

**CITY OF MARATHON, FLORIDA
RESOLUTION 2012-69**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CERTAIN PURCHASES IN EXCESS OF \$10,000 AND LESS THAN \$25,000; AUTHORIZING THE CITY MANAGER TO ENTER INTO A PURCHASE ORDER IN THE AMOUNT OF \$16,522.00 WITH THE HACH COMPANY FOR A MAINTENANCE SERVICES AGREEMENT FOR SPECIFIED EQUIPMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PURCHASE ORDER ON BEHALF OF THE CITY AND EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Resolution 2003-134, the City Council of the City of Marathon, Florida (the "City"), adopted Purchasing Policies and Procedures after determining that it was fiscally prudent and in the best interests of the City's residents for the City to adopt policies and procedures for City employees and officials regarding the purchasing and acquisition of contractual services, equipment, goods, professional services and other similar types of services; and

WHEREAS, pursuant to Resolution 2007-156, the City Council amended the Purchasing Policies and Procedures to provide that any purchases over \$10,000 and less than \$25,000 must be placed on a City Council agenda as a consent item for approval prior to execution of the contract or consummation of the purchase; and

WHEREAS, the City Manager has obtained competitive quotes, and authorized staff to prepare purchase orders, for those items set forth on Exhibit "A" attached hereto and now wishes to bring them before the City Council as a consent item.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

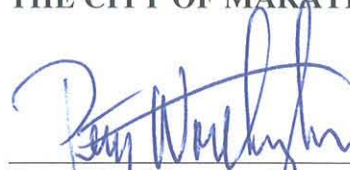
Section 1. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. The City Council hereby authorizes the City Manager to execute any agreements or purchase orders and expend budgeted funds in connection with the purchase of a maintenance services agreement with the Hach Company for specified equipment as identified on Exhibit "A" attached hereto.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10th DAY OF JULY, 2012.

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

AYES: Cinque, Keating, Ramsay Snead, Worthington
NOES: None
ABSENT: None
ABSTAIN: None

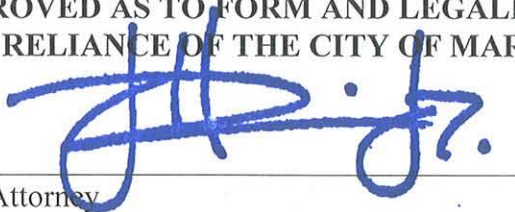
ATTEST:



Diane Clavier, City Clerk

(City Seal)

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:



City Attorney

EXHIBIT "A"



Be Right. Stay Right.™

Hach Company
 PO Box 608
 Loveland, CO 80539-0608
 Phone: (800) 227-4224 ext 6484
 Fax: (970) 619-5787
 Email: rohara@hach.com
 Web: www.hach.com

Quote For:

City of Marathon
 Att: Zully Hemeyer
 4095 Overseas Hwy
 Marathon, FL 33050
 305-296-2454

hemeyerz@cityofmarathon.fl.us

QUOTE INFORMATION:

Quoted By: Bob O'Hara
 Quote Number: 0HY011200003 Combined
 Quote Date: 06/24/2012
 Quote Valid Until: 08/24/2012

Comments:

Instruments must be functioning properly to be placed on an "FSP" OR "BSP" partnership.
 Any instruments that are out of warranty will be evaluated to be certain they are in satisfactory working condition prior to being placed on a partnership.
 Any repairs needed to bring an instrument up to proper working condition will be a billable repair.

AREA 3 WWTP: 4095 Overseas Hwy, Marathon, FL 33050						
PART NUMBER	SERIAL NUMBER	ITEM DESCRIPTION	# OF UNITS	UNIT PRICE	ANNUAL PRICE	6 Month Price
FSPSC1000	1323246 / 1322122 /	Fld Svc-1V. SC1000 Display / Module	2	\$210	\$420	\$420
PMP-GLPHORP-1V	1112430275 1112430274 10014300572	Prev Maint - 1 visit. GLI pH ORP Probes.	3	\$197	\$591	\$591
PMP-LDO-1V	1002410039 1002410048	Prev Maint - 1 visit. LDO Probes.	3	\$345	\$1,035	\$1,035
PMP-MISC-1V		Conductivity / Salinity Probe	1	\$197	\$197	\$197
FSPSC200	1107C0015450	Fld Svc-1V SC200 Controller	1	\$199	\$199	\$199
FSP1720E	110720041035	Field Service - 4 visits. Turb Sensor.	1	\$637	\$637	\$319
FSPCL17	110700406106	Field Service - 2 visit. CL17 (Current)	1	\$1,012	\$1,012	\$506
BSPDR800		Bench Service - DR800 Series	1	\$127	\$127	\$127
		SUB TOTAL (WITHOUT DISCOUNT):			\$4,218	\$3,394
SERV PLUS V CREDIT		Field Service - Quantity Discount			(\$900)	(\$450)
		TOTALS:	13		\$3,318	\$2,944

AREA 4 WWTP: 140 Sombrero Beach Rd, Marathon, FL 33050 (Behind McDonalds)						
PART NUMBER	SERIAL NUMBER	ITEM DESCRIPTION	# OF UNITS	UNIT PRICE	ANNUAL PRICE	6 Month Price
FSPSC1000	1279390 / 19423 1268828 / 39031 1323293 /	Fld Svc-1V. SC1000 Display / Module	3	\$210	\$630	\$630
PMP-GLPHORP-1V	0906431006 0912431220 1104431229	Prev Maint - 1 visit. GLI pH ORP Probes.	3	\$197	\$591	\$591
PMP-LDO-1V	0807410779 1001410765 807410604	Prev Maint - 1 visit. LDO Probes.	3	\$345	\$1,035	\$1,035
PMP-MISC-1V	1201460167	Conductivity / Salinity Probe	1	\$197	\$197	\$197
FSPSC100	0807570134	Fld Svc-1V SC100 Controller	1	\$172	\$172	\$172
FSP1720E	080600075348	Field Service - 4 visits. Turb Sensor.	1	\$637	\$637	\$319
FSPCL17	080700023136	Field Service - 2 visit. CL17 (Current)	1	\$1,012	\$1,012	\$506
BSPDR800	080990C70783	Bench Service - DR800 Series	1	\$127	\$127	\$127
		SUB TOTAL (WITHOUT DISCOUNT):			\$4,401	\$3,577
SERV PLUS V CREDIT		Field Service - Quantity Discount			(\$975)	(\$488)
		TOTALS:	14		\$3,426	\$3,089

AREA 5 WWTP: 10685 Overseas Hwy, Marathon, FL 33050						
PART NUMBER	SERIAL NUMBER	ITEM DESCRIPTION	# OF UNITS	UNIT PRICE	ANNUAL PRICE	6 Month Price
FSPSC1000		Fld Svc-1V. SC1000 Display / Module	2	\$210	\$420	\$420
PMP-GLPHORP-1V	1103431021 113430977	Prev Maint - 1 visit. GLI pH ORP Probes.	3	\$197	\$591	\$591
PMP-LDO-1V	1104410107 1001410579	Prev Maint - 1 visit. LDO Probes.	3	\$345	\$1,035	\$1,035
PMP-MISC-1V		Conductivity / Salinity Probe	1	\$197	\$197	\$197
FSP1720E	11042038693 11042038696 11042038692	Field Service - 4 visits. Turb Sensor.	3	\$637	\$1,911	\$956
FSPSC200	110459001165 110459001164 110459001163	Fld Svc-1V SC200 Controller	3	\$199	\$597	\$199
FSPCL17		Field Service - 2 visit. CL17 (Current)	1	\$1,012	\$1,012	\$506
BSPDR800		Bench Service - DR800 Series	1	\$127	\$127	\$127
		SUB TOTAL (WITHOUT DISCOUNT):			\$5,890	\$4,031
SERV PLUS V CREDIT		Field Service - Quantity Discount			(\$1,200)	(\$500)
		TOTALS:	17		\$4,690	\$3,431

AREA 6 WWTP: 100 Ave 1., Marathon, FL 33050						
PART NUMBER	SERIAL NUMBER	ITEM DESCRIPTION	# OF UNITS	UNIT PRICE	ANNUAL PRICE	6 Month Price
FSPSC1000	1279378 /	Fld Svc-1V. SC1000 Display / Module	2	\$210	\$420	\$420
PMP-GLPHORP-1V	0906431002 0906431005 1108430011	Prev Maint - 1 visit. GLI pH ORP Probes.	3	\$197	\$591	\$591
PMP-MISC-1V		Conductivity / Salinity Probe	1	\$197	\$197	\$197
PMP-LDO-1V	0812411082 0901411003 0901410046	Prev Maint - 1 visit. LDO Probes.	3	\$345	\$1,035	\$1,035
BSPDR800	080990C70778	Bench Service - DR800 Series	1	\$127	\$127	\$127
		SUB TOTAL (WITHOUT DISCOUNT):			\$2,370	\$2,370
SERV PLUS V CREDIT		Field Service - Quantity Discount			(\$600)	(\$600)
		TOTALS:	10		\$1,770	\$1,770

AREA 7 WWTP: Grassy Key, Overseas Hwy, By Dolphin Center						
PART NUMBER	SERIAL NUMBER	ITEM DESCRIPTION	# OF UNITS	UNIT PRICE	ANNUAL PRICE	6 Month Price
FSPSC1000		Fld Svc-1V. SC1000 Display / Module	2	\$210	\$420	\$420
PMP-GLPHORP-1V		Prev Maint - 1 visit. GLI pH ORP Probes.	3	\$197	\$591	\$591
PMP-LDO-1V		Prev Maint - 1 visit. LDO Probes.	3	\$345	\$1,035	\$1,035
PMP-MISC-1V	1201460167	Conductivity / Salinity Probe	1	\$197	\$197	\$180
FSPSC200	1107C0015318	Fld Svc-1V SC200 Controller	1	\$199	\$199	\$199
FSP1720E	110720041027	Field Service - 4 visits. Turb Sensor.	1	\$637	\$637	\$319
FSPCL17	110700406107	Field Service - 2 visit. CL17 (Current)	1	\$1,012	\$1,012	\$506
BSPDR800		Bench Service - DR800 Series	1	\$127	\$127	\$127
		SUB TOTAL (WITHOUT DISCOUNT):			\$4,218	\$3,377
SERV PLUS V CREDIT		Field Service - Quantity Discount			(\$900)	(\$450)
		TOTALS:	13		\$3,318	\$2,927

*****COMBINED LOCATIONS QUOTE*****			
SITE NAME	TOTAL NUMBER OF INSTRUMENTS, EACH SITE	TOTAL ANNUAL PRICE	TOTAL 6 MONTH PRICE
AREA 3	13	\$4,218	\$3,394
AREA 4	14	\$4,401	\$3,577
AREA 5	17	\$5,890	\$4,031
AREA 6	10	\$2,370	\$2,370
AREA 7	13	\$4,218	\$3,377
	SUB TOTAL (WITHOUT DISCOUNT):	\$21,097	\$16,747
	FIELD SERVICE QUANTITY CREDIT TOTAL:	(\$4,575)	(\$2,588)
GRAND TOTALS:	67	\$16,522	\$14,160

Thank you for the opportunity to provide this quotation. Please do not hesitate to contact us if you have any questions or need additional information regarding this quotation.
 Payment is due in full at time of contract activation
 Please send confirming purchase orders to the address or fax number above

Payment Terms: Subject to credit review
 Delivery ARO: Within 60 days
 FOB: ORIGIN

TERMS & CONDITIONS OF SALE FOR HACH COMPANY PRODUCTS AND SERVICES

This document sets forth the Terms & Conditions of Sale for goods manufactured and/or supplied, and services provided, by Hach Company of Loveland, Colorado ("Hach") and sold to the original purchaser thereof ("Buyer"). Unless otherwise specifically stated herein, the term "Hach" includes only Hach Company and none of its affiliates. Unless otherwise specifically stated in a previously-executed written purchase agreement signed by authorized representatives of Hach and Buyer, these Terms & Conditions of Sale establish the rights, obligations and remedies of Hach and Buyer which apply to this offer and any resulting order or contract for the sale of Hach's goods and/or services ("Products").

1. **APPLICABLE TERMS & CONDITIONS:** These Terms & Conditions of Sale are contained directly and/or by reference in Hach's offer, order acknowledgment, and invoice documents. The first of the following acts constitutes an acceptance of Hach's offer and not a counteroffer and creates a contract of sale ("Contract") in accordance with these Terms & Conditions: (i) Buyer's issuance of a purchase order document against Hach's offer; (ii) acknowledgement of Buyer's order by Hach; or (iii) commencement of any performance by Hach pursuant to Buyer's order. Provisions contained in Buyer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract from the provisions of these Terms & Conditions of Sale are not a part of the Contract.

2. **CANCELLATION:** Buyer may cancel goods orders subject to fair charges for Hach's expenses including handling, inspection, restocking, freight and invoicing charges as applicable, provided that Buyer returns such goods to Hach at Buyer's expense within 30 days of delivery and in the same condition as received. Buyer may cancel service orders on ninety (90) day's prior written notice, and refunds will be prorated based on the duration of the service plan. Inspections and re-instatement fees may apply upon cancellation or expiration of service programs.

3. **DELIVERY:** Delivery will be accomplished FCA Hach's facility located in Ames, Iowa or Loveland, Colorado, United States (Incoterms 2010). For orders having a final destination within the U.S., legal title and risk of loss or damage pass to Buyer upon transfer to the first carrier. For orders having a final destination outside the U.S., legal title and risk of loss or damage pass to Buyer when the Products enter international waters or airspace or cross an international frontier. Hach will use commercially reasonable efforts to deliver the Products ordered herein within the time specified on the face of this Contract or, if no time is specified, within Hach's normal lead-time necessary for Hach to deliver the Products sold hereunder. Upon prior agreement with Buyer and for an additional charge, Hach will deliver the Products on an expedited basis. Standard service delivery hours are 8 am – 5 pm Monday through Friday, excluding holidays.

4. **INSPECTION:** Buyer will promptly inspect and accept any Products delivered pursuant to this Contract after receipt of such Products. In the event the Products do not conform to any applicable specifications, Buyer will promptly notify Hach of such nonconformance in writing. Hach will have a reasonable opportunity to repair or replace the nonconforming product at its option. Buyer will be deemed to have accepted any Products delivered hereunder and to have waived any such nonconformance in the event such a written notification is not received by Hach within thirty (30) days of delivery.

5. **PRICES & ORDER SIZES:** All prices are in U.S. dollars and are based on delivery as stated above. Prices do not include any charges for services such as insurance; brokerage fees; sales, use, inventory or excise taxes; import or export duties; special financing fees; value added taxes; income or royalty taxes imposed outside the U.S.; consular fees; special permits or licenses; or similar charges imposed upon the production, sale, distribution, or delivery of Products hereunder. Buyer will either pay any and all such taxes and charges or provide Hach with acceptable exemption certificates, which obligation survives performance under this Contract. Hach reserves the right to establish minimum order sizes and will advise Buyer accordingly.

6. **PAYMENTS:** All payments must be made in U.S. dollars. For internet orders, the purchase price is due at the time and in the manner set forth at www.hach.com. Invoices for all other orders are due and payable (1) NET 30 DAYS from date of the invoice without regard to delays for inspection or transportation, with payments to be made by check to Hach at the above address or by wire transfer to the account stated on the front of Hach's invoice, or (2) for customers with no established credit, Hach may require cash or credit card payment in advance of delivery. In the event payments are not made or not made in a timely manner, Hach may, in addition to all other remedies provided at law, either: (1) declare Buyer's performance in breach and terminate this Contract for default; (2) withhold future shipments until delinquent payments are made; (3) deliver future shipments on a cash-with-order or cash-in-advance basis even after the delinquency is cured; (4) charge interest on the delinquency at a rate of 1-1/2% per month or the maximum rate permitted by law, if lower, for each month or part thereof of delinquency in payment plus applicable storage charges and/or inventory carrying charges; (5) repossess the Products for which payment has not been made; (6) recover all costs of collection including reasonable attorney's fees; or (7) combine any of the above rights and remedies as is practicable and permitted by law. Buyer is prohibited from setting off any and all monies owed under this from any other sums, whether liquidated or not, that are or may be due

Buyer, which arise out of a different transaction with Hach or any of its affiliates. Should Buyer's financial responsibility become unsatisfactory to Hach in its reasonable discretion, Hach may require cash payment or other security. If Buyer fails to meet these requirements, Hach may treat such failure as reasonable grounds for repudiation of this Contract, in which case reasonable cancellation charges shall be due Hach. Buyer grants Hach a security interest in the Products to secure payment in full, which payment releases the security interest but only if such payments could not be considered an avoidable transfer under the U.S. Bankruptcy Code or other applicable laws. Buyer's insolvency, bankruptcy, assignment for the benefit of creditors, or dissolution or termination of the existence of Buyer, constitutes a default under this Contract and affords Hach all the remedies of a secured party under the U.C.C., as well as the remedies stated above for late payment or non-payment.

7. **LIMITED WARRANTY:** Hach warrants that Products sold hereunder will be free from defects in material and workmanship and will conform to any express written warranty pertaining to the specific goods purchased, which for most Hach instruments is for a period of twelve (12) months from delivery. Hach warrants that services furnished hereunder will be free from defects in workmanship for a period of ninety (90) days from the completion of the services. Parts provided by Hach in the performance of services may be new or refurbished parts functioning equivalent to new parts. Any non-functioning parts that are repaired by Hach shall become the property of Hach. No warranties are extended to consumable items such as, without limitation, reagents, batteries, mercury cells, and light bulbs. All other guarantees, warranties, conditions and representations, either express or implied, whether arising under any statute, law, commercial usage or otherwise, including implied warranties of merchantability and fitness for a particular purpose, are hereby excluded. The sole remedy for Products not meeting this Limited Warranty is replacement, credit or refund of the purchase price. This remedy will not be deemed to have failed of its essential purpose so long as Hach is willing to provide such replacement, credit or refund.

8. **INDEMNIFICATION:** Indemnification applies to a party and to such party's successors-in-interest, assignees, affiliates, directors, officers, and employees ("Indemnified Parties"). Hach is responsible for and will defend, indemnify and hold harmless the Buyer Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to Hach's breach of the Limited Warranty. This indemnification is provided on the condition that the Buyer is likewise responsible for and will defend, indemnify and hold harmless the Hach Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to the negligence or misuse or misapplication of any goods or services by the Buyer or any third party affiliated or in privity with Buyer.

9. **PATENT PROTECTION:** Subject to all limitations of liability provided herein, Hach will, with respect to any Products of Hach's design or manufacture, indemnify Buyer from any and all damages and costs as finally determined by a court of competent jurisdiction in any suit for infringement of any U.S. patent (or European patent for Products that Hach sells to Buyer for end use in a member state of the E.U.) that has issued as of the delivery date, solely by reason of the sale or normal use of any Products sold to Buyer hereunder and from reasonable expenses incurred by Buyer in defense of such suit if Hach does not undertake the defense thereof, provided that Buyer promptly notifies Hach of such suit and offers Hach either (i) full and exclusive control of the defense of such suit when Products of Hach only are involved, or (ii) the right to participate in the defense of such suit when products other than those of Hach are also involved. Hach's warranty as to use patents only applies to infringement arising solely out of the inherent operation of the Products according to their applications as envisioned by Hach's specifications. In case the Products are in such suit held to constitute infringement and the use of the Products is enjoined, Hach will, at its own expense and at its option, either procure for Buyer the right to continue using such Products or replace them with non-infringing products, or modify them so they become non-infringing, or remove the Products and refund the purchase price (prorated for depreciation) and the transportation costs thereof. The foregoing states the entire liability of Hach for patent infringement by the Products. Further, to the same extent as set forth in Hach's above obligation to Buyer, Buyer agrees to defend, indemnify and hold harmless Hach for patent infringement related to (x) any goods manufactured to the Buyer's design, (y) services provided in accordance with the Buyer's instructions, or (z) Hach's Products when used in combination with any other devices, parts or software not provided by Hach hereunder.

10. **TRADEMARKS AND OTHER LABELS:** Buyer agrees not to remove or alter any indicia of manufacturing origin or patent numbers contained on or within the Products, including without limitation the serial numbers or trademarks on nameplates or cast, molded or machined components.

11. **SOFTWARE:** All licenses to Hach's separately-provided software products are subject to the separate software license agreement(s) accompanying the software media. In the absence of such terms and for all other software, Hach grants Buyer only a personal, non-exclusive license to access and use the software provided by Hach with Products purchased hereunder solely as

necessary for Buyer to enjoy the benefit of the Products. A portion of the software may contain or consist of open source software, which Buyer may use under the terms and conditions of the specific license under which the open source software is distributed. Buyer agrees that it will be bound by any and all such license agreements. Title to software remains with the applicable licensor(s).

12. NONDISCLOSURE AND NON-USE OF HACH'S PROPRIETARY INFORMATION: Hach may disclose PROPRIETARY Information during the performance or fulfillment of this Contract. "Proprietary Information" means any information, technical data or know-how in whatever form, including, but not limited to, documented information, machine readable or interpreted information, information contained in physical components, mask works and artwork, which Hach considers proprietary or Proprietary, including but not limited to Hach's service and maintenance manuals. Buyer and its customers, employees and agents will keep confidential all such Proprietary Information and will not transfer or disclose it without Hach's prior written consent, or use it for the manufacture, procurement, servicing or calibration of Products or any similar products, or cause such products to be manufactured, serviced or calibrated by or procured from any other source, or reproduce or otherwise appropriate it without Hach's prior written consent. All Proprietary Information obtained from or through Hach remains property of Hach. No right or license is granted hereby to Buyer or its customers, employees or agents, expressly or by implication, with respect to the Proprietary Information or any patent, patent application or other proprietary right of Hach, except for the limited use licenses implied by law.

13. CHANGES AND ADDITIONAL CHARGES: Hach reserves the right to make changes in design or additions or improvements to any products of the same general class as Products being delivered hereunder without liability or obligation to incorporate such changes, additions or improvements to Products ordered by Buyer unless specifically agreed upon in writing reasonably in advance of such Products' delivery date. Services which must be performed as a result of any of the following conditions are subject to additional charges for labor, travel and parts: (a) equipment alterations not authorized in writing by Hach; (b) damage resulting from improper use or handling, accident, neglect, power surge, or operation in an environment or manner in which the instrument is not designed to operate or is not in accordance with Hach's operating manuals; (c) the use of parts or accessories not provided by Hach; (d) damage resulting from acts of war, terrorism or nature; or (e) services outside standard business hours.

14. SITE ACCESS / PREPARATION / WORKER SAFETY / ENVIRONMENTAL COMPLIANCE: In connection with services provided by Hach, Buyer agrees to permit prompt access to equipment. Buyer assumes full responsibility to back-up or otherwise protect its data against loss, damage or destruction before services are performed. Buyer is the operator and in full control of its premises, including those parts of the premises where Hach employees or contractors are performing service, repair and maintenance activities. Buyer will ensure that all necessary measures are taken for safety and security of working conditions, sites and installations during the performance of services. Buyer is the generator of any wastes, including without limitation hazardous wastes, resulting from such services, repair and maintenance. Buyer is solely responsible to arrange for the disposal of any wastes at its own expense. Buyer will, at its own expense, provide Hach employees and contractors working on Buyer's premises with all information and training required under applicable safety compliance regulations and Buyer's policies. If the instrument to be serviced is in a Confined Space, as that term is defined under OSHA regulations, Buyer is solely responsible to make it available to be serviced in an unconfined space. Hach service technicians will not work in Confined Spaces. In the event that a Buyer requires Hach employees or contractors to attend safety or compliance training programs provided by Buyer, Buyer will pay Hach the standard hourly rate and expense reimbursement for such training attended. The attendance at or completion of such training does not create or expand any warranty or obligation of Hach and does not serve to alter, amend, limit or supersede any part of this Contract.

15. LIMITATIONS ON USE: Buyer will not use any Products for any purpose other than that identified in Hach's catalogs and literature as their intended use. Unless Hach has otherwise advised the Buyer in writing, in no event will Buyer use any Products in drugs, food additives, food or cosmetics, whether for humans or animals. In no event will Buyer use in a manufacturing process or in manufactured products any Products stipulated by Hach as intended for research and development. Any warranty granted by Hach is void if any goods covered by such warranty are used for any purpose not permitted hereunder.

16. EXPORT AND IMPORT LICENSES AND COMPLIANCE WITH LAWS: Unless otherwise specified in this Contract, Buyer is responsible for obtaining any required export or import licenses. Hach represents that all Products delivered hereunder will be produced and supplied in compliance with all applicable laws and regulations. Buyer will comply with all laws and regulations applicable to the installation, use, or export and import of all Products, including applicable export control laws and regulations of the U.S., E.U. and any other country having proper jurisdiction and will obtain all necessary export licenses in connection with any subsequent export, re-export, transfer and use of all Products and technology delivered hereunder. Buyer will not sell, transfer, export or re-export any Hach Products or technology for use in activities which involve the design, development,

production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use Hach Products or technology in any facility which engages in activities relating to such weapons. Buyer will comply with all local, national, and other laws of all jurisdictions globally relating to anti-corruption, bribery, extortion, kickbacks, or similar matters which are applicable to Buyer's business activities in connection with this Contract, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"). Buyer agrees that no payment of money or provision of anything of value will be offered, promised, paid or transferred, directly or indirectly, by any person or entity, to any government official, government employee, or employee of any company owned in part by a government, political party, political party official, or candidate for any government office or political party office to induce such organizations or persons to use their authority or influence to obtain or retain an improper business advantage for Buyer or for Hach, or which otherwise constitute or have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business or any improper advantage, with respect to any of Buyer's activities related to this Contract.

17. FORCE MAJEURE: Hach is excused from delays in delivery and performance of other contractual obligations under this Contract caused by acts or omissions that are beyond the control of Hach, including but not limited to Government embargoes, blockages, seizures or freeze of assets, delays or refusals to grant an export or import license or the suspension or revocation thereof, or any other acts of any Government; fires, floods, severe weather conditions, or any other acts of God; quarantines; labor strikes or lockouts; riots; strife; insurrections; civil disobedience or acts of criminals or terrorists; war; material shortages or delays in deliveries to Hach by third parties. In the event of the existence of any force majeure circumstances, the period of time for delivery, payment terms and payments under any letters of credit will be extended for a period of time equal to the period of delay. If the force majeure circumstances extend for six months, Hach may, at its option, terminate this Contract without penalty and without being deemed in default or in breach thereof.

18. NON ASSIGNMENT AND WAIVER: Buyer will not transfer or assign this Contract or any rights or interests hereunder without Hach's prior written consent. Failure of either party to insist upon strict performance of any provision of this Contract, or to exercise any right or privilege contained herein, or the waiver of any breach of the terms or conditions of this Contract will not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same will continue and remain in force and effect as if no waiver had occurred.

19. LIMITATION OF LIABILITY. None of the Hach Indemnified Parties will be liable to Buyer under any circumstances for any special, treble, incidental or consequential damages, including without limitation, damage to or loss of property other than for the Products purchased hereunder; damages incurred in installation, repair or replacement; lost profits, revenue or opportunity; loss of use; losses resulting from or related to downtime of the products or inaccurate measurements or reporting; the cost of substitute products; or claims of Buyer's customers for such damages, howsoever caused, and whether based on warranty, contract, and/or tort (including negligence, strict liability or otherwise). The total liability of the Hach Indemnified Parties arising out of the performance or nonperformance hereunder or Hach's obligations in connection with the design, manufacture, sale, delivery, and/or use of Products will in no circumstance exceed in the aggregate a sum equal to twice the amount actually paid to Hach for Products delivered hereunder.

20. APPLICABLE LAW AND DISPUTE RESOLUTION: The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of Colorado, without regard to its principles or laws regarding conflicts of laws. Buyer and Hach expressly exclude from this Contract the U.N Convention on Contracts for the International Sale Of Goods, 1980, and any successors thereto. If any provision of this Contract violates any Federal, State or local statutes or regulations of any countries having jurisdiction of this transaction, or is illegal for any reason, said provision shall be self-deleting without affecting the validity of the remaining provisions. Unless otherwise specifically agreed upon in writing between Hach and Buyer, any dispute relating to this Contract which is not resolved by the parties shall be adjudicated in order of preference by a court of competent jurisdiction (i) in the State of Colorado, U.S.A. if Buyer has minimum contacts with Colorado and the U.S., (ii) elsewhere in the U.S. if Buyer has minimum contacts with the U.S. but not Colorado, or (iii) in a neutral location if Buyer does not have minimum contacts with the United States.

21. ENTIRE AGREEMENT & MODIFICATION: These Terms & Conditions of Sale constitute the entire agreement between the parties and supersede any prior agreements or representations, whether oral or written. No change to or modification of these Terms & Conditions shall be binding upon Hach unless in a written instrument specifically referencing that it is amending these Terms & Conditions of Sale and signed by an authorized representative of Hach. Hach rejects any additional or inconsistent Terms & Conditions of Sale offered by Buyer at any time, whether or not such terms or conditions materially alter the Terms & Conditions herein and irrespective of Hach's acceptance of Buyer's order for the described goods and services.