



## REQUEST FOR BOARD ACTION

ITEM NO. 13

**DATE OF MEETING:** May 11, 2015

**REQUESTED BY:** Michael G. Mack, Utilities Director

**SHORT TITLE:** Approval of a Change Order to Sustainable Water Consultants, LLC. for the provision of the WaterHub equipment and construction phase services in concert with RTD Construction (General Contractor) for Phase II of the Pender Commerce Park Wastewater Treatment Facility and Authorization of a Purchase Order in the Amount of \$2,574,375.

**BACKGROUND:** On April 7, 2014, Pender County Commissioners authorized the sole source procurement of Sustainable Water Consultant's "WaterHub" technology and equipment for the Phase II construction of the Pender Commerce Park Wastewater (to be dedicated as the Melinda K. Knoerzer Adaptive Ecosystem Reclamation Facility). A contract agreement was executed between Pender County and Sustainable Water on July 21, 2014 for the design plans and specifications to incorporate their innovative and unique technology and equipment into the final construction documents. The construction documents were then used to solicit bids from General Contractors to construct all the primary infrastructure and components not supplied by Sustainable Water. A contract award was made to RTD Construction, Inc. on March 16, 2015 as the General Contractor.

The attached Contract Amendment between Pender County and Sustainable Water Consultants will be for the provision of all the Sustainable Water technological equipment and materials to include the Greenhouse, MBBR (Moving Bed Biofilm Reactors), SFFR (Submerged Fixed Film Reactors), Circular Clarifiers, Tertiary Disc Filters, and Positive Displacement Blower Clarifiers and the integration of said equipment required for the complete installation of the "WaterHub System".

**SPECIFIC ACTION REQUESTED:** To approve a Change Order for the provision of the WaterHub equipment and construction phase services for Phase II of the Pender Commerce Park Wastewater Treatment Plant construction and authorization of a Purchase Order for the contract amendment to Sustainable Water Consultants, LLC, in the total amount of \$2,574,375.

**AMENDMENT TO OWNER-CONSULTANT AGREEMENT**  
**Amendment No. 1 (One)**

**EFFECTIVE DATE OF OWNER AND CONSULTANT AGREEMENT:** July 16, 2014

**OWNER:** Pender County

**CONSULTANT:** Sustainable Water Consultants, LLC

**PROJECT:** 0.5 MGD Pender Commerce Park WaterHub™ Wastewater Treatment System

**1. Consultant shall perform or furnish the following *Additional Services*:**

Article 1 of the Owner-Consultant Agreement shall be amended to include the following:

**ARTICLE 1 - PERFORMANCE OF THE SUBCONTRACT WORK**

Owner hereby retains Consultant to provide products and services under this Subcontract ("Subcontract Work") generally described as follows:

**A. Construction Phase:**

Provision of equipment as described in the Technical Specifications listed below. Technical specifications listed below are included in Attachment A, which shall be incorporated as part of the scope of work provided in this Amendment.

*Technical Specification No. and Description*

11133 --Glass House Specification  
11001 -- MBBR Specification  
11002 -- SFFR Specification  
11450 -- Positive Displacement Blowers  
11150 -- Circular Clarifier  
11145 -- Tertiary Disk Filter  
11155 -- Hydroponic Plants

**B. Project Management**

Site Meetings  
Monthly Updates

**C. Installation Oversight**

Five (5) Installation, Operation, and Maintenance Manuals

**D. Commissioning**

In concert with Contractor, develop a formal start-up and commissioning plan. Confirm that Contractor has successfully performed and completed all start-up and commissioning activities and the project is substantially complete. A total of 10 man-

days on site for startup supervision, installation services and training will be provided. Not to exceed 4 trips.

**E. Promotional Support**

- Dedicated Website
- Project Specific Collateral
- Presentations
- Brochures
- Posters
- Signage
- Time-lapse photography
- Project Imagery
- Press Releases
- Support Facility Opening Ceremony
- Support Community Engagement
- New Client Interaction

**F. Performance Warranty**

Upon the award of a construction contract to the successful bidder, Sustainable Water shall assume the role of Subcontractor and provide the following Process Performance Warranty:

It is expressly understood and agreed that initial operation will be under conditions of reduced flows and increased pollutant concentrations specified in Industrial User Column in Table 1 below. Further it is understood and assumed that the overall total mass volumes/quantities of these pollutants will not exceed the total mass quantities at full design flow stipulated in the projected Total column of Table 1, and as such, the initial and continued treatment process performance is warranted to meet all requisite effluent quality conditions specified in Table 2 below.

Table 1: Design Influent Wastewater Loading

<b>DESIGN INFLUENT WASTEWATER LOADING</b>			
<b>INFLUENT PARAMETER</b>	<b>Industrial</b>		
	<b>User<sup>1</sup></b>	<b>Domestic</b>	<b>Total</b>
Average Daily Flow (MGD)	0.1	0.4	0.50
Max Day (MGD)	N/A	0.8	1.00
Peak Hourly Flow (MGD)	N/A	1.00	1.25
<b>Organic Loading (BOD5)</b>			
SUMMER (Apr. 1 to Oct. 31)			
(mg/l)	3,155	250	831
(lbs/d)	2,631	834	3,465
Winter (Nov. 1 to Mar. 31)			
(mg/l)	3,155	250	831
(lbs/d)	2,631	834	3,465
<b>Total Suspended Solids</b>			
(mg/l)	1,045	220	385
(lbs/d)	872	734	1,605
<b>TKN</b>			
(mg/l)	363	40	105
(lbs/d)	303	133	436
<b>NH3-N</b>			
(mg/l)	18	25	24
(lbs/d)	15	83	98
<b>Total Phosphorus</b>			
(mg/l)	89	6	23
(lbs/d)	74	20	94

- 1) Waste loads presented in this Table are based on ADF.
- 2) Refer to discharge profile provided by Industry.

Table 2: Effluent Wastewater Requirements

<b>EFFLUENT PARAMETER</b>	<b>Monthly</b>	
	<b>Avg.</b>	<b>Weekly Avg.</b>
Flow (MGD)	0.5	N/A
BOD, 5-day, 20°C (Summer) (mg/L)	5.0	7.5
BOD, 5-day, 20°C (Winter) (mg/L)	10.0	15.0
Total Suspended Solids (mg/L)	10.0	15.0
NH3 as N, (Summer) (mg/L)	1.0	3.0
NH3 as N, (Winter) (mg/L)	2.0	6.0
Fecal Coliforms (Geometric Mean)	200/100mL	400/100mL
Dissolved Oxygen (mg/L)	Not Less Than 6.0	
pH	Between 6.0 and 9.0 s.u.	

## EFFLUENT WARRANTY

Subject to all of the conditions, limitations and exclusions set forth in this Warranty Document, Subcontractor warrants to Owner that the System shall produce an effluent stream meeting the effluent wastewater characteristics in Table 2. In addition to the limitations set forth elsewhere in this Warranty Section, the Effluent Warranty is expressly conditioned on the following:

- (i) The System must be erected, started up, operated and maintained in accordance with Subcontractor's written drawings, written manuals and written instructions;
- (ii) Owner must supply an influent wastewater stream meeting the influent wastewater characteristics set forth in Start-Up Column in Table 3;
- (iii) Owner must provide all utilities and permits as required for normal operation of the System;
- (iv) Owner must maintain adequate and accurate records showing all test data required to be taken under this Warranty Document;
- (v) Sufficient nutrients (a minimum of approximately 5 parts nitrogen and 1 part phosphorus per 100 parts of BOD) shall either be present in the influent, or shall be supplied by others, to meet minimum bacterial growth requirements. Sufficient micronutrients as identified in Table 4, below, shall be present in the influent, or shall be supplied by others, to meet minimum bacterial growth requirements.

Table 3: Testing Parameters

Parameter	Units	Start-Up Load	Full Design Load
Average Daily Flow – as measured over a 30 consecutive day period	MGD	0.10	0.50
Peak Hour Flow – as measured daily over a 30 minute period	MGD	0.15	1.25
Minimum Daily Flow – as measured daily over a 4 consecutive day period	MGD	N/A	0.10
Maximum Total BOD <sub>5</sub> (30-day average), summer	ppm	3155	831
Maximum Total BOD <sub>5</sub> (30-day average), winter	ppm	3155	831
Maximum TSS (30-day average)	ppm	1045	385
Maximum TKN (30-day average)	ppm	363	105

Maximum NH <sub>3</sub> -N (30-day average), summer	ppm	18	24
Maximum NH <sub>3</sub> -N (30-day average), winter	ppm	18	24
Maximum TP (30 day average)	ppm	89	23
pH	s.u.	6-9	6-9
Minimum Acceptable temperature	Deg. C	18	18
Maximum Acceptable temperature	Deg. C	38	38
Minimum Influent Alkalinity	ppm, as CaCO <sub>3</sub>	200	200
Minimum Effluent Alkalinity	ppm, as CaCO <sub>3</sub>	50	50
Minimum MLSS (24 hour average)	ppm	3,000	3,000
Maximum MLSS (24 hour average)	ppm	6,000	6,000
Minimum MLVSS/MLSS	--	60%	60%
Inhibitory Matter and Heavy Metals	Must be less than the threshold limits (or within any ranges specified) as defined on page 227 of WPCF Manual of Practice No. 8, 1977 Edition (See Appendix I). Or as determined by an independent laboratory to contain significant amounts of other inhibitory constituents.		

Table 4: Approximate Micronutrient Requirements for Bacterial Growth

MicroNutrient	Approximate Requirement mg/g biomass COD produced
Potassium	10
Calcium	10
Magnesium	7
Sulfur	6
Sodium	3
Chloride	3
Iron	2
Zinc	0.2
Manganese	0.1
Copper	0.02
Molybdenum	0.004
Cobalt	0.0004

The performance of the system shall be warranted to produce an effluent which meets the Performance Requirements as defined above. The process performance warranty shall be separate and apart from the warranties on equipment, materials and workmanship. Subcontractor shall warrant that the system shall comply with all of the performance requirements set forth herein.

## WARRANTY TESTING AND SATISFACTION

Performance Warranty Testing shall be the means by which the System's ability to meet the Effluent Wastewater Characteristics specified in the Section above is determined. Testing to satisfy the Effluent Warranty shall commence on the date provided for in a mutually executed Certificate to Commence Testing.

All analysis performed shall be in accordance with the latest edition of the Standard Methods for the Examination of Water and Wastewater, and verified by an independent laboratory. All data shall be determined by geometric average. All data shall be based on 24-hour composite sampling. All effluent data will be clarified and filtered effluent. All initial testing costs shall be borne by the Owner.

The Subcontractor's system shall be operated by an experienced wastewater treatment operator strictly in accordance with the Subcontractor's Operations and Maintenance (O&M) Manual supplied for this project, including operating parameters and maintenance for proper operations as identified in the Subcontractor's O&M Manual. Appropriate operating parameters (including but not limited to chemical dosages, wasting and recirculation rates and durations, etc.) will be made by the Owner's operating personnel in collaboration with the Consultant and Engineer.

Subcontractor's obligations under this Warranty Document shall be deemed fully satisfied upon completion of the first consecutive thirty (30) day period after the Test Commencement Date that each of the effluent wastewater characteristics set forth in the section below were satisfied at all required testing intervals during such thirty (30) day period. Owner shall provide Subcontractor with written notice promptly after completion of such thirty (30) day period.

Starting on the Test Commencement Date, if after 30 consecutive days of testing the System is not meeting the Effluent Warranty and the influent wastewater characteristics set forth in this section have not been satisfied at all required testing intervals during such 30 day period or the system has not been operated in accordance with the O&M Manual, then Owner shall notify the Subcontractor in writing of such deficiency and Owner shall take corrective actions to ensure that the influent wastewater characteristics satisfy the requirements specified in the section above. Once the influent wastewater has satisfied each of the characteristics specified in the section above at all required testing intervals for not less than 21 consecutive days, then Owner may resume the Effluent Warranty testing program to again attempt to achieve a consecutive thirty (30) day period that each of the effluent wastewater characteristics set forth in this section are satisfied at all required testing intervals during such thirty (30) day period. Once testing resumes, if after 30 consecutive days of testing the System is still not meeting the Effluent Warranty and the influent wastewater characteristics set forth in the section above have not been satisfied at all required testing intervals during such 30 day period or the system has not been operated in accordance with the O&M Manual, Owner shall notify the Subcontractor in writing of such deficiency and shall again be permitted to take corrective action as set forth above. Owner shall have a total of 3 attempts to bring the influent wastewater within the specifications set forth in the section above or the system operations in accordance with the O&M Manual. Once testing

resumes after the third attempt, the System is still not meeting the Effluent Warranty and the influent wastewater characteristics set forth in the section above have not been satisfied at all required testing intervals during such 30 day period, then Subcontractor's obligations under this Warranty Document shall be deemed fully satisfied and Subcontractor shall have no further obligations or liability of any kind to Owner under this Warranty Document. Owner shall provide Subcontractor with written notice promptly after such event. Process performance will be accepted and Subcontractor and Owner will collaborate in good faith to develop mitigation strategies that will achieve compliance at Owner's expense. If after 360 days Owner fails to provide influent in accordance with the section above and the system operations in accordance with the O&M Manual, Subcontractor's obligations under this Warranty Document shall be deemed fully satisfied and Subcontractor shall have no further obligations or liability of any kind to Owner under this Warranty Document.

Starting on the Test Commencement Date, if after 30 consecutive days of testing the System is not meeting the Effluent Warranty and the influent wastewater characteristics set forth in Table 1, Exhibit have been satisfied at all required testing intervals during such 30 day period and the system operations in accordance with the O&M Manual, then Owner shall notify the Subcontractor in writing specifying the details of such deficiency. Promptly after receiving such written notice, Owner shall make available to Subcontractor all relevant testing and operational data so that Subcontractor can evaluate the performance of the System. Subcontractor may recommend operational changes to the Plant or the System. If Owner implements the operational changes recommended by Subcontractor, then Owner and Subcontractor shall mutually agree on a date to recommence testing to satisfy the Effluent Warranty. Once testing resumes, if after 30 consecutive days of testing the System is still not meeting the Effluent Warranty and the influent wastewater characteristics set forth in the section above still have been satisfied at all required testing intervals during such 30 day period and the system operations in accordance with the O&M Manual, Owner shall notify the Subcontractor in writing of such deficiency.

Owner shall again make available to Subcontractor all relevant testing and operational data so that Subcontractor can evaluate the performance of the System. Subcontractor may again recommend operational changes to the Plant or the System. If Owner implements the operational changes recommended by Subcontractor, then Owner and Subcontractor shall mutually agree on a date to recommence testing to satisfy the Effluent Warranty. Subcontractor shall be permitted a maximum of 3 attempts as set forth above to recommend operational changes to the Plant or System to satisfy the Effluent Warranty.

If Subcontractor recommends operational changes to the Plant or System 3 times and still cannot satisfy the Effluent Warranty, then Subcontractor may, as its sole remedy choose to: a) pay, in the form of damages, a lump sum amount, subject to the limitation on liability set forth in Section III below, in satisfaction of the Effluent Warranty; or b) provide additional equipment and/or make modifications to the System at its sole expense provided that the Owner agrees in writing that he has the space to accommodate the additional equipment and is agreeable that any increased operating expenses required by the additional equipment are for the Owner's account, such approval not to be unreasonably withheld. If any such additions or modifications are made, Owner and Subcontractor shall then mutually agree on a date to recommence testing, at subcontractor's expense, to satisfy the Effluent Warranty. Subcontractor shall be permitted a maximum of 3 attempts, as set forth above, to recommend additional equipment or modifications to the System to satisfy the Effluent Warranty. In the event that Subcontractor pays a lump sum amount, Subcontractor shall have the right to remove, at

its sole cost, equipment, materials, drawings, manuals, licenses and patent rights associated with the damage amount paid.

THE EFFLUENT WARRANTY. NOTWITHSTANDING ANYTHING TO THE CONTRARY ELSEWHERE IN THIS WARRANTY DOCUMENT AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY EXPRESSLY PROVIDED HEREIN, IN NO EVENT SHALL SUBCONTRACTOR BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES. SUBCONTRACTOR'S LIABILITY UNDER THIS WARRANTY DOCUMENT SHALL BE LIMITED TO DIRECT DAMAGES ONLY AND SHALL NOT EXCEED 100% OF THE PRICE PAID TO SUBCONTRACTOR UNDER THE EQUIPMENT CONTRACT THIS LIMITATION ON WARRANTY LIABILITY IS A SUBSET OF THE TOTAL LIMITATION OF LIABILITY SET FORTH IN THE IN THE EQUIPMENT CONTRACT. THEREFORE, SUBCONTRACTOR'S TOTAL CUMULATIVE LIABILITY UNDER THIS WARRANTY DOCUMENT AND THE EQUIPMENT CONTRACT, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR MECHANICAL WARRANTY CLAIMS OR FOR ANY BREACH OR FAILURE TO PERFORM ANY OBLIGATION UNDER THE EQUIPMENT CONTRACT, SHALL NOT EXCEED THE LIABILITY LIMITATION SET FORTH IN THE EQUIPMENT CONTRACT. THE FOREGOING LIMITATIONS APPLY REGARDLESS OF WHETHER THE LIABILITIES OR DAMAGES ARISE OR ARE ALLEGED TO ARISE UNDER CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.

OTHER THAN THE EXPRESS WARRANTIES PROVIDED IN THIS WARRANTY DOCUMENT, AND THE WARRANTIES CONTAINED IN THE EJCDC STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT AND IN EXHIBIT G OF THIS AGREEMENT , SUBCONTRACTOR MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.

## **ARTICLE 2 - PERFORMANCE OF THE SUBCONTRACT WORK**

Article 2 of the Owner-Consultant Agreement shall be amended to include the following:

### **2.02 *Consultant's Obligations***

Consultant shall provide all material and services necessary for the completion of the Subcontract Work. All materials and equipment shall be as specified in the Owner and Consultant Agreement and be of good quality and new, except as otherwise provided in the Owner and Consultant Agreement. Consultant shall provide Contractor with such information and test results to verify the quality of the materials and equipment furnished under the Owner and Consultant Agreement.

### **2.03 *Verification of Existing Conditions***

The dimensions, locations, and limits of the Subcontract Work are shown or indicated in the Owner and Consultant Agreement. Contractor has an obligation to verify actual conditions, including but not limited to dimensions, locations, and limits, prior to Owner ordering equipment and materials and performing the Subcontract Work, and shall be responsible for all costs and expenses resulting from

the failure to verify such information.

#### 2.04 *Supervision*

- A. Consultant shall be solely responsible for scheduling and coordinating the work of sub-Consultant's, suppliers, and other individuals or entities performing or furnishing any of the Subcontract Work under a direct or indirect contract with Consultant.
- B. Consultant shall inspect, and direct the Subcontract Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Subcontract Work in accordance with the Owner and Consultant Agreement.

#### 2.05 *Coordination between Consultant and Contractor*

Consultant shall collaborate with Contractor and coordinate its Subcontract Work and schedule with other subcontractors on the Project.

#### 2.06 *Prosecution of the Subcontract Work*

##### A. *Safety and Protection:*

- 1. Consultant shall perform the Subcontract Work in a safe manner, taking full responsibility for the prevention of harm or injury to its workforce, and taking all reasonable steps necessary to protect from harm, injury, or damage all persons, property, structures, materials, and equipment at or adjacent to the Consultant's work areas.
- 2. Consultant shall comply with the safety programs of the Owner and Contractor, when Consultant has been made aware of such requirements in writing.
- 3. Consultant shall coordinate the safety of its employees, Consultant's lower-tier subcontractors, and Consultant's suppliers with Contractor's safety representative, and shall comply with all applicable OSHA and other laws and regulations related to safety and protection. Consultant shall ensure that its employees and the on-site employees of Consultant's lower-tier subcontractors and suppliers are properly trained and understand (a) Owner's, Contractor's, and Consultant's safety requirements, and (b) applicable safety laws and regulations. Consultant is responsible for furnishing to Contractor and others as applicable all required material safety data sheets.
- 4. Consultant shall report promptly to Contractor all injuries, accidents, and damage that occurs during the performance of the Subcontract Work, and all failures or near-miss events that could have resulted in serious injury, even if no serious injury actually occurred.

B. *Labor:* Consultant shall comply with applicable labor and jurisdictional requirements to prevent strikes and other work stoppages and slowdowns that would interfere with the Subcontract Work and the work of others. Consultant shall be responsible for delays resulting from Consultant's violation of this provision.

C. *Communications with Owner and Engineer:* Consultant shall communicate with Owner, Owner's engineers, and Owner's other representatives, with the following limited exceptions: (1) in the case

of an emergency, Consultant may communicate directly with any entity or individual in the interests of safety and protection of property. Correction and Warranties

- A. Consultant warrants and guarantees to Contractor that all Subcontract Work will be in accordance with the Owner and Consultant Agreement and will not be defective. Consultant's warranty and guarantee hereunder excludes defects or damage caused by abuse, modification, or improper maintenance or operation by persons other than Consultant and its sub-Consultants, suppliers, or any other individual or entity for whom Consultant is responsible; or normal wear and tear under normal usage.
- B. Consultant's obligation to perform and complete the Subcontract Work in accordance with the Owner and Consultant Agreement shall be absolute and Consultant shall be fully responsible for the Subcontract Work under the Subcontract to the same extent that Contractor is responsible for the Subcontract Work to the Owner under the Prime Contract.
- C. Consultant shall correct the Subcontract Work to the same extent that Contractor is required to correct its work. Consultant shall correct Subcontract Work whether or not installed or completed. If the Subcontract Work has been rejected by the Owner, Consultant shall remove such rejected Subcontract Work from the Project at the direction of Owner, and replace it with Subcontract Work that is not defective. For a period of one year after final completion of the Subcontract Work, or no less than any period required under the Prime Contract relative to the Subcontract Work, and promptly after receipt of written notice, Consultant shall correct all defective Subcontract Work as directed by Contractor. Consultant shall indemnify Contractor, Owner, Owner's engineers and consultants, for all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any such correction or removal (including but not limited to all costs of repair or replacement of work of others). All such correction obligations are in addition to the warranty, guarantee, and contractual duties established above and elsewhere in the Owner and Consultant Agreement.
- D. The obligations under this Paragraph shall survive completion of the Subcontract Work and, when the Prime Contract is complete and ready for final payment by Owner.

**ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES**

**ARTICLE 4 – INVOICES AND PAYMENTS**

Article 3 and Article 4 of the Owner-Consultant Agreement shall be amended to include the following payment schedule and milestones:

<u>Payment Milestone</u>	<u>Equipment Description</u>	<u>Amount</u>
Release to fabricate	<i>Glass House</i>	\$901,031
	<i>MBBR Components</i>	
	<i>SBBR Components</i>	
	<i>Clarifier</i>	
	<i>FlowTex Disc Filter</i>	
Delivery (suitably protected and secured)	<i>Glass House</i>	\$1,415,906
	<i>MBBR Components</i>	
	<i>SBBR Components</i>	
	<i>Clarifier</i>	
	<i>FlowTex Disc Filter</i>	
Substantial completion	<i>Glass House</i>	\$257,438
	<i>MBBR Components</i>	
	<i>SBBR Components</i>	
	<i>Clarifier</i>	
	<i>FlowTex Disc Filter</i>	
Total of payments due Consultant		\$2,574,375

**ARTICLE 5 – EXHIBITS AND SPECIAL PROVISIONS**

Exhibit I shall be added to Article 5 as follows:

“Exhibit I – Equipment Warranties” – Upon execution of this Amendment, Consultant shall be responsible for providing equipment warranties as included in Attachment A of this document. All warranties shall be as outlined in Attachment A, however no individual warranty shall be less than one (1) year from the effective date of Substantial Completion.

**Acceptance and Authorization**

Owner and Consultant hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is \_\_\_\_\_.

**OWNER: Pender County**

**CONSULTANT: Sustainable Water  
Consultants, LLC**

By: Michael G. Mack

By: Jonathan Lanciani

Title: Public Utilities Director

Title: President/CEO

Date  
Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**EXHIBIT I – EQUIPMENT  
WARRANTIES**



## **ROUGH BROTHERS, INC. WARRANTY**

(For Rough Brothers' Institutional Division Designed Projects)

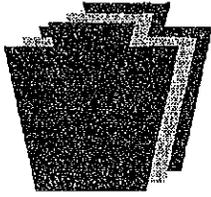
**PROJECT: Pender County Utilities**  
**469 QUALITY WAY**  
**WILMINGTON, NC 28401**  
**Project Number: 00542-0076**

**Supplier: ROUGH BROTHERS, INC.**  
**Address: 5513 VINE ST.**  
**CINCINNATI, OH 45217**  
**Phone No.: 513-242-0310**  
**Fax No.: 513-242-0816**  
**RBI Job No.: 142043**

The undersigned, ROUGH BROTHERS, INC., here by warrants that we have furnished material and installation labor for our scope of work and as per our Contract for the above referenced project. Subject to receipt of full and final payment Rough Brothers warrants materials and workmanship supplied by us for a period of one (1) year, beginning with the date of our substantial completion (xx/xx/15). For projects where Rough Brothers was the hired greenhouse designer of record this warranty also applies to Rough Brothers' material suppliers, vendors and subcontractors. Should any defect in materials or workmanship furnished by Rough Brothers develop within the warranty period, Rough Brothers shall provide replacement material and labor required to correct the defect. Costs for such replacement materials shall be borne by Rough Brothers. All such work shall be done upon written notice from the Contractor and/or Owner and acceptance by Rough Brothers. Any extended or pass-thru equipment or system warranties beyond the one (1) year period described above would be direct and through the respective equipment or system manufacturer. This warranty shall not apply to work or material which have been abused or neglected by the Contractor and/or Owner, for work which has not been properly maintained, to work which has not been performed by Rough Brothers, or to defects or failures in materials or workmanship furnished by Rough Brothers that are caused by failures or defects occurring in work done by others and/or outside of Rough Brothers' control.

\_\_\_\_\_  
Institutional Project Manager

\_\_\_\_\_  
Date



NORTHEAST  
**LAMINATED GLASS**  
CORP.

14 Alberigi Drive • Suite 325  
Jessup Small Business Park  
Jessup, Pennsylvania 18434  
Telephone 570.489.6421  
Fax: 570.489.6412  
Toll Free 1.877.526.4424  
[www.lamiglass.net](http://www.lamiglass.net)

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#### WARRANTIES

Northeast laminated Glass Corporation, warrants all laminated annealed glass against Manufacturing defects resulting in edge separation or obstruction of vision through the Glass for a period of (5) five years. And all Fully Tempered laminated Glass for 1 year.

Northeast laminated Glass Corporation, laminated glass failing to meet warranty will be replaced without charge F.O.B. the shipping point nearest the installation. The warranty shall not apply to the replacement of glass beyond the five (5) year period of the original life or to glass used outside the Continental United States.

It shall be void if the glass is damaged in handling or if the method of materials used in glazing do not comply with published glazing instructions. Northeast laminated Glass Corporation reserves the right to inspect in the field any glass which is allegedly defective.

No distributor or Northeast laminated Glass Corporation representative has the authority to alter or change this warranty either orally or in writing.

# LOCK DRIVE MOTORS

## General terms of supply + payment

Contrary to Clause 7.5 of the following General terms of supply and payment, we provide 36 months of warranty cover for "EWA" products and 24 months for "RMA 20" products.

### 1 General

- 1.1 Our goods and services are supplied exclusively on the terms and conditions set out below. No general terms used by the customer shall be binding on us even if we have not expressly rejected them.
- 1.2 For the execution and processing of business relations, we process and save the related details to the extent necessary. The data are not used for other purposes.

### 2 Offer and supply

- 2.1 Our offers shall be free and non-binding. We shall not be deemed to have accepted the order until we have done so in writing and text form is satisfactory for compliance with the written form as defined in § 126b BGB. Our written confirmation of order shall be solely binding as to the quantity and quality of the goods and services to be supplied. No ancillary agreements or changes shall be valid unless we confirm them in writing.
- 2.2 We shall retain title to and copyright over illustrations, drawings, cost estimates, other documents, data, and samples, and these shall not be duplicated or made available to third parties unless we have given our written consent.
- 2.3 Examples of applications and calculations shall be non-binding and in particular do not represent any assured properties. We reserve the right to make changes regarding the execution. The customer shall bear any costs incurred through incomplete or incorrect technical data he provides. We reserve the right to make design modifications.

### 3 Prices, payment, delivery

- 3.1 Unless anything specific has been agreed to the contrary, our prices shall be defined as ex-works and shall include loading onto a vehicle in the works without packaging.
- 3.2 Value Added Tax shall be added to all our prices at the rate in force on the date of invoice.
- 3.3 The invoice amount shall be due for payment immediately. We grant 2 percent prompt-payment discount for payment within 10 days of the invoice date. We reserve the right to require payment of one consignment before the next is delivered or alternatively payment in advance. The customer shall be deemed to be in arrears of payment 30 days after receipt of invoice whether or not we have issued a payment reminder.
- 3.4 The customer shall not apply offset or any right of retention over our claim for payment unless his counterclaim is undisputed or has been established by a court of law, or is in a suitable form for making a decision.

### 4 Delivery Period

- 4.1 The delivery period shall start on the date on which the order confirmation is sent off but only on condition that the customer has provided all relevant documentation, licenses, and/or approvals. The delivery date shall be deemed to have been met if by that date we have informed the customer that the goods are ready for dispatch or they have actually left our works.
- 4.2 The delivery period shall be prolonged appropriately by any activities relating to labor disputes, meaning in particular strikes and lock-outs, or if any unforeseen hindrances occur that are outside our control and can be demonstrated to affect the production and/or delivery of the goods. This shall also apply if any such circumstances affect any of our suppliers. We shall likewise not be held responsible if they occur when we are already in arrears of delivery. We shall inform the customer immediately of any such hindrances if the need arises.
- 4.3 If the customer should suffer any loss on account of a delay for which we can be blamed he shall be entitled, to the exclusion of any other claims, to require compensation for the delay for each full week thereof amounting to 0.5 percent of the value of those of our goods and/or service that cannot be used on time or in compliance with the contract as a result of the delay, subject always to a maximum of 5 percent. The foregoing shall not apply if it can be demonstrated that we have acted with intent or in gross negligence, have violated a major contractual obligation, or mandatorily bear liability because harm has been caused to a person's life or limb or to their health. The foregoing shall not be construed as creating a reversal of the onus of proof. We as the supplier shall still be free to

demonstrate that the customer has suffered no loss or only one that is far less than the percentage amount.

- 4.4 Adherence to delivery dates shall be conditional upon the customer meeting his contractual obligations punctually.
- 4.5 If the customer sets us an appropriate extension period when we are already in arrears of delivery, he shall be under an obligation to state at our request and within a reasonable length of time whether, assuming the conditions are met, he will require later fulfillment of the contract, or cancel the contract and/or require compensation in lieu of fulfillment. However, the customer shall only be entitled to claims for compensation if we can be accused of having acted with intent or in gross negligence, have violated a major contractual obligation or have violated it culpably, or mandatorily bear liability because harm has been caused to a person's life or limb or to their health. In the event of a culpable violation of a major contractual obligation our liability shall be limited to compensation for loss or damage that is typical of such contracts and could reasonably have been foreseen.
- 4.6 If dispatch is postponed at the customer's request we shall charge him with storage costs starting one month after we have informed him that the goods are ready for dispatch. If they are stored in our works this shall be 0.5 percent of the invoice amount for each full month. If we set the customer a reasonable period of time in which to collect the goods, once it expires we shall be free to make other use of the goods and to supply the customer after a suitably extended delivery period. The contracting parties shall be free to demonstrate and/or claim any higher or lower storage costs.
- 4.7 If the customer falls into arrears with acceptance of the ordered goods, we are entitled to withdraw from the contract after an appropriate period of time has elapsed, and to demand compensation amounting to 15% of the order value. We reserve the right to press for higher levels of compensation. The customer retains the right to provide evidence in support of mitigated damages.

## 5 Transfer of risk

- 5.1 Risk shall be transferred to the customer no later than with the dispatch of the parts even if they are to be delivered as part-consignments or we have taken on responsibility for any other services such as dispatch costs and/or transportation and/or setting up on site. We will insure the goods at the customer's expense if he so requests.
- 5.2 If dispatch is delayed for reasons for which the customer is responsible, risk shall be transferred at the point in time when he is informed that the goods are ready for dispatch. We shall then be under an obligation to arrange for the insurance cover that he requests, at his expense.
- 5.3 Part-consignments shall be permissible.

## 6 Retention of title

- 6.1 The collateral described below shall be granted to us until such time as all accounts receivable by us, including the balances of current accounts, have been paid and all contingent liabilities settled, to which we are now entitled or will be in the future.
- 6.2 The goods supplied shall remain our property until all the customer's accounts payable to us under the whole of the business relationship have been settled.
- 6.3 We hereby grant the customer the right, which we can revoke at any time, to resell the goods we supply in the normal and proper course of his business unless he has already assigned his receivable accounts elsewhere to which he is entitled from the resale or cannot assign them to us for some other reason; the authorization to resell shall become null and void if the customer ceases to make payments.
- 6.4 The customer shall be deemed to have assigned to us here and now as collateral the receivable accounts to which he is entitled from the resale, renting, or any other commercially similar action affecting the retained goods. The foregoing shall apply regardless of whether or not the retained goods have been combined with any other objects.
- 6.5 The customer shall be authorized until further notice to collect the receivable accounts that he has assigned to us but shall pass the amounts collected on to us immediately if our receivable account is due for settlement. The right to collect accounts shall expire, even if we have not expressly revoked it, if the customer fails to meet his obligations towards us or suffers deterioration of assets, meaning in particular if he ceases to make payments or if an application is made for proceedings over his assets for the compounding of debt or for insolvency. If we so request, the customer shall provide us with the information on the assigned accounts that is necessary for collecting them and to hand over the relevant documentation, and also to inform his debtors of the assignment.
- 6.6 The customer shall neither pledge the goods supplied nor offer them as collateral. He shall inform us without delay in the event of their being attached or confiscated or any other order being made against them, and shall bear

the costs of any intervention.

- 6.7 So long as retention of title is in effect any treatment or processing of the goods supplied shall be deemed to have been carried out on our behalf but without any obligation being placed on us and without any loss of our title.
- 6.8 In the event of the retained goods being processed, combined, mixed, or mingled with goods not belonging to the customer, we shall acquire co-ownership rights over the new object in the same proportion as the ratio of the invoice value of the retained goods to that of the other goods at the point in time of the processing, combination, mixing, or mingling.
- 6.9 If the customer acquires sole title to the new object, we hereby agree that the customer grants us co-ownership over it in the same proportion as the invoice value of the retained goods to that of the processed, combined, mixed, or mingled goods.
- 6.10 If the retained goods are resold together with other goods, regardless of whether or not they have been processed, combined, mixed, or mingled, the advance transfer agreed above shall apply but only to the level of the invoice value of the retained goods that are resold together with the other goods.
- 6.11 We shall be under an obligation towards the customer to release the collateral to which we are entitled to the extent that this exceeds the value of our secured receivable accounts by 20 percent.
- 6.12 We shall be entitled to require the surrender of the retained goods if the customer fails to meet his payment obligations despite either a certain length of time on the calendar having expired or after a period of time having been set.

## 7 Physical defects

- 7.1 If a defect has occurred for which we are to blame, we shall be entitled at our discretion either to rework the goods free of charge or to provide a replacement delivery. Any parts replaced shall revert to our ownership. If we are unwilling or unable to rectify the defect, and in particular if rectification is delayed beyond a reasonable length of time and for reasons for which we are to blame, or if at least two attempts at reworking prove ineffective, the customer shall be entitled, without prejudice to any claims for compensation under Clause 8 below, to cancel the contract or require a reduction in the remuneration.
- 7.2 If the customer is able to claim rights in respect of physical defects, he shall be under an obligation to state at our request and within a reasonable length of time whether, assuming the conditions are met, he will require later fulfilment of the contract, or cancel the contract and/or require compensation in lieu of fulfilment.
- 7.3 We shall bear the expense incurred in reworking or replacing faulty goods, meaning in particular transport and travel expenses and the costs of labor and materials unless these expenses are increased by the goods we supplied having later been transferred to some other place than the customer's registered place of business if this is not in accordance with transfer during the course of correct and proper use. We shall be free to refuse to carry out the rectification if this would only be possible at disproportionately heavy expense.
- 7.4 The customer shall be under an obligation to inspect the goods we deliver as soon as they have been received and to inform us without delay and in writing of any perceptible defects.
- 7.5 Claims based on physical defects shall become statute barred once 12 months have elapsed. The foregoing shall not apply if the law imposes longer periods of time under Article 438 paragraph 1 sub-clause 2 of the Code of Civil Law (structures and objects designed for structures), Article 479 paragraph 1 of the Code (claim for restitution), and/or Article 634a paragraph 1 sub-clause 2 of the Code (construction defects), nor in the case of contracts into which the standard VOB/B terms have been incorporated in their entirety. In isolated cases, details of which you can find on our homepage at [www.lockdrives.com](http://www.lockdrives.com), we assure an extension to this warranty liability.
- 7.6 Claims on the grounds of physical defects shall not apply to physical defects caused by any of the following: unsuitable or improper use, incorrect or irregular maintenance, faulty installation and/or commissioning by the customer or any third party, fair wear and tear, defective or negligent handling, unsuitable consumable materials such as lubricants, substitute materials, faulty building work, and/or chemical, electro-chemical, or electrical factors, unless any of these can be blamed on us or if the deviation from the agreed state of the goods is only minor and only has a minor effect on the usefulness of the goods. Rights created by physical defects shall also become null and void if the customer has not followed our instructions with regard to the installation, use, treatment and/or maintenance of our equipment or parts and/or has omitted to have any of the inspections carried out. The operating and maintenance instructions supplied with the machinery shall form an essential component part of these contractual conditions relating to physical defects.
- 7.7 The customer's rights of recourse against us under Article 478 of the Code of Civil Law shall only apply to the extent that the customer has not made any agreements with the final consumer that go beyond the statutory claims for physical defects. Sub-clause 7.3 above shall apply in all relevant respects.

- 7.8 Our liability shall be governed in all other respects by the provisions of Clause 8 below. Any claims over and above the foregoing on the grounds of physical defects shall be ruled out.

## **8 Legal liability**

- 8.1 In the event of our having acted in minor negligence our obligation of compensation shall be limited to the level of cover provided by our third-party liability insurance. The foregoing shall also apply to the personal liability of our staff, employees, freelancers, representatives, and vicarious agents. We are prepared to give the customer insight into our policy on request. This limitation of liability also applies to any case of injury, loss, or damage suffered by anyone or anything other than the goods themselves unless the goods lack any properties that we have expressly assured and the whole purpose of the assurance was to protect the customer against the injury, loss, or damage that has actually occurred, or unless the existence of the defect has been maliciously concealed.
- 8.2 The customer shall likewise have no claim for damages or for reimbursement of expenses over and above the foregoing. This shall not apply to inalienable claims under the Product Liability Act, in cases in which we have acted with intent or in gross negligence, if life and limb or health have been injured, or if an essential contractual obligation has been culpably violated. In the event of the culpable violation of an essential contractual obligation, however, we shall only bear liability to the extent of injury, loss, or damage such as is typical of this type of contract and foreseeable, unless once again we have acted with intent or in gross negligence or if life and limb or health have been injured. The foregoing provisions of this Clause 8 shall not be construed as creating a reversal of the onus of proof to the customer's disadvantage.
- 8.3 If the customer is entitled to claims for damages under the provisions of this Clause 8 they shall become statute-barred at the same point in time as the claims on the grounds of physical defects become statute-barred under the provisions of sub-clause 7.5 above. The extension in isolated cases (see Clause 7.5) does not apply here.

## **9 Place of execution and jurisdiction, choice of law**

- 9.1 The place of execution for all obligations arising out of this contractual relationship shall be our registered place of business.
- 9.2 If the ordering party is a buyer, a legal entity under civil law or a special asset as defined in civil law, then the court for any disputes arising, including reciprocal grievances, shall be located in the same town as our company headquarters. However, we are also entitled to lodge grievances with a court in the town/city where the ordering party's company is based.
- 9.3 The United Nations Convention on contracts for the international sale of goods (CISG) of 11th April 1980 shall have no application.
- 9.4 The application of German law is deemed to have been agreed between us and the customer with the exception of sub-clause 9.3 above.

## **10 Binding effect of contract**

- 10.1 The contract shall retain its binding effect even if individual points in its provisions or individual sub-clauses in the General Terms of Supply and Payment should be legally invalid. The gap created by the deletion of the invalid provision shall be filled in all good faith and within the overall trust of the contract.  
Dated: 10 April 2013

10.04.2013



## **Limited Warranty**

**TGU GMBH & Co. KG** issues the following warranty within the scope of the general conditions of sale for the fabrics listed below:

### **Trevira CS – Shading Screen “Fiberfil-FR”**

Valid for fabrics relating to invoice number: \_\_\_\_\_

The material has a UV resistance of 450 Kly in glasshouses, which results into a timeframe (see attachment) in which the warranty covers the following:

The warranty covers deterioration caused by UV radiation during the stated timeframe starting with the delivery date.

Claims for compensation are not applicable by mechanical wear through improper handling and converting, as well as a treatment of “Fiberfil-FR” with chemicals, diluent and/or other aggressive cleaners.

The above mentioned fabric has to be installed under general installation guidelines of the industry.

The subject of the warranty remains in the replacement of the screen, decreased by 10% for each six months the shading cloth has been in use.

The rejected fabric will be checked by an authorized technician of **TGU GMBH & Co. KG** after the reception of a written claim.

**TGU GMBH & Co. KG** reserves the right that the first delivered screen is sent DAP back to **TGU GMBH & Co. KG** within warranty period.

# Trulite

GLASS & ALUMINUM SOLUTIONS

## **Reinforced Door Limited Lifetime Warranty**

### **WARRANTY COVERAGE:**

Subject to the terms and conditions set forth below, Trulite Glass & Aluminum Solutions, LLC ("Trulite"), warrants that its doors with mortised and reinforced corner construction and assembled with concealed 3/8" (9.5mm) diameter plated steel tension rods and lock nuts (the "Product"), when used in accordance with (i) our technical data sheets and other written instructions, (ii) applicable building codes and regulations, and (iii) prescribed standard industry practices will be free from material defects for natural life of the product (the "Limited Lifetime Warranty Period") from the date of shipment. This Limited Lifetime Warranty shall be conditioned upon and subject to the installer, general contractor, architect of record or owner's (each a "Customer") determination that the Product is suitable for and compatible with the Customer's intended use, and such determination shall be the sole responsibility of the Customer.

### **EXCLUSIONS FROM WARRANTY COVERAGE:**

The following are specifically excluded from coverage under this Limited Lifetime Warranty:

the failure of, damage to, or defects in the Product resulting from or caused by: alterations, modifications, neglect or improper usage; parts and/or hardware not specifically furnished by Trulite; faulty building construction or design; Acts of God including, but not limited to hurricanes, flooding, earthquakes or other types of natural disasters and/or abnormal weather conditions; acts of negligence, or the misuse or abuse of the Product; improper installation; failure to comply with our technical data sheets and other written instructions, applicable building codes and regulations, and standard industry practices; incompatibility with other coatings, sealants, gaskets, lubricants, insulation or any other materials; normal wear and tear due to usage; and scratches or abrasions to the Product. This Limited Lifetime Warranty will be null and void in the event that full payment is not received for goods and services within the agreed upon terms of sale.

### **YOUR LEGAL RIGHTS:**

THERE ARE NO EXPRESS WARRANTIES OTHER THAN THOSE CONTAINED IN THIS LIMITED LIFETIME WARRANTY. TO THE EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE **IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED**. ANY IMPLIED WARRANTIES ARISING BY OPERATION OF LAW ARE LIMITED IN DURATION TO THE TERM OF THIS LIMITED WARRANTY, BUT SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. NO IMPLIED WARRANTY CAN BE MODIFIED BY ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. This Limited Lifetime Warranty gives you specific legal rights and you may also have other rights which vary from state to state. This Limited Lifetime Warranty: (i) is limited to the original purchaser and is nontransferable; (ii) replaces all previous warranties; and (iii) applies only to purchases and installations within the United States on or after Jan 1, 2012.

### **FILING A CLAIM:**

To file a claim under this Limited Lifetime Warranty, you must contact us, in writing, within fifteen (15) calendar days of the discovery of an alleged manufacturing defect in a Product, at Trulite Glass & Aluminum Solutions LLC, Attn: Technical Services Department, 800 Fairway Drive, Suite 200, Deerfield Beach, Florida 33441. Proof of purchase must be submitted with any notice of claim. We have the right to physically inspect an installation site and obtain samples from that job installation and of the Product used in that installation before we determine the validity of your claim. Your claim must be received and evaluated by us before any repair or replacement work is performed; otherwise, this Limited Lifetime Warranty will be null and void. For additional information regarding our warranty policy, please refer to our website at [www.trulite.com](http://www.trulite.com).

### **YOUR EXCLUSIVE REMEDY:**

If a Product is proven defective within the Limited Lifetime Warranty Period, then as your sole remedy, Trulite will replace the defective Product without charge, FOB to the Trulite location nearest to the place of installation or, at Trulite's option, refund the purchase price of the defective Product. Trulite will not be liable for any other expenses involved in the removal of such Product, installation of a replacement Product, or any other incidental or consequential damages, including, without limitation, Attorney's fees. The warranty for any replacement Product shall be limited to the terms and conditions of this Limited Lifetime Warranty and shall continue for a period of time equal to the remainder of the Limited Lifetime Warranty Period provided hereunder.



**LIMITED  
WARRANTY  
AND REMEDY**

The Seller warrants products manufactured by the Seller shall be free from defects in workmanship and materials for a period of two years from the date of shipment, provided products have been installed and maintained in strict accordance with all applicable safety codes, building standards and Seller's installation instructions. This warranty is limited to defects appearing within two years from the date of shipment providing that the Seller receives a written notification defining such defects within that two year period. This warranty is also limited to the repair or replacement of defective material and/or the repayment by the Seller of the original purchase price paid for the defective material. The Seller reserves the exclusive rights to select anyone of the above-mentioned remedies. The Seller makes no other warranties or representations, either expressed or implied, concerning product fitness for a particular purpose. In no event will the Seller be liable for direct, indirect, special or consequential damages including but not limited to loss of profits or use.

**Warranty of Outside Suppliers-** Warranties for items manufactured by others and supplied by the Seller are limited to the original outside manufacturer's warranty only. The Seller will not assume charges for freight or labor for items manufactured by others and supplied by seller.

# Warranty Claims and Return Policy

## Munters Product Warranty

Munters Corporation expressly warrants its products, except as noted below, to be free of defects in material and workmanship for a period of two (2) years from tender of delivery, F.O.B. place of shipment, or one (1) year from date of installation, whichever occurs first. Except for this Express Product Warranty, the purchaser accepts the product(s) as is. No other express warranty is given. All implied warranties are excluded, including the implied warranties of merchantability and fitness for a particular purpose. The seller makes no Express Warranty for Evaporative Cooling Pad Materials, Plastic Air Distribution Tubing, Fuses, Ignition Plugs or belts, nor for those products noted on the invoice by the phrase as is, and the Purchaser accepts these products as is.

In the event that any of the goods sold here-under do not conform to the terms of the above Express Warranty, the Purchaser's remedy shall be limited to either (1) return of the goods and repayment of the price or (2) repair or replacement of nonconforming goods, at Munters Corporation option. These are the exclusive remedies available to the Purchaser.

## System Design Warranty

Munters Corporation expressly warrants its System Design as defined below to be satisfactory to the Purchaser during the first year of operation. A Munters System Design shall be defined as an environmental control system recommended by Munters, as specified by the Ventilation Systems Department blueprint, using the Munters products specified on the blueprint. If the Purchaser is not satisfied with the performance of the System, the Purchaser must notify Munters Corporation in writing of the reasons within the first year of operation. Munters must then be allowed to visit the installation and/or make recommendations to make the Munters System operate to the Purchaser's satisfaction.

In the event that the Munters System does not conform to the terms of the above Express Warranty, the Purchaser's remedy shall be limited to a refund of 10% of the purchase price paid for the Munters products in the System or \$10,000, whichever is less, per System Design. This is the exclusive remedy available to the Purchaser.

Except for this Express System Design Warranty, the Purchaser accepts all other Munters recommendations and advice as is, without warranty.

## Conditions for making a Valid Warranty Claim

All warranty claims must fall within the terms of the above Express Warranties and meet the conditions outlined below or Munters Corporation may consider the claim to be invalid and not provide the remedies specified.

- All warranty claims shall be submitted and processed in compliance with the procedures set forth in Munters Warranty Claims and Return Policy.
- Any legal action for breach of the above Express Warranties must be commenced within one (1) year from the date of the breach.
- Munters Corporation is not bound by representations, warranties, or promises made by others beyond the terms of the above Express Warranties.
- Products and Systems involved in a warranty claim under the above Warranties shall have been properly installed, maintained and operated under competent supervision, according to the instructions provided by Munters Corporation or the original manufacturer.
- Claims for damages resulting from shipping or improper storage or handling prior to installation are not valid claims under this warranty and should be made with the freight carrier or responsible party.
- Claims for reimbursement of cost of repairs or labor by others are not valid claims.
- Claims for consequential damages and/or loss of profit or production are not valid claims.
- All product claims are subject to proof by our inspection of returned defective goods.
- Notification of all warranty claims must be in writing to Munters Corporation.

# Munters

### **Procedures for making an Munters Lifetime or Product Warranty Claim**

- When a product failure occurs that meets the terms of the Product Warranties contact our office to make arrangements for correcting the failure and making a warranty claim.
- If the failure does appear to have occurred within the terms of the Lifetime or Product Warranties, arrangements will be made to ship a replacement product to correct the failure, and a "no charge" invoice will be mailed to record the shipment.
- A Warranty Claim Tag will be sent with each item shipped. Completely fill out each Warranty Claim Tag, attach it to the failed item, and return it using the shipping label provided.
- The Warranty Claim Tag is the notification in writing required as a condition for making a valid claim. Failure to fully complete and return the Warranty Claim Tag along with the failed item within (60) days from the shipping date of the replacement item, will invalidate the warranty claim and the replacement item sent earlier will be invoiced.
- The returned goods and claim tags will be inspected to determine if the warranty claim is valid. A written report of our receipt, findings and disposition will then be mailed. If warranty claim is denied, the replacement item sent earlier will be invoiced.
- Products returned that are found by our inspection to be functional and operational will be returned and Munters may charge inspection and transportation charges.

### **Procedures for making a Munters System Design Warranty Claim**

- If an Munters System Design, as defined in this policy, is not performing in a satisfactory manner during the first year of operation, send written notification of the reasons for lack of satisfaction to Munters Corporation.
- A representative of Munters will contact you to visit the installation and/or make recommendations. Munters will make a written report of the visit and/or recommendations.
- If the Munters System still does not perform in a satisfactory manner after Munters's recommendations have been followed, and all the terms of the Munters System Design Warranty and the conditions for making a valid warranty claim have been met, a written request for the remedy specified shall be made by the Purchaser, including copies of paid invoices for the Munters products installed in the Munters System.
- Munters will provide the remedy in the form of a refund, as specified in the Munters System Design Warranty, or send a written denial of the warranty claim, including the reasons for such denial to the Purchaser. The refund amount may include the value of Munters products or services provided to the Purchaser at no charge in an effort to make the System perform in a satisfactory manner.

### **Conditions and Procedures for Returning New Products for Credit**

- The return of new products for credit must be approved in advance, by requesting and receiving a Return Materials Authorization Form. Only unused, standard products currently offered by Munters Corporation and purchased within one (1) year of the request to return will be considered for return.
- Product accepted for return may be subject to a service charge of 15% of the invoiced price or a minimum of \$15. Any cost incurred to restore product to a saleable condition may be charged to the Purchaser by reduction of the allowed credit. If the return is made necessary through the fault of Munters Corporation, credit will be allowed and the service charges will be waived.
- In order to receive approval to return products meeting the above conditions, contact Munters Corporation and request a Return Material Authorization Form. Identify the products, the reason for the return and the invoice number of the original sale. If the return is authorized, a signed Return Material Authorization Form and special shipping label will be provided. The form will indicate whether the products are to be shipped prepaid or collect and the amount of the service charge. Include the Return Material Authorization Form in the shipping carton and ship the products using the special label provided.
- Return shipments without the special label or previous approval will be refused. Products received following the conditions and procedures above, will be inspected and an appropriate credit issued to your account.

**Munters Corporation**  
4215 Legion Drive Mason MI48854 USA  
Toll-free: 800-227-2376 Local: 517-676-7070 Fax: 517-676-7078  
www.munters.us Email: aghort.info@munters.com

# **Munters**

## **LIMITED WARRANTY**

### **Power Vented Tubular Propeller Unit Heaters**

1. The "Manufacturer" warrants to the original owner at original installation site that the above model Gas-Fired Heater ("the Product") will be free from defects in material or workmanship for (1) year from the date of shipment from the factory, or one and one-half (1-1/2) years from the date of manufacture, whichever occurs first. The Manufacturer further warrants that the complete heat exchanger, flue collector, and burners be free from defects in material or workmanship for a period of ten (10) years from the date of manufacture. If upon examination by the Manufacturer the Product is shown to have a defect in material or workmanship during the warranty period, the manufacturer will repair or replace, at its option, that part of the Product which is shown to be defective.
2. This limited warranty does not apply:
  - a. if the product has been subjected to misuse or neglect, has been accidentally or intentionally damaged, has not been installed, maintained, or operated in accordance with furnished written instructions, or has been altered or modified in any way by any unauthorized person.
  - b. to any expenses, including labor or material, incurred during removal or reinstallation of the Product
  - c. to any damage due to corrosion by chemicals, including halogenated hydrocarbons, precipitated in the air
  - d. to any workmanship of the installer of the Product
3. This limited warranty is conditional upon:
  - a. advising the installing contractor, who in turn notify the distributor or manufacturer
  - b. shipment to the Manufacturer of that part of the Product thought to be defective. Goods can only be returned with prior written approval of the Manufacturer. All returns must be freight prepaid.
  - c. determination in the reasonable opinion of the Manufacturer that there exists a defect in material or workmanship
4. Repair or replacement of any part under this Limited Warranty shall not extend the duration of the warranty with respect to such repaired or replaced part beyond the stated warranty period.
5. **THIS LIMITED WARRANTY IS IN LIEU OF ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, AND ALL SUCH OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED AND EXCLUDED FROM THIS LIMITED WARRANTY. IN NO EVENT SHALL THE MANUFACTURER BE LIABLE IN ANY WAY FOR ANY CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES OF ANY NATURE WHATSOEVER, OR FOR ANY AMOUNTS IN EXCESS OF THE SELLING PRICE OF THE PRODUCT OR ANY PARTS THEREOF FOUND TO BE DEFECTIVE. THIS LIMITED WARRANTY GIVES THE ORIGINAL OWNER OF THE PRODUCT SPECIFIC LEGAL RIGHTS. YOU MAY ALSO HAVE OTHER RIGHTS WHICH MAY VARY BY JURISDICTION.**

*In the interest of product improvement, we reserve the right to make changes without notice.*

# MICRO GROW

GREENHOUSE SYSTEMS INC.

42065 Zevo Drive, Suite B-1, Temecula, CA 92590 USA  
FAX (951) 296-3350 PHONE (951) 296-3340 [www.microgrow.com](http://www.microgrow.com)

## LIMITED WARRANTY

Micro Grow Greenhouse Systems, Inc. warrants that all of the products Micro Grow Greenhouse Systems, Inc. manufactures are free from defects at the time of shipment by Micro Grow Greenhouse Systems, Inc. This warranty covers defects in workmanship and materials. No warranty is extended on any parts, materials, or components manufactured by others and purchased by Micro Grow Greenhouse Systems, Inc., and any warranty on these materials is limited to the warranty supplied by the original manufacturer or supplier of said products only. This warranty excludes any and all damages cause by installation by unqualified individuals, damage by misuse or neglect, shipment damage, alterations to original manufacturing, and improper installation or use for any reason than intended by manufacturer. This warranty may not be altered in any manner except with the written authorization of one the officers or owners of Micro Grow Greenhouse Systems, Inc. The only and sole liability of Micro Grow Greenhouse Systems, Inc. under this warranty is limited to repairing, replacing or the issuance of credit for any products returned to Micro Grow Greenhouse Systems, Inc., during the warranty period of twelve (12) months from date of shipment. This warranty is specifically conditioned upon Micro Grow Greenhouse Systems, Inc. being notified in writing promptly upon discovery of any product defects by the buyer or end user. The product must then be returned prepaid to Micro Grow Greenhouse Systems, Inc. within the twelve month warranty period for inspection by Micro Grow Greenhouse Systems, Inc. Upon inspection of said product, Micro Grow Greenhouse Systems, Inc. will notify buyer or end user of its findings. At Micro Grow Greenhouse Systems, Inc. sole discretion, the product will be replaced, repaired or a credit will be issued for the original sale price of the product, provided that damage has not occurred due to misuse, neglect, improper use or installation as outlined above, shipping damages or accident.

**MICRO GROW GREENHOUSE SYSTEMS, INC. SHALL NOT BE LIABLE FOR ANY DAMAGES BEYOND THE ACTUAL ORIGINAL COST OF THEIR PRODUCT EITHER DIRECTLY OR INDIRECTLY ARISING FROM DEFECTIVE PRODUCTS OR WORKMANSHIP.**

## EQUIPMENT WARRANTY

For the System Installation for  
**Pender Commerce Park WaterHub Wastewater Treatment System, Pender County, NC**

**Entex Technologies Inc.**  
400 Silver Cedar Court, Ste 200  
Chapel Hill, NC 27514 (919)  
933-2770 Phone (919) 287-  
2258 Fax

Entex Technologies Inc. (Entex) warrants to the original purchaser and the end user all equipment manufactured or provided by it as part of the Pender Commerce Park WaterHub System to be free from defects in material and workmanship; and at the election of Entex, Entex will repair or replace, f.o.b. it's factories or other locations designated and as determined by Entex any part or parts returned to it, transportation/freight prepaid, which examination shall show to have failed under normal use and service by the original user within twelve (12) months following Substantial Completion, or eighteen (18) months from date of shipment, whichever occurs first. Such repair or replacement shall be free of charge except for freight. Entex's obligation under this warranty is conditioned upon it receiving prompt written notice within 30 days of claimed defects during the warranty period. Discovery thereof during the warranty period is limited to repair or replacement as aforesaid. No allowance will be made for labor, transportation, or other charges incurred in the replacement of repaired defective parts and/or equipment furnished.

THIS WARRANTY, INCLUDING THE STATED REMEDIES, IS EXPRESSLY MADE BY ENTEX AND IS ACCEPTED BY ORIGINAL PURCHASER IN LIEU OF ALL OTHER WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY. ENTEX NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME IT FOR ANY OTHER LIABILITIES WITH RESPECT TO ITS EQUIPMENT. ENTEX SHALL NOT BE LIABLE FOR NORMAL WEAR AND TEAR OR FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGE DUE TO IN-OPERABILITY OF ITS EQUIPMENT FOR ANY REASON, OR ON ANY CLAIM THAT ITS EQUIPMENT WAS NEGLIGENTLY DESIGNED OR MANUFACTURED.

This warranty shall not apply to equipment or parts thereof which have been altered or repaired outside of Entex's factory or Entex's written recommendations, or damaged by improper installation, storage, application, erosion, or corrosion of any sort, or subjected to misuse, abuse, neglect, or accident. This warranty is null and void if payment is delayed, not made, or if not in accordance with the terms and conditions of Entex's equipment proposal.

Entex Technologies Inc. makes no warranty with respect to parts, accessories, or components supplied by others.



President  
Entex Technologies Inc.  
Chapel Hill, NC  
28 August, 2014