing such coverage with 30-days' notice of cancellation, non-renewal or material change provisions included. The City of Duluth does not represent or guarantee that these types or limits of coverage are adequate to protect the Service Provider's interests and liabilities.

B. Such insurance shall protect Service Provider, its employees, agents and representatives from claims and damages including but not limited to personal injury and death and any act or failure to act by Service Provider, its employees, agents and representatives in the negligent performance of work covered by this Agreement.

C. Certificates showing that Service Provider is carrying the above described insurance in the specified amounts shall be furnished to the City prior to the execution of this Agreement and a certificate showing continued maintenance of such insurance shall be on file with the City during the term of this Agreement.

6. Indemnification. To the extent allowed by law, Service Provider shall defend, indemnify and hold City and its employees, officers, and agents harmless from and against any and all cost or expenses, claims or liabilities, including but not limited to, reasonable attorneys' fees and expenses in connection with any claims resulting from the Service Provider's a) breach of this agreement or b) its negligence or misconduct or that of its agents or contractors in performing the Services hereunder or c) any claims arising in connection with the Service Provider's employees or contractors, or d) the use of any materials supplied by the Service Provider to the City unless such material was modified by City and such modification is the cause of such claim. This Section shall survive the termination of this Agreement for any reason.

7. Data, Records and Inspection.

- a. The City agrees that it will make available all pertinent information, data and records under its control for Service Provider to use in the performance of this Agreement, or to assist Service Provider wherever possible to obtain such records, data and information.
- b. All customer addresses and other data or customer information provided to Service Provider by the City pursuant to this Agreement will be confidential and will not be released by Service Provider without prior authorization from the City.
- c. Records shall be maintained by Service Provider in accordance with requirements prescribed by the City and with respect to all matters covered by this Agreement. Such records shall be maintained for a period of six (6) years after receipt of final payment under this Agreement.

- d. Service Provider will ensure that all costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.
- e. Service Provider shall be responsible for furnishing to the City records, data and information as the City may require pertaining to matters covered by this Agreement.
- f. Service Provider shall ensure that at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City for examination, all of its records with respect to all matters covered by this Agreement. Service Provider will also permit the City to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.

8. Independent Contractors. The parties agree that they are independent contractors, and no agency, partnership, employment or joint venture arrangement shall be deemed to exist by virtue of this Agreement, performance hereunder or otherwise. No employee or independent contractor of Service Provider shall be deemed to have any employment or independent contractor relationship with City by virtue of this Agreement or performance hereunder, and such individuals shall have no claim against City for any employee benefits offered to employees of City.

9. Assignment. Service Provider may not assign this agreement. City may assign this Agreement without the prior written consent of Service Provider.

10. Amendment; Entire Agreement. This Agreement embodies the entire understanding of the parties and there are no other agreements or understandings, written or oral, in effect between parties relating to the subject matter hereof. This Agreement may be amended or modified only by an instrument signed by the parties.

11. Applicable Law. This Agreement, together with all of its paragraphs, terms and provisions is made in the state of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

12. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in "portable document format" ("pdf"), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.

13. Captions. The captions contained in this Agreement are solely for convenience of reference and are not part of the Agreement and shall not be used in construing this Agreement or in any way affect the meaning or interpretation of this Agreement.

[Remainder of page intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first set forth below.

CITY OF DULUTH

By:

Mayor

Attest:

City Clerk

Date Attested: _____

Countersigned:

City Auditor

Date

Approved as to form:

City Attorney

Date

EVOQUA WATER TECHNOLOGIES, LLC

By:

Company Representative

Its:

Title of Representative

Date: _____

EXHIBIT A

PROPOSAL

**Traveling Water Screen On-Site Rebuild with Parts Installation,
Adjustment and Preventive Maintenance
City of Duluth MN, Lakewood Water Treatment Plant
Proposal #20120x1**

Oct. 29, 2020

City of Duluth MN
Lakewood Water Treatment Plant
8130 Congdon Blvd
Duluth, MN 55802

Attn: Scott Olson

RE: Traveling Water Screen Dive Inspection, Adjustment & Preventive Maintenance for 1 Water Screen

Dear Mr. Olson,

Evoqua Water Technologies, LLC is pleased to provide this proposal to mobilize our factory trained Traveling Water Screen Service/Commercial Dive Crew to the Duluth MN Lakewood Water Treatment Plant to perform an Onsite Rebuild with parts installation, adjustments and Preventive Maintenance for the (1) traveling water screen supplied in 1966 on our Evoqua Water Technologies Contract No. H53359 as our Legacy Brand Name of Chain Belt Co The screen has 3'-10" basket width x 25'-0" vertical sprocket centers. Evoqua, as the original OEM manufacturer and supplier, retains and has all the original drawing and design information of these screens in our database.

Work Scope Description:

- Prior to the arrival of the Evoqua crew, all parts must be at the site, and the customer's personnel will stage them for transport to the intake building when the crew arrives onsite.
- Evoqua will then mobilize our factory trained dive service crew to the Duluth MN Lakewood Water Treatment Plant. Once on site, the crew will set-up equipment and proceed with the onsite rebuild, parts replacement and adjustment back to factory OEM specifications and perform preventive maintenance for the water screen referenced above.
- The work will be done in the wet well with the water screen frame remaining in the well.
- EWT plans to utilize the large beam above the water screen for replacing the parts. Plant personnel will advise Evoqua of the load rating of this beam prior to the commencement of the work.
- The crew will utilize and supply a Drop Deck Crane with operator and rigger for lifting and moving the new parts through the large intake door and into the intake building on the first day, and then moving the old parts out of the building and through the large intake door on the last day onsite.



- The parts will be purchased from Evoqua based on the separate quotation #10227821 sent with this service proposal by our Evoqua WT Account Representative, Lori Domrzalski.

Parts Required for Each Traveling Water Screen

- Complete set of Heavy-Duty Main Carrier Chain with carbon steel sidebars and 8620 joint components
- Heat-Treated Stainless Steel Tooth Inserts with attachment hardware
- A complete 3-piece Foot Shaft Assembly with shaft, foot wheels, etc.
- Stainless-steel Basket attachment hardware
- Extension Shoes (left and right hand) with attachment hardware
- After completion of the rebuild and installation of parts as noted above, the rebuilt water screen will be tested, run and the operation will be observed and verified to ensure extended life of your equipment. The screen will receive initial lubrication and adjustments, as necessary. An operator from the site will be required during the service to operate the screen, or permission granted to allow our crew to operate it.
- During this service complete inspection, adjustment and preventive maintenance will be performed.

Below is a list of items that will be checked, (but not limited to only these items)

1. Main carrier chain checked for proper tension, and inspected for wear and proper tolerances
2. The crew will assist and instruct plant personnel on lubrication of the main carrier chain if not a non-lubricated design
3. The basket to chain hardware will be checked for tightness and retightened if required
4. Baskets will be inspected for signs of rubbing and wear, damage to the mesh, signs of high differential or other damage
5. The basket seal plates will be inspected for wear and damage
6. The drive assembly will be observed while operating and visibly inspected for wear, vibration, proper fluid levels, etc.
7. The drive and driven sprockets will be inspected for wear and hooking
8. The drive chain will be inspected for wear, stretching, proper lubrication, etc. The crew will instruct plant personnel in adjusting and lubricating the chain, if necessary
9. Alignment of the drive sprocket, driven sprocket and chain will be checked
10. The spray headers and nozzles will be inspected for potential clogging, nozzle wear patterns, proper spray and overlap and effective cleaning of the mesh
11. The head sprocket tooth inserts will be inspected for wear, and attachment hardware checked for tightness and retightened if required
12. The take-up bearing housings will be inspected for corrosion and wear. The bushing will be inspected for wear and life expectancy
13. The take-up rods will be inspected for corrosion and wear to the threads

14. The capstan adjusting nuts and thrust bearings will be inspected
15. The crew will assist and instruct plant personnel on lubrication of the take-up bearings.
16. The chain track guides will be inspected for wear
17. Where visible, the screen frame side panels and cross (X) bracing will be inspected for wear and corrosion
18. The screen cross ties will be inspected for corrosion and correct tolerance
19. The foot terminal will be inspected for tolerance and corrosion
20. The boot section side panels will be inspected for wear, corrosion and tolerances
21. The boot plate will be inspected for wear from the chain and baskets, corrosion and tolerances
22. A sample of the frame hardware (as visible and accessible) will be inspected for corrosion, integrity and life expectancy
23. The well will be checked for any accumulated mud, silt and debris. If required, Pumping can be performed at the daily rates noted below
24. The fiberglass housings and discharge troughs will be inspected for damage

- Upon completion of the above scope, the crew will demobilize from the customer's site.

The Price for this onsite Rebuild and Parts Installation will be as follows:

The total Price to complete the above onsite work scope for the (1) traveling water screen will be: \$47,490.00

*Note- This price is for the Rebuild Labor Service only and does not include any Parts. The parts will be purchased from Evoqua based on the separate quotation #10227821 sent with this service proposal by our Evoqua WT Account Representative, Lori Domrzalski.

The above price includes crew travel time to and from the site.

This service includes our premium OEM preventative maintenance package including adjustments and lubrication performed to our Evoqua Water Technologies, LLC manufacturer's specifications to extend the life of your screen, lower your maintenance costs and reduce unnecessary down time. No other screen manufacturer can offer this high level of service.

Any Additional out of scope work will be performed at our Evoqua Daily Rate as noted below:

- Mobilization to customer site - \$4,862.00
- 8-Hour Daily Rate of \$4,790.00
- 10-Hour Daily Rate of \$5,911.00
- Saturdays will be billed at \$5,758.00 per 8-Hour day
- Sundays and Holidays at \$6,728.00 per 8-Hour day.
- Overtime Rates:
 - Weekday and Saturday overtime will be billed at \$462.74 per hour
 - Sunday overtime rate will be billed at \$560.66 per hour
- Standby Rate for Weekdays and Saturdays at \$4,790.00
 - Note – Standby rates apply for all customer related and weather-related lost time greater than 4 hours where our crew is prevented from performing their scheduled scope of work.
- Delays caused by Evoqua Industry will not be charged to the customer.
- Demobilization from customer site - \$4,862.00
- Should traveling water screen or other equipment repair / service or other work be required, the following rate will apply, as needed:
 - On site repair tool package - \$265.00 per day
 - Rigging package - \$354.00 per day
 - Welding package - \$127.00 per day
 - Consumables will be charged at cost plus 15%
- Submersible sludge pump:
 - Should pumping of mud, silt and debris be required, we can perform this at the daily rates indicated above. A submersible sludge pump with 4" hose and fittings can be supplied at the rate of:
 - \$1,507.00 daily
 - \$4,521.00 weekly
 - \$13,562.00 monthly
 - **Note** – The above includes pumping equipment only, and does not include any permits, disposal bags or containers or removal of the material from the site.
- Underwater video with DVD
 - As an option, Evoqua can supply a burned DVD video of the below deck inspection of the traveling water screens for \$350.00 per day (advance notice required)
 - Any additional rental equipment or supplies shall be billed at cost plus 15%



evoqua

WATER TECHNOLOGIES

Evoqua Water Technologies, LLC service crews supply:

1. All tools, labor and supervision
2. Topsides burning equipment
3. All necessary rigging
4. Welding machine
5. All safety equipment and PPE
6. Diving equipment

Customer to furnish:

1. 110-volt power
2. Tool air
3. Oxy-acetylene gas
4. Sanitary facilities
5. Plant Crane to move parts in and out of the intake building
6. Use of the overhead beam above the water screen (plant to advise the load rating)
7. Clear and unobstructed work area
8. All necessary permits associated with on-site work
9. Lock out and tag out of equipment
10. Operator to operate the screens, or permission to allow Evoqua personnel to operate the screens

Service crew notes:

Evoqua Water Technologies LLC crews work 10-hour days Monday through Saturday with Sunday off unless requested by the customer. We expect this job to take approx. 6 days to complete. There will be no work stoppages for reasons other than our own. All work stoppages not caused by Evoqua will be billed at the daily rates noted in this proposal.

If Evoqua encounters and must remove any mud, silt, or debris, our daily rates will apply. Disposal of the debris, sludge, and mud once it has been removed from the wells will not be in Evoqua's scope, and EWT can supply dive assistance to the customer who would be responsible for the disposal of the material from the site in accordance with local, state, and federal laws and regulations.

If the screens are rust fused to the guides, bolted or lagged to the wall and need to be cut out of the well, the Boot Section grouted to the bottom, or mud pumping required, work will be stopped and customer will be notified. Evoqua daily rates will be charged to the customer for any additional time to remove the screens. If lead base paint, flame sprayed thermoplastic, vinyl or aerosol corrosion protection coatings are encountered additional charges will be billed.

Evoqua accepts no responsibility for any unavoidable site damage such as ruts occurring from trucks or cranes in or around the work site.



Evoqua Water Technologies LLC will supply a factory trained, non-union service crew including Certified Commercial Divers to complete this work. A 4-man dive service crew will be supplied by Evoqua. We intend to use a combination UCC crew and Evoqua WT Field Service Technician for this work.

Evoqua is assuming that the overhead bridge crane is able to handle an approx. max. load of 8,000 lbs. If this is not the case, other plans will need to be made that may change the price listed in this proposal.

The prices quoted do not include any tax which may apply. If you are tax exempt, we will require a copy of your tax exemption certificate at the time of the order.

This proposal is valid for 30 days.

Evoqua Water Technologies LLC payment terms are Net 30 Days.

Any agreement that may result from this proposal will be subject to the Standard Terms and Conditions of Sale as attached to this document.

Should this proposal receive your favorable consideration, Evoqua Water Technologies LLC, will work with you to reach a mutual agreement on the Terms and Conditions of Sale, however;

- A signed Purchase Order along with mutually agreed upon Terms and Conditions must be in our possession before any Evoqua WT services can be provided, our personnel mobilized, or manufacturing of the equipment begins. All purchase orders are to be addressed to Evoqua Water Technologies LLC, 500 Horizon Drive, Suite 503, Chalfont, PA 18914.
- If delivery is critical, we propose an "As-Sold Proposal", this proposal should be signed by an authorized individual as the basis of our Contract and attached to the Purchase Order.

Thank you for the opportunity to provide this proposal. If you have any question, please feel free to contact me.

Best regards,

A handwritten signature in black ink, appearing to read "James Couser".

James Couser
Technical Service Manager – Intake Products

Tel: 812-701-5900

james.couser@evoqua.com

www.evoqua.com

Please visit our Intake Products Service Website at:

<http://www.evoqua.com/en/brands/intake-screens/Pages/Intake-Services.aspx>

www.evoqua.com

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.** 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.

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.

(Feb 2015)

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 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:

Purchaser Name:	<i>Evoqua Water Technologies LLC</i>
Signature:	<i>Signature:</i>
Print Name:	<i>Print Name:</i>
Title:	<i>Title:</i>
Date:	<i>Date:</i>

(Feb 2015)



PLEASE NOTE:

OUR REMIT TO ADDRESS IS DIFFERENT FROM OUR MAILING ADDRESS.

OUR REMIT TO ADDRESS:

**Evoqua Water Technologies LLC
28563 Network Place
Chicago, IL 60673-1285**

PURCHASE ORDERS SHOULD BE MADE OUT TO OUR MAILING ADDRESS:

**Evoqua Water Technologies LLC
500 Horizon Dr
Suite 503
Chalfont, PA 18914**

Banking Information

Bank Name: J.P. Morgan Chase Bank, N.A.
Address: New York, NY 10004

Account Name: Evoqua Water Technologies LLC
ABA Number: 044000037
Account Number: 603148011
Swift Code: CHASUS33
Wire Number: 021000021
Remittance Email Address: electronicfunds@evoqua.com

Employer ID Number: 80-0909020
Duns Number: 15-079-5342

Thank you,

Heidi Gervase
Credit/Collection Specialist
Tel: +1 (616) 748-7602
heidi.gervase@evoqua.com

Traveling Water Screen Service and Rebuilds



Evoqua Water Technologies. Offers Full Service and Rebuild Capabilities for any Brand Traveling Water Screen Including Our Own Industry Leading OEM Envirex®, Rex®, Link-Belt® and Royce to fit any of Your Plant's Intake Requirements and Budget. Our Services Include:

- **Onsite Topside Inspections and Screen Evaluations-**
- **Dive Inspections-**
 - Complete Written Report covering all components
 - Underwater Photographs of any problem areas
- **Screen Adjustments-**
 - Done to OEM Factory Specifications. Envirex®, Rex®, Link-Belt® and Royce
 - Helps Prevent Premature Wear of Components
- **Annual Maintenance Contracts-**
 - Equipment is Maintained at OEM Factory Specifications for Extended Life and Reduced Operating Cost
- **On-Site Repairs Performed in Wet or Dry Well-**
 - Can be Coordinated with Plant Outages
- **Intake Well Cleaning-**
 - Mud, Silt and Debris removed from immediate screen area
 - Trash Rakes
- **Repairs or Refurbishment On or Off-Site, including Extraction of Screen**
- **Emergency Service Available-**

Please visit our Service website for more information:

<http://www.evoqua.com/en/brands/intake-screens/Pages/Intake-Services.aspx>

Evoqua Water Technologies LLC
500 Horizon Drive, Suite 503
Chalfont, PA 18914

phone: 1-800-207-9490

fax: 215-822-0590



EVOQUA / UCC ALLIANCE

The alliance of **Evoqua Water Technologies** and **Underwater Construction Corporation (UCC)** will provide the power industry and other industries that use large volumes of raw water, the best intake equipment combined with the best intake field service team.

Evoqua leads the intake industry in equipment quality, innovation and breadth of experience. Its technology has served the market for 143 years, and it has become synonymous with intake screening equipment.

When you specify Evoqua's intake equipment it will be designed exactly to your needs, will be installed precisely by Evoqua's expert technicians, and it will last without worry. If the need arises for parts and service, there will be no better alliance to provide the best parts and the best field service for intake equipment.

UCC is renowned to be the best commercial diving organization in the industry for nearly 50 years. Their safety record is unparalleled, and their dive crews of



more than 200 divers have all been rated to the highest certifications available. They dive with 4-man crews in all conditions and provide the widest range of underwater services from construction to reparation on all types of critical equipment.

As a customer, this alliance will provide to you the industry's best equipment, designed specifically for you, cost effectively, and the highest-rated service, period.

WHY EVOQUA

We have been innovating the intake industry for 143 years. We were among the first companies to develop traveling water screens for industries using large volumes of water, and Evoqua has all original drawings and specs, and manufactures parts for the most widely installed brand names of intake equipment, including: Rex®, Link-Belt®, Envirex®, USFilter™, & FMC.

With over 10,000 installations worldwide, Evoqua maintains a presence unparalleled in the industrial space. Our equipment is found at some of the highest profile nuclear and traditional power plants, pulp and paper facilities, desalination plants and other industries that utilize large volumes of raw water.

Evoqua's intake systems have defined the industry standard for equipment quality, cost-of-ownership and clean, usable water. Evoqua's fish protection innovations also encourage the maintenance of natural habitats surrounding most power plants.



WHY UCC

UCC has a rich history in the intake industry and it maintains the highest safety and certification standards available in commercial diving.

UCC's expert divers install and repair traveling water screens as well as all manners of intake equipment as one of its major core competencies. Additionally, UCC offers a wide range of mission critical underwater construction and repair work to some of the world's largest plants and utilities.

With their wide scope of capabilities and multiple, convenient locations across the US and internationally, UCC is the clear choice as the **Elite Service Provider** for Evoqua's cutting-edge line of intake products.



Made in the U.S.A.

Our manufacturing plant is ISO 9001 Certified and is ISO 14001 Environmentally Compliant.

500 Horizon Dr., Ste. 503, Chalfont, PA 18914

+1 (800) 207-9490 (toll-free)

+1 (215) 712-0280 (toll)

screening@evoqua.com

www.evoqua.com/intake



USFilter and Envirex are trademarks of Evoqua Water Technologies its subsidiaries and affiliates in some countries. Rex is a trademark of Rexnord Industries LLC. Link-Belt® is a trademark of Link-Belt Construction Company LP, LLLP. FMC is a trademark of FMC Corporation.

All information presented herein is believed reliable and in accordance with accepted engineering practices. Evoqua makes no warranties as to the completeness of this information. Users are responsible for evaluating individual product suitability for specific applications. Evoqua assumes no liability whatsoever for any special, indirect or consequential damages arising from the sale, resale or misuse of its products.

© 2017 Evoqua Water Technologies LLC Subject to change without notice

IN-EVOQUAUCC-LC-0317