

Agenda Item No. C-6

DATE SUBMITTED 5/23/24
 SUBMITTED BY Public Services
 DATE ACTION REQUIRED 6/5/24

COUNCIL ACTION
 PUBLIC HEARING REQUIRED
 RESOLUTION
 ORDINANCE 1ST READING
 ORDINANCE 2ND READING
 CITY CLERK'S INITIALS

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT:	DISCUSSION/ACTION: 1. Approve purchase of one (1) HUBER perforated plate screen for the wastewater treatment plant headworks		
	DEPARTMENT INVOLVED: Public Services		
	BACKGROUND/SUMMARY: The HUBER perforated plate screen is for the wastewater treatment plant headworks. There are (2) of these units at the plant. When both units are functioning properly, the capacity of the headworks is 3.0 million gallons per day. When one of the units needs repairs, it reduces the capacity of the wastewater plant in half. Recently one of the existing units failed and is being repaired. The headworks and components were installed approximately 10 years ago and were not part of the recent wastewater treatment project. The headworks is critical to the proper functioning of the new wastewater treatment plant and to protect the new expensive membranes from damage. The request is to purchase one (1) HUBER perforated plate screen which is the only one designed specifically for the Imperial wastewater plant headworks. The purpose of this purchase is to have a surplus unit on site when one of the units fails, as we are currently experiencing. This is a sole source item and is budgeted within this fiscal year.		
	FISCAL IMPACT: NOT TO EXCEED 55-520-524: \$217,623 Wastewater - wastewater operations - Maintenance of Equipment	FINANCE INITIALS	<u>JMS</u>
	STAFF RECOMMENDATION: approve request	DEPT. INITIALS	<u>DD</u>
	MANAGER'S RECOMMENDATION: <u>approve</u>	CITY MANAGER'S INITIALS	<u>JTM</u>
	MOTION:		
SECONDED: AYES: NAYES: ABSENT:	APPROVED <input type="checkbox"/> DISAPPROVED <input type="checkbox"/> REFERRED TO:	REJECTED <input type="checkbox"/> DEFERRED <input type="checkbox"/>	

SCOPE OF SUPPLY



Imperial, CA

Equipment:

HUBER Perforated Plate Screen ROTAMAT® RPPS 1400/3

Addenda Numbers: No addenda

Represented by:

Goble Sampson Associates
Matt Bentley
(704) 650-7332
mbentley@goblesampson.com

Regional Sales Director

Ron Maiorana
704-990-2422
Ronald.Maiorana@hhusa.net

Project Number: 508980
Revision: 0
Date: 4/17/2024

HUBER Technology, Inc.
1009 Airlie Pkwy, Denver, NC 28037
704-949-1010 | www.HUBER-technology.com

Technical Data		
Peak Waste Water Design Flow	5.3	MGD
Peak Waste Water Design Flow per Unit	5.3	MGD
TSS Concentration	250	mg/L
Screen Basket Spacing	3	mm
Maximum Upstream WaterLevel	35.71	inch
Screen Type	Perforated Plate	-
Screen Basket Diameter	1400	mm
Sealing between Stationary Baffle Plate and Rotating Drum	Polyurethane Seal	-
Installation type	Tank	-
Screen Angle	35	°
Wash Water Pressure	75	psi
Wash Water Consumption	46	gpm

Equipment Details

Model	HUBER Perforated Plate Screen ROTAMAT® RPPS 1400/3
Quantity	1
Material	316L stainless steel construction; pickled and passivated in acid bath
Screen Design	Shafted screw with integrated maintenance free bearing and inclined auger tube
Screenings Wash	Two (2) solenoid valves 'Scope of Supply' for screenings wash, 1-inch, 120 VAC, 2-way, Class 1 Division 1, Stainless Steel body
Spray Bar	One (1) solenoid valve for spraybar wash, 1 1/4-inch, 120 VAC, 2-way, Class 1 Division 1, Stainless Steel body
Press Zone	One (1) solenoid valves for compaction wash, 1-inch, 120 VAC, 2-way, Class 1 Division 1, Stainless Steel body
Cleaning Brush	Stainless steel backed nylon brush with bristles for perforated plate basket cleaning
Motor Data	2 HP, 480 VAC, 3ph, 60 Hz, S.F. 1.15, Class 1 Division 1
Sensor	Level sensor for waterlevel measurement
Supports	316L Stainless Steel Construction
Anchor Bolts	M12, 316L, Included

Freight and Startup Services	
2 day(s), 1 trip(s)	Startup services for installation inspection and startup supervision.
Freight to jobsite.	

Pricing

Equipment	Model	Quantity	Pricing
HUBER Perforated Plate Screen	ROTAMAT® RPPS 1400/3	1	Included
Freight and Startup Services		2 day(s), 1 trip(s)	Included
TOTAL:			\$217,623.00

This proposal has been reviewed for accuracy and approved for issue by:

KS

General Notes

1. HUBER Scope of Supply is based on bid documents dated January 00, 1900, equipment section .
2. HUBER is in receipt of the following addenda:
No addenda.
3. All electrical interconnections, motor disconnects, wirings, junction boxes, and terminations between the equipment and electrical components are to be provided by installing contractor.
4. Any item not specifically listed is not considered part of this scope of supply. Please contact the HUBER Technology representative listed for further clarification.
5. HUBER Technology, Inc. is offering the equipment and associated performance guarantees based on information available at the time of the issuance date. Information not made available to HUBER, whether HUBER is asking for specific information or not, which could affect the performance of the equipment might void warranty and performance guarantees.
6. HUBER will ship all equipment to site inside of 20', 40' or 40'OT ocean containers as deemed appropriate by our factory. HUBER will not ship any equipment on flatbed truck. Flatbed truck shipping means that the equipment would need to be transferred at port from factory packaged containers to the flatbed. This process is out of HUBER's control and it is our experience that equipment always gets damaged during this process.
7. Huber has not included a tank, or controls in this quotation and has quoted on the basis that this screen will be used interchangeably with the existing screens in the tanks already located at the plant.



HUBER TECHNOLOGY, INC.
STANDARD PURCHASE ORDER



ALL TERMS AND CONDITIONS ARE PART OF THIS PURCHASE ORDER ("Purchase Order")

PROJECT: Imperial, CA
JOB NUMBER: 508980

CUSTOMER CONTACT INFORMATION
EMAIL: _____
PHONE: _____
FACSIMILE: _____

CUSTOMER BILLING ADDRESS (PLEASE FILL):

SITE SHIPPING ADDRESS (PLEASE FILL):

ACCEPTED: _____
Buyer

HUBER Technology, Inc.

BY: _____
Title

Title

DATE: _____

THIS PURCHASE ORDER IS SUBJECT TO BINDING ARBITRATION
SIGN AND RETURN WITHIN 5 BUSINESS DAYS

HUBER TECHNOLOGY, INC. STANDARD TERMS AND CONDITIONS OF SALE

1. ENTIRE AGREEMENT/ORDERS.

The Proposal is dependent and expressly conditioned upon Purchaser's acceptance of the attached HUBER Technology, Inc. (hereinafter "HUBER") Standard Terms and Conditions of Sale dated 4/17/2024

This agreement (the "Agreement") is between HUBER Technology, Inc., its subsidiaries and its affiliates (collectively "HUBER") and Purchaser. No order for HUBER's goods or services shall be binding upon HUBER until acknowledged in writing by HUBER. Such written acknowledgement and these Standard Terms and Conditions of Sale (the "Terms and Conditions") constitute the entire agreement between HUBER and Purchaser. Any purchase order, offer or counter-offer made by Purchaser before or after HUBER's written acknowledgement is rejected and all documents exchanged prior to HUBER's written acknowledgement are merely preliminary negotiations and not part of any agreement between the parties. For example, orders submitted on Purchaser's own purchase order forms modifying, adding to, contrary to, or inconsistent with these Terms and Conditions are expressly rejected and of no force or effect and acceptance is expressly made conditional upon assent to these terms. In no event will HUBER be deemed to have in any way changed, enlarged or modified its liabilities or obligations as fixed by these Terms and Conditions including, without limitation, situations in which HUBER satisfies an order submitted on Purchaser's own purchase order form. No other terms or conditions or modification of these terms shall be binding upon HUBER unless specifically accepted in writing by an Officer of HUBER. Merely signing a purchase order or other document as a condition of payment shall not be deemed a specific acceptance of terms therein by HUBER.

Purchaser shall have been deemed to agree to these Terms and Conditions upon the earlier of acceptance of HUBER's quotation, acceptance of delivery of the goods or services or the issuance of a purchase order to HUBER.

2. Scope of Supply/Work and Ancillary Equipment

This Proposal includes only those items specifically mentioned in the equipment descriptions. Any items which may be necessary for the operation of the equipment, but are not specifically mentioned HUBER's Scope of Supply, such as motors, drives, controls, or supports, are to be supplied via additional quotation separate from this offering.

HUBER will use HUBER products or HUBER standards and colors whenever possible unless specifically called out in the quotation.

Any deviations from the HUBER standard mechanical and electrical specifications must be discussed with HUBER and agreed upon. If HUBER mechanical and electrical specifications are changed, performance of HUBER equipment may be affected. HUBER reserves the right to charge additional costs to the equipment price for any non-standard mechanical and electrical components required by the Purchaser and not explicitly stated in HUBER's scope of supply in the form of a Change Order and as stated below under Article 9 Submittals.

3. Exclusions Include:

- Financing
- Cranes and/or lifting devices
- Unloading and/or storage of equipment on job site
- Foundation design and engineering (HUBER will only furnish equipment drawings and data)
- Utilities for erection, installation and operation
- Gauges and instrumentation not specifically described in HUBER scope of supply
- Interconnecting wiring, conduit, piping, tubing, valves, fittings, etc. between the equipment and other equipment and/or control devices and control panel.
- Tools, oil, grease, grease gun, dumpster(s), or bin(s).
- All other items not specifically described in HUBER scope of supply

4. Abrasion or Corrosive Materials

All of HUBER's machines, control panels, and systems are manufactured from 304L or 316L grade stainless steel. Purchaser expressly acknowledges that HUBER has no control over the environment or materials where the HUBER equipment will be installed. The environment or materials the equipment may be exposed to may be abrasive or corrosive. This Proposal makes no representation or warranties concerning the service life of the equipment against such abrasion or corrosion. The concentration of chloride and hydrogen sulfide (H₂S) in the equipment operating environment shall be kept below the following values:

· Maximum Chloride for V2A (304, 304L)*	100mg/L
· Maximum Chloride for V4A (316L, 316Ti)*	400mg/L
· Maximum Chloride for V4A (316L, 316Ti)**	250mg/L
· pH Value of the Wastewater/Washwater	>6.5
· Iron Content in Washwater	<0.50mg/L

*no hydrogen sulphide in the area of the stainless steel

** with a maximum hydrogen sulphide content of 6 ppm (H₂S levels must be less than 6ppm in the area of all electronics and controls)

Tin plated copper wiring is recommended for all customer field wiring installations

Machines made from 316 grade stainless steel are available at an additional price for extremely harsh operating environments upon request.

HUBER Technology, Inc.

1009 Airlie Parkway, Denver, NC 28037

(704) 949-1010 - Fax (704) 949-1020 - huber@hhusa.net - www.huber-technology.com

A member of the HUBER Group

5. PRICES.

Prices are in U.S. Dollars unless noted otherwise. Until acceptance of a purchase order is acknowledged in writing by HUBER, all prices are subject to change. Written quotations expire thirty (30) calendar days from the date of quotation unless specified otherwise. After expiration of validity HUBER reserves the right to adjust pricing to take into account any significant increases in material costs such as steel, stainless steel finished products, stainless steel coil, etc. The determination to increase pricing to do increased material costs is within HUBER's sole discretion. Due to the current volatility of raw materials and shipping HUBER cannot guarantee to hold prices beyond the validity date. HUBER therefore reserves the right to adjust our pricing based on applicable price indexes at time of order. Verbal quotations are non-binding on HUBER. Quoted prices do not include sales, excise, municipal, state or any other government taxes. All taxes and other governmental charges upon the production, manufacture, distribution, sale or use of goods or services to the extent required or not forbidden by law to be collected by HUBER from Purchaser, shall be paid by Purchaser to HUBER unless Purchaser furnishes HUBER with exemption certificates acceptable to the relevant taxing authorities. Price does not include installation or building modifications. Typographical and/or clerical errors made by HUBER are subject to correction.

If Purchaser causes or requests delays in manufacture or shipment beyond six (6) months from acceptance of Purchase Order, HUBER shall have the right to increase price based on any actual escalation in labor, material, overhead, and component costs. HUBER also reserves the right to charge Purchaser for any direct costs, reasonable storage costs caused by such delays and a finance charge of 1.5% of the Contract value per month.

6. TERMS OF PAYMENT.

Invoices are net thirty (30) days from the date of invoice, unless specified otherwise and approved in writing by HUBER. In the event that the purchase order between Purchaser and HUBER requires partial payments to be made by Purchaser, Purchaser shall pay those required amounts in a timely manner or HUBER will be permitted to suspend, without penalty or liability of any kind, delivery of future goods and services to the Purchaser and terminate any agreement between the parties, even though partial payment for such undelivered goods or services may have already been received by HUBER. At any time prior to or after the commencement of delivery or work pursuant to the Agreement, HUBER may request that Purchaser provide reasonable documentation demonstrating that Purchaser has the ability to perform all payment obligations specified herein.

Progress payments are as follows:

Projects under \$1M

- 10% upon delivery of submittals (net 30 days)
- 85% upon delivery of equipment (net 30 days)
- 5 % upon startup of equipment (net 30 days)
- No retainage will be withheld on this Project

Projects from \$1M to \$3M

- 15% upon delivery of submittals (net 30 days)
- 80% upon delivery of equipment (net 30 days)
- 5 % upon startup of equipment (net 30 days)

Projects over \$3M

- 20% upon delivery of submittals (net 30 days)
- 75% upon delivery of equipment (net 30 days)
- 5 % upon startup of equipment (net 30 days)

Past due accounts will bear interest at the rate of 1.5% per month of the invoiced amount. All invoices are payable in U.S. dollars, unless specified otherwise and approved by HUBER in writing. Acceptance of bank drafts, checks or other form of payment shall be subject to immediate collection of the full face amount thereof. HUBER may, at its discretion, impose a transaction fee on payments processed via wire transfer or by Letter of Credit.

HUBER reserves the right at any time to suspend credit or to change credit terms provided herein when in its sole opinion the financial condition of Purchaser so warrants. In such case, in addition to any other remedies provided herein or by law, HUBER may request cash payment or satisfactory security from Purchaser prior to shipment of goods.

In the event of nonpayment of an invoice when due, and without prejudice to other lawful remedies, HUBER shall have the right, without penalty or liability of any kind, to suspend further work or the delivery of future goods under this Agreement and terminate this Agreement or any other agreement with Purchaser until such invoice is paid in full; provided, however, that if such invoice remains unpaid for more than five (5) days after written demand by HUBER, HUBER may terminate this Agreement without penalty and recover all damages as a result of Purchaser's Breach.

7. RETAINAGE.

There shall be no retainage under this Agreement.

8. TAXES AND OTHER CHARGES.

The prices for Goods and/or Services do not include any sales, use or other taxes or charges payable to state or local authorities. In addition to HUBER's invoice price or quote price, Purchaser is also responsible for payment of any use-tax, sales tax, excise tax, VAT tax, duty, custom, inspection or testing fee, and/or any other fee, tax, or charge imposed by governmental or non-governmental authority arising from the Goods and/or Services provided by HUBER. Purchaser is responsible for and bears the risk of establishment of a valid exemption from any fee, tax, or charge. In the event HUBER is required to pay any of the fees, taxes, or charges listed in this paragraph, Purchaser herewith agrees to immediately reimburse HUBER for this cost, or in lieu of such payment by HUBER, Purchaser agrees to timely provide an exemption certificate or other comparable document to the entity or authority imposing said fee, tax and/or charge. Purchaser further agrees to waive any and all claims regarding the reasonableness of such payment and will be liable to HUBER for reasonable attorneys' fees and/or court costs incurred by HUBER as a result of Purchaser's failure to pay the charges listed in this paragraph.

Purchase Orders

All Purchase Orders are to be faxed or mailed to:

HUBER Technology, Inc.
1009 Airlie Parkway
Denver, NC 28037
Phone: (704) 949-1010
Fax: (704) 949-1020

All Purchase Orders are subject to acceptance by HUBER and acceptance of HUBER's Standard Terms and Conditions.

9. Submittals

HUBER will provide documentation to the Purchaser per the following schedule:

- An electronic copy of the Submittals will be provided via HUBER Share 4-6 weeks after acceptance of a written purchase order.
- Operation & Maintenance (O&M) manuals will be provided electronically via HUBER Share prior to equipment startup.
- Printed hard copies of the submittals and/or O&M manuals are available at an additional cost.

CHANGES TO DELIVERY DATE MAY RESULT IF THESE ITEMS ARE NOT ADDRESSED (If applicable).

- All necessary information including, but not limited to, up-to-date layouts, technical specifications, prints and pertinent specifications. These must be in AutoCAD DWG, DXF, IGES or STEP format and be supplied within 1 Week (5 business days) of P.O. receipt, or equipment prices and delivery may be impacted. A more specific date will be set upon the Seller's acknowledgment of the Buyer's order, and is subject to Seller's timely receipt of all conformed drawings, specification, and other information necessary for the design, manufacture, and factory witness test of the machine or product, if applicable. Seller shall not be liable to the buyer for any loss or damage direct or consequential due to any delay in delivery.
- Submittals: Submittals to be provided within 6 weeks of the executed PO and receipt of all required technical information. After receipt of the approval submittal(s), they must be approved as is, or changes noted, and signed by the buyer. The buyer must return the signed approval submittal(s) to HUBER Technology within 4 weeks (20 business days) of receipt. HUBER Technology will exercise its knowledge and experience by performing an internal design review, bypassing a customer review process. This requirement may be required if the delivery date is to be achieved. Any changes in the process after purchase order is issued may result in a later delivery date, change order, or an addendum to the proposal. All changes must appear in writing using HUBER Technology C.O. (Change Order) form and signed by a representative of both HUBER Technology and the buyer before any changes can be made.
- Timing:
- Project schedule is based upon the following: HUBER Submission of Approval Submittals to be within 6 weeks of executed PO and Customer approval or changes noted on Approval Submittal within 4 weeks (20 business days) of Submittal receipt.
- In cases where changes or comments are noted, HUBER to supply resubmittal within 4 weeks (20 business days) of receipt of comments. Customer approval or changes noted on Approval Submittal within 2 weeks (10 business days) of Submittal receipt.
- Any delays in the above approvals can impact overall project timing. HUBER Technology reserves the right to adjust project schedule based on customer delays to these milestones. Please note, each day late can result in up to a 2 day delay to project delivery. [Example: Submittal comments received 9 weeks after receipt (5 weeks (25 work days) past the due date) can result in up to a 10 week (50 work day) shift to the delivery schedule.]
- Delays in customer milestones exceeding 6 weeks are subject to re-quote. NOTE: Changes or comments not captured in the scope may require a change order and can impact project schedule and cost.
- Any delay in the above-referenced process that is not solely due to the Seller's omissions and errors shall not be a basis for delay damages. Seller expressly reserves the right to increase costs and charge for costs relating to any delays not solely attributable for the Seller in the submittal process.

10. Project Management

HUBER will assigned a Project Manager for the duration of the contract. Project Management services are included in this package and are as follows:

- Main point of contact for communication, for submittals, and shall make adjustments at their discretion.
- Provision of a complete critical path project schedule for HUBER equipment
- Coordination with HUBER manufacturing on materials procurement and fabrication to and with HUBER shipping/logistics to ensure HUBER commitments are maintained.
- No contractual warranty or indemnity relating to any service performed by Project Manager is extended to HUBER, nor are any Project Managers authorized to bind HUBER with any oral representations or statements in conflict with this Agreement.

11. PURCHASER CANCELLATION

If at any time prior to delivery of equipment, the Purchaser terminates this Agreement and/or refuses delivery, HUBER shall be entitled to receive all costs incurred during the design and manufacturing of the equipment, all costs and expenses incurred in disposing of the equipment, all costs resulting from the cancellation of any agreements with relevant suppliers and all anticipated overhead and profit on the equipment outlined in the Agreement.

12. DELIVERY.

HUBER shall not be liable for any damage as a result of any non-delivery or delay, including, without limitation, an act of God; act of Purchaser; act of HUBER embargo; other government act, regulation or request; fire; accident; strike; war; boycott; slowdown; riot; or delay in transportation or inability to obtain necessary labor, materials, or manufacturing facilities. HUBER will use its best efforts to meet promised delivery dates, but under no circumstances shall HUBER be liable for any direct, or indirect, consequential, incidental, liquidated or other damages for delay in delivery.

Purchaser will notify HUBER within thirty (30) days after order acceptance of the scheduled delivery date. If Purchaser does not notify, a delivery date of six (6) months, unless otherwise specified by HUBER, after notice to proceed and/or approval of submittals is agreed. For any delays by Purchaser after commencement of manufacturing, a finance charge of 1.5 % per month of the contract value will be assessed to Purchaser.

HUBER reserves the right to substitute suitable alternative materials and components where necessary.

Where the services are to be performed on Purchaser’s premises, Purchaser agrees to provide HUBER on a timely basis with such access, machine downtime, utilities and equipment as HUBER shall reasonably require in order to perform the services in accordance with the Agreement. If Purchaser fails to perform its obligations or shall fail to perform them in a timely manner, Purchaser acknowledges and agrees that HUBER shall be entitled to delay performance of the services, without penalty or liability of any kind, until such time as Purchaser has complied in all respects with its obligations and to increase the price for the services to reflect any increased cost to Huber caused by Purchaser’s failure to perform or late performance.

If delivery is delayed or deferred by Purchaser beyond the scheduled date, payment shall be due in full when HUBER is prepared to ship the goods or perform the services. The goods may thereafter, at HUBER’s option, be stored at the risk and expense of Purchaser. If HUBER undertakes storage of the equipment, the Purchaser shall pay an additional \$0.70 per sf. ft. of space and an additional weekly value for each week storage continues as outlined below:

Total P.O Value	Value added storage fees
≤ \$50,000	\$175
\$50,001-\$100,000	\$340
\$100,001-\$250,000	\$625
\$250,001-\$500,000	\$1,350
\$500,001-\$1,000,000	\$2,700
>\$1,000,000	Calculated per project

All amounts outlined above for storage shall be billed to the Purchaser at the time it is willing and able to accept delivery of the equipment. The storage fee shall be due upon receipt of the HUBER invoice and is a condition precedent to delivery of the equipment.

HUBER may at certain times provide goods or services to Purchaser prior to the issuance, delivery and acceptance of a corresponding purchase order. In such cases, these Terms and Conditions shall apply to such transactions and Purchaser shall be deemed to have accepted such Terms and Conditions upon HUBER’s delivery of goods or performance of services.

13. GOODS ACCEPTANCE.

It is HUBER's intent to deliver complete orders in good condition to the final destination dictated by the Purchaser. All equipment and components delivered to the receiving location must be duly inspected upon receipt. Any visible damages must be noted on way-bill and followed up with a full inspection within a period of seven (7) days from delivery date. If a written report is not submitted to HUBER within this period it is assumed that the equipment was received in good condition, meets the specifications of the purchase order, constitutes unqualified acceptance by the Purchaser, and Purchaser waives any rights to rejection or remediation of delivered equipment.

14. FIELD SERVICE.

"Field Service" refers to the services of a Huber factory-trained representative at the site of end-use for installation inspection, start-up, observation and operator training. "Field Service" refers also to any subsequent investigations of warranty issues, operational difficulties, Purchaser complaints, or requests for post-warranty service. Purchaser acknowledges that HUBER Field Service representatives shall make all arrangements necessary with labor unions for their presence on the site. No contractual warranty or indemnity relating to Field Service is extended by HUBER, nor are its Field Service representatives authorized to bind HUBER with any oral representations or statements in conflict with or addition to the governing contract terms or any manual or instructions provided by HUBER. This paragraph shall apply to any and all initial and subsequent Field Service provided by HUBER relating to the Goods sold to the Purchaser. Any field service work performed at site after expiration of the initial warranty period is warranted for sixty (60) days after the work has been completed.

An authorized HUBER Service Technician will be scheduled to provide start-up and commission assistance. To meet demand, HUBER may, at its sole discretion, source from an available international network of authorized technicians. HUBER is able to quote additional installation, start-up supervision, and training, which is not specifically included in the scope of supply, at the Purchaser's written request. For such additional services Purchaser shall pay \$1,240 per day plus expenses, for eight (8) hours per day.

- At the request of the Purchaser, overtime service will be provided at a rate of 1.5 times the regular rate for weekdays, and 2.0 times the regular rate for weekends and/or holidays.
- "Expenses" are defined as the costs of travel from HUBER's location to the point of installation and return; together with accommodation and living expenses during the start-up period of field service. HUBER will make all reasonable efforts to provide a HUBER Representative located within North America. However, some circumstances will require travel from Europe.
- Charges for all time involved will be invoiced. The full net invoice is payable within thirty (30) days of receipt by Purchaser.
- In the event of on-site delays which are beyond HUBER's control, including proper installation, training and start-up, additional charges will be invoiced (\$155/hour, plus expenses).
- Please note that once startup services are scheduled, this time is reserved exclusively for that service(s). Cancellation and/or rescheduling prior to the scheduled dates are subject to airline change fee(s) plus the differences in the cost for the new airline ticket(s) and any additional expenses that may occur (including hotel cancellation fees and airline agent fees).

HUBER requires clients to maintain at least one employee or site representative onsite whenever a HUBER representative may be required to work. This includes the commencement of work after normal business operation hours. It is the responsibility of site employee and or site representative to maintain all regulated safety standards and requirements for the project site. If a site representative or site employee is unable to remain on site after hours, HUBER Representatives will stop all work at that time to return when a site representative or employee is available to be on site. Furthermore, if a HUBER Representative encounters an unsafe work environment that HUBER Representative is required to stop all work and report the unsafe items to the site representative and stand by until these items are deemed safe for work to continue. As the schedule for work commencement is set prior to the start of work any travel changes and or additional hours needed to complete the approved scope due to delay or stoppage of work caused by actions or lack of action from the site representative of will require a change order and will be billed accordingly.

15. SHIPMENT/RISK OF LOSS.

Freight is delivered with duty paid (D.D.P.) to Job site. HUBER will use commercially reasonable efforts to meet delivery dates stated in advance of actual shipment of goods or performance of services, but in no event shall such quoted delivery dates be deemed to represent fixed or guaranteed delivery dates. Under no circumstances will HUBER be liable for any direct, or indirect, consequential, incidental, liquidated or other damages for delay in delivery.

HUBER will make commercially reasonable efforts to maintain the following schedule:

- Equipment delivery 22-30 weeks after approved submittals or notice to proceed.
- Operation & Maintenance (O&M) manuals will be provided electronically via HUBER Share prior to equipment startup. Printed hard copies of the O&M manuals are available at an additional cost.
- For any delays in delivery which are beyond HUBER's responsibility, a finance charge of 1.5% of the contract value per month and all direct Costs incurred as a result of the delay will be due and payable to HUBER upon request/invoice. Under no circumstances, shall HUBER be liable for any direct, or indirect, consequential, incidental, liquidated, or other damages for delay in delivery.

Method and route of shipment will be at the discretion of HUBER unless specified otherwise by Purchaser and agreed by HUBER, and any additional expense of the method or route of shipment specified by Purchaser shall be borne by Purchaser. Claims for shortage or other quantity errors must be made in writing to HUBER within seven (7) days after receipt of shipment. Failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Purchaser.

HUBER, in its sole discretion, may accommodate Purchaser requests for delivery of goods in installments if such requests are confirmed in writing by HUBER. Such installment deliveries, when separately invoiced, shall be paid for when due per invoice without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Purchaser of its obligations to accept remaining deliveries.

16. GOVERNMENT STANDARDS.

HUBER applies quality standards in our manufactured equipment that are designed to meet and comply with federal government occupational safety, noise, sanitation and health standards. The Purchaser is solely responsible for compliance of the equipment and its operation with any state or local laws, codes, ordinances, or regulations, unless otherwise specified by HUBER in its proposal.

17. LIMITED WARRANTY.

HUBER warrants that the equipment and components furnished will be free from defects in workmanship and materials and perform the general process function intended, solely under the conditions defined by HUBER for a period of (a) twelve (12) months from completion of installation, start-up or owner acceptance of the equipment assuming the equipment is accepted by the owner within 6 months of delivery or (b) eighteen (18) months from the date of delivery to Purchaser, whichever date comes first. HUBER will replace, modify or repair, at its sole option, any such defective component or equipment at no charge provided that HUBER is notified promptly in writing of any claimed defect. If requested by HUBER, any such defective part or component shall be returned to HUBER, freight prepaid. HUBER will provide on-site Field Service when reasonably assured of payment therefore if this warranty does not apply or when such service is required in its judgments. This warranty does not apply to any defect or malfunction arising out of failure to store, install, operate or maintain the equipment in accordance with instructions by HUBER. Warranty shall be voided for any misuse of equipment; operation under conditions other than those defined by HUBER in its operation and maintenance (O&M) manuals for said equipment, or gross operator negligence. Any unauthorized modification or alteration of the equipment or repair or replacement of components may void this warranty, at the sole option of HUBER. For any billable repairs completed outside of the initial warranty period, a sixty (60) day guarantee on work performed and parts supplied will apply.

HUBER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH REGARD TO THE DESIGN, SALE, MERCHANTABILITY OR FITNESS OF THE GOODS FOR A PARTICULAR PURPOSE OR USE EXCEPT AS EXPRESSLY SET FORTH IN HUBER'S TERMS AND CONDITIONS. HUBER IS NOT SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR WARRANTY, TORT CLAIMS INCLUDING NEGLIGENCE, GROSS NEGLIGENCE AND STRICT LIABILITY, OR ANY OTHER THEORIES OF LAW. HUBER IS UNDER NO EVENT LIABLE FOR ANY SPECIFIC, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS, DAMAGES, EXPENSE, INJURY, DISMEMBERMENT, OR DEATH OF ANY KIND WHATSOEVER.

18. EXCLUSIVE REMEDIES.

Purchaser acknowledges that its sole and exclusive remedies for breach of the Limited Warranty shall be replacement or repair by HUBER of any defective part or component, and payment of the reasonable out of pocket costs incurred in connection with replacement or repair if such costs are approved in advance by HUBER, or refund of 80% of the purchase price if HUBER, in its sole discretion, concludes the equipment cannot be repaired or replaced. This remedy excludes any other direct, indirect, consequential, incidental, special or other form of damages. It also excludes any extraordinary costs for removal or re-installation of HUBER equipment, such as crane rental, structural alteration, or demolition, necessitated by building design or configuration.

19. LIMITATION OF LIABILITY/INDEMNITY.

HUBER's liability on any claim other than Limited Warranty claim as outlined in Paragraph 18, including but not limited to any loss or damage arising out of any transactions under this Agreement or from the performance or breach thereof or connected with any goods or services supplied hereunder, or the sale, resale, operation or use of goods, whether based on agreement, tort (including negligence) or other grounds, shall not exceed 10% of the purchase price of such goods or services or part thereof involved in the claim, regardless of cause or fault. This limitation of liability and remedies reflects a deliberate and bargained-for allocation of risks between HUBER and Purchaser and constitutes the basis of the parties' bargain, without which HUBER would not have agreed to the price or terms of this transaction. **EXCEPT FOR A CLAIM UNDER THE LIMITED WARRANTY DURING THE WARRANTY PERIOD, IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED 10% OF THE PURCHASE PRICE.**

HUBER SHALL NOT IN ANY EVENT BE LIABLE WHETHER AS A RESULT OF BREACH OF AGREEMENT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHER GROUNDS FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF GOODS OR ASSOCIATED PRODUCTS, BUSINESS INTERRUPTION, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES OR SERVICES, DOWNTIME COSTS, OR CLAIMS OF PURCHASERS OF PURCHASER FOR SUCH DAMAGE. In addition, if HUBER furnishes Purchaser with advice or other assistance regarding any goods or services supplied hereunder, or any system or equipment in which any such goods may be installed, and which is not required pursuant to this transaction, the furnishing of the advice or assistance will not subject HUBER to any liability, whether based on agreement, warranty, tort (including negligence) or other grounds.

In the event Purchaser modifies HUBER goods or incorporates HUBER goods into another product or component part, Purchaser agrees to hold harmless and indemnify Huber from any and all claims, liabilities, losses, costs and expenses (including reasonable attorneys' fees) involving personal injury or property damage. Purchaser also agrees to hold harmless and indemnify HUBER from any patent or other intellectual property claims related to (i) any HUBER goods made in accordance with Purchaser's designs or specifications; or (ii) the use of any drawings provided to HUBER by Purchaser for use in the manufacture, production or assembly of such goods.

20. TITLE.

Notwithstanding delivery, installation or start-up, title to all equipment furnished shall remain solely with HUBER until the full purchase price is paid by Purchaser. Until such time, HUBER may enter the premises where such equipment is then located and repossess and remove such equipment by any lawful means as this is the property of HUBER Technology. Purchaser agrees to do all acts deemed necessary or desirable or requested by HUBER to maintain HUBER's rights in, and title to such equipment.

21. WAIVER.

The failure of Huber to insist in any one or more instances, upon the performance of any of the Terms and Conditions as set forth herein or the failure of HUBER to exercise any of its rights hereunder shall not be construed as a waiver or relinquishment of any such terms, conditions or rights and shall not effect HUBER's right to insist on strict performance and compliance with regard to any future performance of these Terms and Conditions.

22. CHOICE OF LAW.

This Contract shall be exclusively governed by the laws of the State of North Carolina, without regard to its conflict of law provisions. HUBER and Purchaser further consent to the exclusive personal jurisdiction of any applicable court, in the county of Lincoln, North Carolina for any legal action or proceeding brought to enforce, construe or interpret these Terms and Conditions. Venue is proper only in the North Carolina Superior Court of Lincoln County. Each party hereto irrevocably submits to the jurisdiction of each court in each such action or proceeding.

23. DISPUTE RESOLUTION/ATTORNEYS' FEES.

Any controversy or claim arising out of or relating to this Contract or its breach shall be settled by arbitration conducted in Denver, North Carolina in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association and North Carolina law and judgment on the award rendered by the arbitrator(s) may be entered in any court of competent jurisdiction. The arbitrator shall award attorneys' fees, costs, witness costs, expert witness fees, arbitrator compensation, arbitrator fees, exhibit fees, travel costs and other amounts deemed reasonable to the prevailing party as defined by North Carolina General Statute §44A et al.

24. ASSIGNMENT, WAIVER, ENTIRE AGREEMENT, SEVERABILITY.

Neither party shall assign or delegate any of its rights or obligations under this Agreement without the prior written consent of the other party, which such consent shall not be unreasonably withheld, except that either party may assign or delegate its rights or obligations hereunder to an Affiliate without the other party's consent. As used herein, the term "Affiliate" shall mean any entity that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with the entity specified. Huber may terminate this Agreement upon written notice to Purchaser without any further liability to Purchaser if there is a change of control of Purchaser. The Agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all prior oral or written representations or agreements by the parties with respect to the subject matter of this Agreement. Neither the Agreement nor any of its provisions may be modified, amended or waived, whether orally, through the parties' course of performance, course of dealing or course of conduct, or manifested in any other way, unless in writing and signed by an authorized officer of Huber. It is the express intention of the parties that such requirement for written modifications, amendments or waivers be strictly enforced notwithstanding judicial precedent or statutory provisions to the contrary. Any provision found invalid or unenforceable will not affect the validity or enforceability of any other provision and the invalid provision may be judicially modified to the extent enforceable.