



**New York State
Parks, Recreation and
Historic Preservation**

Invitation for Bid

Title:

Jones Beach Energy & Nature Center - Aquarium Tank Maintenance

Contract Period/Term:

09/01/2022 to 08/31/2027, 5 Years

Number:

C003545

Designated Contact(s) & Bid Submission Address

Rachel Flood

Guenevere Palmatier

ServiceContracts@parks.ny.gov

Office of Parks, Recreation and Historic Preservation
Procurement and Diversity Compliance Unit
625 Broadway, 2nd Floor
Albany, NY 12207

IFB Timeline

Action	Date/Time
IFB Release	4/12/2022
Mandatory Site Visit	5/2/2022 11:00 AM ET
Questions Deadline	5/9/2022 3:00 PM ET
Questions Response	Approximately 05/16/2022
Bids Due	6/1/2022 3:00 PM ET
Tentative Award	Approximately 6/13/2022
Contract Start Date	Approximately 09/01/2022

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Key Points

- **Read this document and associated attachments in their entirety.**

Note key items such as critical dates, services required, qualifying and mandatory requirements, and proposal submission requirements.

- **Bidder proposals must completely address all qualifying and mandatory requirements.**

To ensure your proposal is valid, thoroughly read all proposal requirements and provide complete responses. Ensure all aspects of each requirement are met. Use the forms provided to submit your response.

- **Note the name and email of the designated contacts listed on the front page of this document.**

These are the only individuals that you are permitted to contact regarding this procurement in accordance with Procurement Lobbying Law.

- **All announcements relating to this bid will be disseminated via electronic mail (e-mail).**

It is the Bidder's responsibility to check their e-mail periodically for any updates. All applicable amendment information must be incorporated into the Bidder's proposal. Failure to include any such information in your proposal may result in disqualification.

- **Take advantage of the question-and-answer periods.**

Question and Answer periods are your opportunity to seek clarification. Please utilize this process to understand requirements, as well as raise any questions or concerns with your ability to bid. Submit your questions via e-mail by the dates listed in the timeline on the front page of this document. Responses to the questions will be disseminated to all potential bidders via e-mail. Additional information about Question and Answers can be found in *Section 2.1 Questions/Inquiries*.

- **Review this document and your proposal.**

Make sure all requirements are fully addressed and all copies are identical, legible, and complete.

- **Package your proposal as required.**

Make sure your proposal conforms to the packaging requirements. Proposals not packaged accordingly may be deemed non-responsive. Additional information about packaging and content can be found in *Section 2.8 Submission Requirements*.

- **Submit your proposal on time.**

Except as specified in *Section 3.4 State's Rights to Proposals*, proposals received after the date and time in the IFB Timeline will not be considered for award and may be returned, unopened, to the sender.

1. IFB Requirements

It is the intent of this solicitation to seek a vendor to provide all necessary services and/or commodities. Bidders shall provide proposals which meet mandatory requirements of this IFB.

1.1 Agency

The mission of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) is to provide safe and enjoyable recreational and interpretive opportunities for all New York State residents and visitors and to be responsible stewards of our valuable natural, historic, and cultural resources.

Fundamental to the successful achievement of our mission is the dedication of our employees and the adherence to a common set of values. These guiding principles serve as a pledge to the people we serve and a commitment to ourselves and to each other.

- **A Commitment to People.** We are committed to serving and protecting the public to the best of our ability, with courtesy and respect. We are committed to our employees and volunteers, encouraging teamwork, self-improvement, and mutual support.
- **A Commitment to Preservation.** State parks and historic sites are unique and irreplaceable public assets. We are committed to wise acquisition, planning, and, where appropriate, development; timely and professional care and maintenance; and a responsibility to future generations in whose trust we manage our resources. We are committed to providing encouragement to all agencies and individuals to identify, evaluate, and protect recreational, natural, historic, and cultural resources.

1.2 Overview / Purpose

The Jones Beach Energy and Nature Center (JBENC) is a pioneering facility that explores the interplay between human action, energy use, and environmental conservation. Located on the West End of Long Island's iconic Jones Beach State Park, the Center activates and interprets the coastal landscape in which it is situated. Exhibits, educational programs and events explore how energy is transferred in nature and transformed into power for human use and how energy consumption shapes the natural environment. As climate change reshapes the landscapes of Jones Beach and across the globe, the Center brings energy, nature, and society under the same roof, providing space for education, reflection, and inspiration on some of the most critical issues facing the world today.

JBENC is open year-round, seven (7) days a week, except for Thanksgiving Day and Christmas Day:

Memorial Day to Labor Day	8:00 AM to 6:00 PM
Labor Day to Memorial Day	9:00 AM to 4:30 PM

JBENC has three aquarium exhibits that require maintenance one time every other week (bi-weekly). These include a large touch tank and two additional tanks. The maintenance contract for these tanks would ensure their continued operation and safety for the animals living within.

1.3 Minimum Requirements

OPRHP is seeking bids from experienced companies with the personnel, facilities, and organization to meet the demands of a contract of this scope. Bidders shall comply with the laws of the State of New York and shall possess or obtain any required licenses, permits, or authorizations. To be deemed qualified and responsive, bidders must meet the following minimum requirements:

- Using Attachment 10 - References, provide three (3) satisfactory client references for whom the Bidder has performed services similar to those defined in this IFB in the past five (5) years, including the following:

- Maintenance of large fresh and saltwater aquariums (minimum of 300 gallons total volume)
- Maintenance of healthy water chemistry and livestock, including diagnosis and management of water quality problems
- Maintenance and repair of aquarium plumbing and equipment, including skimmers, return pumps, RO/DI units, chillers, heaters, UV sterilizer
- Use of aquarium monitoring systems such as Apex, Hydros, Profilux

The Bidders' Reference provided on "Attachment 10 – References" will be independently verified by OPRHP and will be scored on a pass/fail basis. References will be contacted by OPRHP and asked a series of questions. Prior to submitting a bid, the Bidder should reach out to their listed references to make them aware that they have been listed as such and should expect to be contacted by OPRHP. If OPRHP is unable to obtain a satisfactory reference for one or more of the references provided above, the Proposal may be deemed non-responsive.

1.4 Mandatory Pre-Proposal Site Visit

A Pre-Proposal Site Visit will be held at:

Jones Beach Energy and Nature Center
150 Bay Parkway
Wantagh, NY 11793

The Site Visit will be held on the date and time indicated in the IFB Timeline. Attendance at the Pre-Proposal Site Visit is MANDATORY. Proposers must notify the designated contact by the date/time indicated in the IFB Timeline to be allowed to attend.

1.5 Service Requirements

JBENC is seeking bids *to perform* maintenance for the *following* three (3) aquariums. The aquariums were installed in August 2021 and have been holding water since September 2021. Although there is no preference by OPRHP on the day of the week *service will be performed*, the agreed upon day must be consistent throughout the term of the contract. If the day falls on a New York State Holiday, maintenance must be performed as close to the agreed upon day as possible.

1.5.1 Touch Tank

Display Tank:

- Dimensions: 11'6" wide x 10'6" long x 24" tall
- Water Type: Saltwater
- Water Depth: 10" (including substrate ground cover)
- Volume: Approximately 390 Gallons at 10" deep

Sump Tank:

- Dimensions: 72" long x 24" wide x 24" tall
- Water Type: Saltwater
- Volume: Approximately 100 gallons

Equipment List:

MRC MR-4 External Protein Skimmer
2 x MRC MP6100 External Return Pump



- Aqualogic DS10 Chiller
- Aqualogic Temperature Controller
- Neptune Apex Controller
- Neptune Apex EB 832 Energy Bar
- Neptune Apex Fluid Monitoring Module
- 2 x Leak Detection Sensors
- Neptune Apex Probes
 - Lab grade double junction pH probe.
 - Lab grade double junction ORP probe
 - Lab grade salinity probe
 - Temperature probe



Tank Contents: (for informational purposes only, the contractor will not be expected to restock)

- Five (5) Atlantic horseshoe crabs
- Mussels
- Clams
- Oysters
- Hermit Crabs
- Snails

1.5.2 Seahorse Tank Overview

Display Tank:

- Dimensions: 24" wide x 32" high x 24" deep
- Water Type: Saltwater
- Water Depth: 30" (including 2" substrate ground cover)
- Volume: 79 Gallons max, 75 Gallons to 30" water depth (suggested)



Sump Tank:

- Dimensions: 40" long x 20" wide x 16" tall
- Water Type: Saltwater
- Volume: Approximately 30 gallons

Equipment List:

- Reef Octo Classic 152-s Protein Skimmer
- Jebao DCP 10000 Return Pump
- Jebao DCP 20000 Return Pump
- Tunze Osmolator Universal 3155 Auto Top Off Unit
- Neptune Apex Controller
- Neptune Apex EB 832 Energy Bar
- Neptune Apex Fluid Monitoring Module
- Neptune Apex Probes
 - Lab grade double junction pH probe
 - Lab grade double junction ORP probe
 - Lab grade salinity probe
 - Temperature probe
- 300-Watt Finnex Heater
- Aqualogic DS3 Chiller
- Aqualogic Temperature Controller
- Aqua UV 25-Watt Sterilizer



Aqua Sun 18" LED Light
 2 x Reef Octo Fan
 Rid Volt grounding probe

Tank Contents: (for informational purposes only, the contractor will not be expected to restock)

- Six (6) Hippocampus Erectus (seahorse)
- Five (5) Snails

1.5.3 Terrapin Tank Overview

Display Tank:

- **Dimensions:** 48" wide, 24" high, 24" deep
- **Water Type:** Brackish
- **Water Depth:** 12" (Including 2" substrate ground cover)
- **Volume:** 119 Gallons max, ~50-60 Gallons at 12" water level (suggested)



Sump Tank:

- **Dimensions:** 40" long x 20" wide x 16" tall
- **Water Type:** Brackish
- **Volume:** Approximately 30 gallons

Equipment List:

Jebao DCP 18000 Return Pump
 Neptune Apex EL Controller
 Neptune Apex EB 832 Energy Bar
 Neptune Apex Fluid Monitoring System
 Neptune Apex Probes
 ○ Lab grade double junction pH probe
 ○ Temperature probe
 Neptune ATK Auto Top Off Unit
 Finnex 300-Watt Heater
 UV Sterilizer
 Reptisun LED-UVB Light



Tank Contents: (for informational purposes only, the contractor will not be expected to restock)

- Eastern Diamondback Terrapin (Threatened species)

1.5.4 Consumables

The following consumables will be provided by JBENC for use by the Contractor to perform maintenance of the aquariums.:

- Salt
- UV sterilizer bulb
- Aquarium food
- Granulated Carbon
- Neptune probe reference solutions
- Refractometer calibration fluid
- UV Sterilizer Bulbs
- RO/DI filter media

All other items needed to perform maintenance of the aquariums must be provided by the contractor.

1.6 Description of Services

1.6.1 Bi-Weekly Services

The following services are to be provided during every scheduled bi-weekly service for each tank:

- ✓ 10 - 20% water change
- ✓ Siphon gravel / sand bed as part of water change. Water pump and gravel vacuum/siphon device are to be provided by the contractor.
- ✓ Remove algae from substrate, glass / acrylic, tank décor
- ✓ Clean inside and outside of glass / acrylic
- ✓ Wipe down tanks and equipment
- ✓ Replace granulated carbon filter media
- ✓ Clean and test optical sensors
- ✓ Clean and test float switches
- ✓ Water parameter check (list of parameters on following page)
- ✓ Empty / clean protein skimmer collection cup and collection container
- ✓ Clean protein skimmer neck
- ✓ Flush protein skimmer injectors
- ✓ Test functionality of MRC MR-4 protein skimmer auto shut off mechanism
- ✓ Replace and restock filter socks
- ✓ Inspect plumbing for leaks and make repairs where necessary
- ✓ Inspect tanks for leaks
- ✓ Test RO/DI system to ensure top off tanks are being filled
- ✓ Flush RO/DI system
- ✓ Inspect TDS of RO/DI output
- ✓ Replace RO/DI media filters if necessary (when TDS meter has reading other than 0)
- ✓ Review Apex Fusion software:
 - to ensure there are no active alarms
 - to ensure heaters / chillers have been working properly by looking at temperature trends in APEX temperature log. If there are any inconsistencies in temperature changes the contractor will alert the JBENC staff that the heaters and/or chillers are not functioning properly and may need to be replaced by OPRHP

1.6.2 Bi-Monthly Services

The following services are to be provided at a minimum of once every 4th visit (once every eight (8) weeks) for each tank:

- ✓ Clean and calibrate Neptune Apex pH probes using Neptune pH 7.0 and Neptune pH 10.0 reference solutions
- ✓ Clean and calibrate Neptune Apex salinity probes using Neptune µS 53,000 reference solution
- ✓ Clean Neptune Apex ORP probes
- ✓ Clean Neptune Apex temperature probes
- ✓ Siphon bottom of sump tanks
- ✓ Clean heaters

1.6.3 Semi-Annual Service

The following services are to be provided at a minimum of once every 13th visit (Once every 26 weeks) for each tank:

- ✓ Turn off, remove from aquarium, and clean internal / external return pumps
- ✓ Turn off, remove from aquarium, and clean internal skimmer pumps
- ✓ Turn off, remove from aquarium, and clean auto top off pumps
- ✓ Test functionality of all plumbing valves

1.6.4 Annual Services

The following services are to be provided at a minimum of once every 26th visit (once per year) for each tank:

- ✓ Replace UV sterilizer bulbs
- ✓ Clean inside of water storage tanks

1.6.5 Emergency Services

It is expected that the contractor would be available for emergency services. The contractor must respond to OPRHP emergency calls within four (4) hours of being contacted, with a maximum of 20 hours per contract year. Emergencies could include such instances as plumbing or equipment failures that pose a threat to the livestock in the tank or the physical integrity of the tank themselves and cannot wait to be fixed at the next scheduled visits. Emergency services may happen during or after normal business hours, including nights, weekends and holidays.

1.6.6 Water Parameters:

The following water parameters are to be measured in each tank during each maintenance visit:

- ✓ Temperature (measured in degrees Fahrenheit (°F))
- ✓ pH
- ✓ Salinity (measured in parts per thousand (ppt) OR specific gravity (sg.))
- ✓ Ammonia (measured in parts per million (ppm))
- ✓ Nitrite (measured in parts per million (ppm))
- ✓ Nitrate (measured in parts per million (ppm))
- ✓ Phosphate (measured in parts per million (ppm))
- ✓ Alkalinity (measured in degrees carbonate hardness (dKH)) does not need to be measured for the terrapin tank.

The Contractor must provide the necessary testing equipment, which may be kept at JBENC. The Contractor must use testing equipment which relies on chemical titration, chemical indicators, Hanna checkers, or calibrated probes. **Test strips are not to be used under any circumstances.**

The following table includes the acceptable range of water parameters for JBENC aquariums. If limits are found to be outside of standard limits, the contractor will alert JBENC staff and the contractor will take corrective actions. The contractor will be expected to keep a physical written log of all water parameters to be kept at JBENC. The contractor will also be expected to input water data into Apex Fusion software provided by OPRHP.

Acceptable range of water parameters for JBENC Aquariums									
	Temp	pH	Salinity (ppt)	Salinity (sg.)	Ammonia	Nitrite	Nitrate	Phosphate	Alkalinity
Touch Tank	68°-75° F	7.7-8.5	31-35 ppt	1.022-1.026	Under 0.1 ppm	Under 0.1 ppm	Under 20 ppm	Under 1 ppm	7.5-10
Seahorse Tank	74°-78° F	7.7-8.5	31-35 ppt	1.022-1.026	Under 0.1 ppm	Under 0.1 ppm	Under 20 ppm	Under 1 ppm	7.5-10
Terrapin Tank	74°-78° F	7.5-8.3	16-20 ppt	1.012-1.016	Under 0.1 ppm	Under 0.1 ppm	Under 20 ppm	Under 1 ppm	N/A*

1.6.7 Water Changes

Water changes are to be performed for each aquarium at each service visit. 10-20% of the total water volume of each system must be changed during each water change. JBENC will provide RO/DI water that will need to be brought up to the proper salinity by the contractor. JBENC will provide the salt mix to be used. The salinity must measure to acceptable parameters (provided in Section 1.6.6) for the tank that the water change is being performed on. The salinity must be measured using a calibrated refractometer or calibrated salinity probe. Water storage containers and wheeled brute trash cans provided by JBENC. Water changes are to be performed as follows:

Seahorse Tank and Touch Tank

- Mix salt mix with RO/DI water in water storage container labeled "Salt Water"
- Evacuate 5-10% of aquariums total water volume from sump tank using water pump
- Evacuate 5-10% of aquariums total water volume from display tank using a gravel vacuum or siphon device making sure to siphon directly above sand/gravel to remove detritus, uneaten food, and fish waste.
- Water must be evacuated directly into the animal lab care sink or into a wheeled brute trash can and then pumped into animal care lab sink
- Test newly mixed saltwater salinity to ensure it measures within the acceptable range
- If the newly mixed saltwater salinity does not measure within the acceptable range, actions need to be taken by the contractor to ensure the water falls within the acceptable range before being added to the aquariums.
- Pump newly mixed saltwater from water storage container labeled "Salt Water" into tanks to replace the total water volume evacuated.

Terrapin Tank

- Fill wheeled brute trash can labeled "salt water 18-20 ppt" with RO/DI water from water storage container labeled "Freshwater"
- Mix salt mix with RO/DI water in wheeled brute trash can labeled "salt water 18-20 ppt"
- Evacuate 5-10% of aquariums total water volume from sump tank using water pump
- Evacuate 5-10% of aquariums total water volume from display tank using a gravel vacuum or siphon device making sure to siphon directly above sand/gravel to remove detritus, uneaten food, and fish waste.
- Water must be evacuated directly into the animal lab care sink or into a wheeled brute trash can and then pumped into animal care lab sink
- Test newly mixed saltwater salinity to ensure it measures within the acceptable range
- If the newly mixed saltwater salinity does not measure within the acceptable range actions need to be taken by the contractor to ensure the water falls within the acceptable range before being added to the aquariums.
- Pump newly mixed saltwater from wheeled brute trash can labeled "salt water 18-20 ppt" into tank to replace the total water volume evacuated.

1.6.8 Filter Socks

Filter socks will be replaced by park staff at least two (2) times in between bi-weekly service visits. It is the responsibility of the contractor to provide at least three (3) sets of clean filter socks per bi-weekly service visit to be swapped out by JBENC staff. Contractor will be responsible for collecting and cleaning the filter socks removed by JBENC staff.

1.6.9 Inspect plumbing for leaks and make repairs where necessary.

Plumbing refers to all bulkheads, PVC, rubber, vinyl, and braided vinyl tubing connecting tanks to filtration sumps, protein skimmers, chillers, UV sterilizers, automatic top off units, RO/DI systems, freshwater holding tanks, and saltwater holding tanks. Plumbing beneath the nature gallery/animal care lab floor connecting the touch tank to the touch tank sump plumbing is out of

scope for this contract as this plumbing is inaccessible.

1.6.10 Reverse Osmosis Deionized Water

JBENC is equipped with a five-stage Reverse Osmosis Deionized (RO/DI) water purification system with an inline Total Dissolved Solids (TDS) meter that measures the TDS of the source and output water. The unit is located under the animal care lab sink. The unit is connected to both water storage containers and the top-off reservoir in the seahorse tank sump. The output lines connecting the RO/DI system and the water storage containers / top off reservoir are controlled by solenoid valves. These containers and top off reservoir are automatically refilled when the Neptune Apex water level sensors detects that the water level in the container is low.

1.6.11 Livestock

The contractor will be responsible for replacing lost livestock as a result of their negligence. Such acts of negligence can include, but are not limited to, performing water changes with freshwater instead of saltwater, dumping chemicals into the tanks, or failing to turn on a piece of equipment that was turned off for maintenance by the contractor. (e.g., heaters/chillers).

1.7 Glossary

Term	Description
Agency	New York State Office of Parks, Recreation and Historic Preservation (OPRHP).
Agency Staff	An employee of OPRHP.
Bid	The approved prepared bid form on which the Bidder is to submit or has submitted a bid for the Project contemplated.
Bidder	Any individual, firm or corporation submitting a Bid for the Project contemplated, acting directly or through a duly authorized representative.
Commissioner	The Commissioner of Parks, Recreation and Historic Preservation.
Comptroller (OSC)	The Office of State the Comptroller of the State of New York.
Contract Documents	The complete set of documents forming the resultant contract based off this IFB.
Contractor	The person, firm, partnership or corporation executing the Contract.
Days	Unless otherwise indicated, the term "Days" shall mean calendar days.
JBENC	Jones Beach Energy & Nature Center
Offerer	Any individual or entity, or any employee, agent of consultant or person acting on behalf of such individual or entity that contacts a governmental entity about a governmental procurement during the restricted period of such governmental procurement.
Office or OPRHP	The New York State Office of Parks, Recreation and Historic Preservation.
Premises	All land, buildings, structures, or other items of any kind located around or adjacent to the Site and owned, occupied or otherwise used by the State.
Specifications	The body of directions and/or requirements contained in this document, together with all documents of any description, and agreements made (or to be made), pertaining to the methods (or manner), of performing the work and quality (as shown by test records) of accepted materials to be furnished under this Contract.
State	The State of New York.
Subcontractor	A person, firm, partnership or corporation executing a portion of the Work for the "Contractor," who has the sole responsibility for his or her performance.
Work	The total sum of labor, supervision, materials and equipment necessary for the proper completion of the Contract as set forth in the Contract Documents.

1.8 List of Appendices, Attachments, Forms, and Exhibits

Appendices

Appendix A - Standard Clauses for New York State Contracts

Appendix B - General Specifications for OPRHP Contracts

Appendix C - Participation by Minority Group Members and Women with Respect to State Contracts

Appendix D - Bid Protest Procedures

Appendix F – Insurance Requirements

Attachments

Attachment 1 – Bid Form

Attachment 2 – Lobbying Law Certification

Attachment 3 – Non-Collusive Bidder Certification

Attachment 4 – Public Officers Law

Attachment 5 – Encouraging Use of New York State Businesses in Contract Performance

Attachment 6 – NYS Finance Law §139-I and Executive Order No. 177 Certification

Attachment 7 – Diversity Practice Questionnaire

Attachment 8 – Vendor Responsibility Attestation

Attachment 9 – No Bid Form

Attachment 10 – References

Exhibits

Exhibit A – Drawing of Ecosystems – Seahorse Habitat

Exhibit B – Drawing of Ecosystems – Turtle Habitat

Exhibit C – Drawing of the Touch Tank Terrain

1.9 Downstream Prohibition

Any entity, contractor (or sub-contractor) involved with OPRHP for the development of specifications related to this project is not eligible to receive an award or subcontract with the contractor or any subcontractor in connection with this bid or subsequent award.

2. Instructions to Bidders

2.1 Questions/Inquiries

Prospective Bidders will have an opportunity to submit written questions and requests for clarification regarding this Invitation for Bids (IFB). All questions regarding this IFB must be submitted via e-mail or mail and be received by the date and time specified in the IFB Timeline. Questions must reference the relevant page and section of the IFB and must be directed to the designated contact.

Questions submitted by Bidders should be printed or in a Word or Excel document in the following format:

No.	IFB Section	IFB Page	Vendor Name	Question
------------	------------------------	---------------------	--------------------	-----------------

Prospective Bidders should note that all clarifications and exceptions, including those relating to the terms and conditions of the IFB, are to be resolved prior to the submission of a bid by utilizing the Question and Answer period. Also, during the Question and Answer period, Bidders should be certain to bring forward terms and conditions in the IFB that would prohibit a Bidder from bidding. Bidders entering a contract with the State are expected to comply with all the terms and conditions contained herein.

Contacting individuals other than the designated contact listed above may result in the disqualification of the Bidder's proposal.

2.2 Procurement Lobbying Guidelines

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OPRHP and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by OPRHP and, if applicable, the Office of the State Comptroller ("restricted period") to other than the Designated Contact(s) unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a).

Designated Contact(s), as of the date hereof, is identified above. OPRHP employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Information related to the Procurement Lobbying Law and guidelines can be found with in Attachment 2.

2.3 Response to Bidder Questions and Requests for Clarification

The Agency will provide a written response to all substantive questions and requests for clarification. Responses to Bidder questions and requests for clarifications will be distributed via e-mail to the Agency-maintained Bidders List.

2.4 Notification of Intent to Bid/Not Bid

2.4.1 "No Bid" Submission

If you do not intend to bid on this procurement, please complete Attachment 9 - No Bid Form and send to the designed contact address listed on the cover of this IFB.

2.4.2 Removal from Bidders List

If you would like to have your organization removed from the mailing list for procurements of this type, please send an e-mail requesting such to the designated contact listed on the cover of this IFB.

2.5 Method of Award

In the sole discretion of OPRHP, the award of the contract will be made to a responsive, responsible and qualified bidder who offers the lowest Grand Total bid to perform work as outlined in these specifications. The successful bidder will be found non-responsible if OPRHP finds that he/she does not have sufficient resources.

Written notification of OPRHP's selection will be furnished to all responding bidders, and a final contract shall be mailed or delivered to the recommended awardee. If the selected bidder fails to execute and return the contract to OPRHP within the time allotted, OPRHP reserves the right to reject the selected bidder's bid and select the next lowest responsible bidder that will best promote the public interest. If all bids are rejected, each solicited bidder will be so notified.

2.6 Contract Signing and Contract Term

The Agency intends to award one, five-year Contract to the successful Bidder, contingent upon New York State Attorney General (AG) and the Office of the State Comptroller (OSC) approval.

2.7 Form of Bids

The Attachment 1 - Bid Form shall be completed in ink. The grand total bid amount must be shown in numeric form. Bidders may elect to submit either a hardcopy bid or a scanned copy of the original signed bid via e-mail.

All bids must be received at or before the time specified and at the place designated for the bid opening. A late bid will not be eligible for consideration unless no bids were received when due.

All bids and accompanying documentation submitted in response to this IFB will become the property of OPRHP and will not be returned. The resulting contract will include a copy of the specifications and the successful Bidder's Bid.

Bid submissions MUST be addressed to the designated contact listed on the cover page of this IFB.

2.7.1 Hardcopy Bids

The bid shall be submitted in a sealed envelope marked in the lower left-hand corner with the following information:

PROPOSAL ENCLOSED IFB C003545 Aquarium Tank Maintenance Proposal Submission Due June 1, 2022, 3:00 PM ET

2.7.2 E-Mail Bids

The bid shall be submitted via e-mail to ServiceContracts@parks.ny.gov with the subject of the e-mail clearly marked with the following information:

Proposal Enclosed - IFB C003545 - Aquarium Tank Maintenance - Due 6/1/22 3:00 PM ET

2.8 Submission Requirements

2.8.1 Bid Requirements – to establish responsibility

A. A Statement of Experience which, at a minimum, must include the following information:

- The business name of the bidder and the legal entity under which the quote is being submitted.
- The number of years the bidder has been providing services under the present business name.
- Any other name(s)/business entity (entities) under which the bidder has conducted similar business and the number of years' services were provided under that/those name(s).

B. The information requested in *Section 2, Minimum Requirements* of this document.

2.8.2 Completed Forms

- Attachment 1 - Bid Form
- Attachment 2 - Lobbying Law Certification
- Attachment 3 - Non-Collusive Bidding Certification
- Attachment 4 - Public Officers Law Form
- Attachment 5 - Encouraging Use of New York State Businesses in Contract Performance
- Attachment 6 - NYS Finance Law §139-I and Executive Order No. 177 Certification
- Attachment 7 Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement
- Attachment 8 - Vendor Responsibility Attestation
- Attachment 10 - References

2.9 Tie Bids

In the event there is a tie in the Grand Total Bid, final determination will be made by the Commissioner of OPRHP

2.10 Modification or Withdrawal of Bids

Bid modifications that are submitted in writing and signed by an authorized representative of the bidding firm will be considered for award if received at the place of the bid opening any time prior to the scheduled bid opening. Bids may be withdrawn or cancelled prior to the scheduled bid opening. A bid may be rejected by OPRHP: if it shows any alteration of terms, conditions or requirements; for any other irregularities; if it is incomplete, or if it offers an alternate bid not invited by the specifications.

3. Administrative Requirements

With the submission of a response to this Invitation for Bid, the Bidder agrees to the proposal conditional outlined in this section.

3.1 Issuing Agency

This IFB is issued by the New York State Office of Parks, Recreation and Historic Preservation, which is responsible for all criteria stated herein and for evaluation of all bids submitted.

3.2 Solicitation

This IFB is a solicitation to bid, not an offer of a contract.

3.3 Liability

OPRHP/The State of New York is not liable for any costs incurred by a Bidder in the preparation and production of any proposal, or for any work performed prior to the execution of a formal contract.

3.4 State's Rights to Proposals

By submitting a bid, the Bidder agrees not to make any claim for, or have any right to, damages because of any misinterpretation or misunderstanding of the specifications, or because of any misinformation or lack of information. OPRHP reserve the right to exercise the following:

- Change any of the scheduled dates herein;
- Amend IFB Requirement(s) after their release to correct errors or oversights, or to supply additional information as it becomes available and so notify all potential Bidders;
- Withdraw the IFB, at its sole discretion without any obligation or liability to any vendor;
- Eliminate any mandatory, non-material requirement that cannot be complied with by all of the prospective Bidders;
- Evaluate, accept and/or reject any and all bids, in whole or in part, and to waive technicalities, irregularities, and omissions if, in OPRHP's judgement, the best interests of OPRHP will be served. In the event compliant bids are not received, OPRHP reserves the right to consider late or non-conforming bids as offers;
- Require the Bidder to demonstrate, to the satisfaction of OPRHP, any information presented as part of their proposal;
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an Offerer's proposal and/or to determine an Offerer's compliance with the requirements of this solicitation;
- Disqualify any Bidder whose conduct and/or bid fails to conform to the requirements of the solicitation;
- Use proposal information obtained through OPRHP investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to OPRHP's request for clarifying information in the course of evaluation and selection under this IFB;
- Prior to the bid opening, determine a tie breaking mechanism for award of the Contract to serve the best interests of OPRHP and the State of New York;
- Negotiate with the successful Bidder within the scope of the IFB to serve the best interests of OPRHP and the State of New York;
- Conduct Contract negotiations with the next ranked responsible Bidder, should OPRHP be unsuccessful in negotiating an Agreement with the selected Bidder;
- Conduct negotiations with the next ranked responsible Bidder should the awarded Contractor fail to implement these Services upon approval of the Contract;

- If OPRHP terminates the Contract for non-performance, OPRHP reserves the right, with the approval of the Attorney General and the Office of the State Comptroller, to award a contract to the next highest ranked Bidder of the original bid submission within the first twelve months of the award;
- Utilize any and all ideas submitted in the bids received;
- Make an award under the IFB in whole or in part; and
- Seek revisions of bids.

Bids containing false or misleading statements, or which provide project contacts that do not support an attribute or condition claimed by a Bidder, may be disqualified from consideration. If, in the opinion of the Agency, a statement is intended to mislead the Agency in its evaluation of the bid, and the attribute, condition, or capability is a requirement of the IFB, the bid shall be disqualified from consideration.

3.5 Freedom of Information Law

Your bid to OPRHP, including accompanying documents, is subject to the Freedom of Information Law (FOIL) found in Article 6 of the N.Y. Public Officer Law. FOIL provides that certain records are exempt from disclosure, including those that contain (1) trade secrets, (2) information that, if disclosed, would cause substantial injury to the competitive position of your organization, or (3) critical infrastructure information. Records may be redacted to protect only the portions of documents that fall within a FOIL exemption. An entire document may not be withheld if only a portion of the document is exempt from disclosure. Blanket assertions that information is a trade secret, confidential, or proprietary are insufficient to justify withholding information under FOIL. If you identify information seeking an exemption from public disclosure due to the above-mentioned reasons such request will be reviewed and a determination will be made as to whether the information is exempt from disclosure under FOIL. However, such submissions seeking non-disclosure will not be considered unless it is accompanied with an explanation justifying the privilege. The State's determination may be appealed pursuant to POL §89(5)(c). Pursuant to POL §87(2)(b), the State, without having to request it, will redact information that "if disclosed would constitute an unwarranted invasion of personal privacy."

3.6 Bid Security

Each Bidder's bid will be held in strict confidence by OPRHP/State of New York staff and will not be disclosed except to the Office of the Attorney General and the Office of the State Comptroller as may be necessary to obtain approvals of those agencies for the final Contract and except as required by law.

Public inspection of the bids is regulated by the Freedom of Information Law (Article 6 of the New York State Public Officers Law). The bids are presumptively available for public inspection. If this would be unacceptable to Bidders, they should apply to OPRHP for trade secret protection for their bid.

The public officers' code of ethics (Section 74 of the Public Officers Law) sets the standard that no officer or employee of a State agency shall disclose confidential information that he acquires during the course of his official duties. These standards control the confidentiality of a Bidder's bid unless OPRHP grants a petition for records access in accordance with the Freedom of Information Law.

Bidders should be advised that the confidentiality of their proposals is founded upon statute, as described above. A nondisclosure agreement, whether prescribed by OPRHP or the Bidder, would not alter the rights and responsibilities of either party under the Freedom of Information Law. Bidders should not propose a nondisclosure agreement for OPRHP employees, for that would be legally ineffective to alter any legal responsibility under the Freedom of Information Law or the code of ethics.

The provisions of the Freedom of Information Law will also govern the confidentiality of any and all products or services supplied by the successful Bidder.

3.7 Timely Submission

The Bidders are solely responsible for timely delivery of their bid to the location set forth by the stated bid due date/time and are solely responsible for delays in receipt, including but not limited to those due to third-party carriers.

3.8 Bid Effective Period

The Bidder's bid must be firm and binding for a period of at least 180 days following the bid due date.

3.9 Bid Opening

Bids will not be opened publicly. OPRHP reserves the right at any time to postpone or cancel a scheduled bid opening.

3.10 Bidder Proposal Clarification

Prior to award, OPRHP reserves the right to seek clarifications, request proposal revisions, or to request any information deemed necessary for proper evaluation of proposals from all Bidders deemed to be eligible for Contract award. Failure of a bidder to cooperate with OPRHP's effort to clarify a proposal may result in the proposal being labeled as non-responsive and be given no further consideration.

Additionally, OPRHP reserve the right to use information submitted by the Bidder in response to OPRHP's request for clarifying information in the course of evaluation and selection under this IFB.

3.11 Bid Evaluation and Selection

See *Section 2.5, Method of Award*, regarding bid selection and evaluation methodology. Submitted bids may be reviewed and evaluated by any personnel or agents of OPRHP, other than one associated with a competing Bidder.

3.12 Contract Negotiations and Authorized Negotiators

During contract negotiations, OPRHP must have direct access to Bidder personnel who have full authority to make commitments on behalf of the Bidder. Bidders must include, as part of their proposal, any restrictions under which their primary negotiators will operate.

3.13 Bid Review and Contract Approval

The Contract resulting from this IFB will not be effective until approved by the Office of the Attorney General and the Office of the State Comptroller.

3.14 Debriefing Sessions

A debriefing is available to any entity that submitted a proposal or bid in response to a solicitation ("Bidder"). A Bidder will be accorded fair and equal treatment with respect to its opportunity for debriefing. Debriefing must be requested in writing by any bidder within fifteen (15) calendar days of OPRHP notifying the unsuccessful bidders that another vendor was selected. A bidder's written request for a debriefing must be submitted to the designated contact listed on the cover of this IFB. The debriefing will be scheduled within ten (10) business days of receipt of written request by OPRHP or as soon after that time as practicable under the circumstances.

3.15 Bid Protest Procedure

OPRHP procedures for handling protests of bid awards are set forth in *Appendix D, Bid Protest Procedures*.

3.16 NYS Finance Law § 139-I

Pursuant to N.Y. State Finance Law § 139-I, every bid made on or after January 1, 2019 to the State or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed and where otherwise required by such public department or agency, shall contain a certification that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of N.Y. State Labor Law § 201-g.

N.Y. State Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy, and sexual harassment prevention training program that employers may utilize to meet the requirements of N.Y. State Labor law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL: <https://www.ny.gov/combating-sexual-harassment-workplace/> employers.

Pursuant to N.Y. State Finance Law § 139-I, any bid by a corporate bidder containing the certification required above shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the bidder.

If the Bidder cannot make the required certification, such Bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review and consideration of such statement, OPRHP may reject the bid or may decide that there are sufficient reasons to accept the bid without such certification.

3.17 Conformance to IFB

Any exceptions or objections to the terms, conditions, and requirements of this IFB are governed by, and to be submitted in accordance with *Appendix B, Section 10, Extraneous Terms*. Bidders are cautioned that any such exceptions or objections may render their bid non-responsive.

3.18 Encouraging use of New York State Business in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Each Bidder must complete and submit Encouraging Use of New York State Business in Contract Performance.

3.19 Bidder Assurances

The Bidder warrants that it has carefully reviewed OPRHP's needs as described in the IFB and its attachments/supplements. Bidder also warrants that it has familiarized itself with OPRHP's specifications and that it can provide such services as described in the IFB and as offered in its Bid.

If awarded the contract, the Bidder agrees that it will perform its obligations hereunder in accordance with all applicable Federal, State and local laws, rules, and regulations now or hereafter in effect.

The Bidder further warrants and affirms that the terms of this IFB and any resultant contract do not violate any contracts or agreements to which it is a party and that its other contractual obligations will not adversely influence its capabilities to perform under the contract.

3.20 Vendor Responsibility Questionnaire

If this or any other contract you have with the State of New York is valued at \$100,000.00 or more, OPRHP requires that Vendor file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. However, vendors may choose to complete and submit a paper questionnaire. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at <https://osc.state.ny.us/vendrep/index.htm>. For direct VendRep System user assistance, the Office of State Comptroller's Help Desk may be reached at (866) 370-4672 or (518) 408-4672 or by email at ciohelpdesk@osc.state.ny.us. Vendors opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website at <https://osc.state.ny.us/vendrep/index.htm> or may contact OPRHP or the Office of the State Comptroller's Help Desk for a copy of the paper form.

Vendors must provide their New York State Vendor Identification number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's help desk at (866) 370-4672 or (518) 408-4672 or by e-mail at ciohelpdesk@osc.state.ny.us.

To be considered timely, questionnaires filed via the VendRep System require that a vendor certify a questionnaire no more than six months before the due date of the bid. If you are bidding on other state contracts in the future, you only have to update any changes that have occurred in the last six months or since the last time you updated your questionnaire, (you do not have to completely fill out a new questionnaire unless you have made a major change to your company).

3.21 Tax Law §5-A

Tax Law §5-a is effective with all solicitations to purchase issued by covered agencies on or after January 1, 2005. It applies to contracts where: (1) the total amount of such persons' sales delivered into New York State are in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates, subcontractors, or affiliates of subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made; and (2) the contracts or agreements with State agencies or public authorities for the sale of commodities or services have a value in excess of \$100,000. This law imposes upon certain contractors the obligation to certify whether or not the contractor, its affiliates, its subcontractors and affiliates of the subcontractors are required to register to collect State sales and compensating use tax. Where required to register, the contractor must also certify that it is, in fact, registered with the New York State Department of Taxation and Finance (DTF). The law prohibits the Comptroller, or other approving agency, from approving a contract awarded to a vendor meeting the registration requirements but who is not so registered in accordance with the law.

Upon notice of potential award, the responsive Bidder may be required to submit, within ten business days of receipt of the notice, the New York State Tax Law §5-A Contractor Certification Forms (ST-220-

CA and ST-220-TD). Failure to respond may render a Bidder non-responsive and non-responsible. Bidders shall take the necessary steps to provide properly certified forms to ensure compliance with the law.

Bidders may call the DTF at (800) 972-1233 for any and all questions relating to Tax Law §5-a and relating to a company's registration status with the DTF. For additional information and frequently asked questions, please refer to the DTF website www.tax.ny.gov.

ST-220-CA https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

ST-220-TD https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

4. Contractual Requirements

With the submission of a response to this Invitation for Bids, the Bidder agrees to all contract conditions outlined in this Section except that Bidders may propose changes as allowable in *Appendix B, Section 6, Extraneous Terms*.

4.1 Appendix A Standard Clauses for New York State Contracts

The terms of *Appendix A, Standard Clauses for New York State Contracts*, attached hereto, are hereby incorporated into this IFB and any resulting contract. The contractor is required to adhere to all clauses.

4.2 Appendix B General Specifications for OPRHP Contracts

The terms of *Appendix B, General Specifications for OPRHP Contracts*, attached hereto, are hereby incorporated into this IFB and any resulting contract and shall govern any situations not covered by this IFB or *Appendix A*.

4.3 Appendix C Participation by Minority Group Members and Women with Respect to State Contracts

The terms of *Appendix C, Participation by Minority Group members and Women with Respect to State Contracts*, attached hereto, are hereby incorporated into this IFB and any resulting contract. The contractor is required to adhere to all clauses.

4.4 Order of Precedence

In the event of any inconsistency in or conflict among the document elements of the future contract identified herein, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the order set forth below:

- A. Appendix A Standard Clauses for New York State Contracts
- B. Appendix B General Specifications for OPRHP Contracts
- C. Executed Agreement
- D. IFB, including all other associated Appendices, Attachments, Addenda and Questions and Answers
- E. Contractor's Bid in Response to the IFB

4.5 Procedures for Amendments

See *Appendix B, Section 31, Modification of Contract Terms*.

Any request by the contractor to change or amend any part of the contract shall be made, in writing, to OPRHP and may be subject to approval by the Office of the State Comptroller and/or the Office of the Attorney General.

4.6 Conflict of Interest

The Contractor will be responsible for establishing procedures to identify potential conflicts of interest. If during the term of this Agreement, and any extensions thereof, the Contractor becomes aware of an actual or potential relationship which may be considered a conflict of interest, the Contractor shall immediately notify the State in writing and disclose the nature of the potential conflict of interest in the manner prescribed by the State. The State will have sole discretion in evaluating the nature of the identified conflict of interest and will make the final decision regarding its resolution.

4.7 Litigation Support

In the event that the Agency becomes involved in litigation related to the subject matter of the resulting contract, the Contractor agrees to provide background support and other litigation support, including but not limited to depositions, appearances, and testimony. Compensation may be negotiated.

4.8 Interpretation & Disputes

Any dispute arising from this IFB, or from any resulting contract, shall be submitted in writing within seven (7) business days after the issuance of the award recommendation letter, to the Designated Contact provided on the cover of this IFB.

4.9 Indemnification

The Contractor agrees to indemnify, defend, save, and hold harmless the State of New York, OPRHP, and their officers, employees and agents of and from any claims, demands, actions, or causes of action of any kind arising out of the services of the Contractor provided for in this agreement.

4.10 Equal Employment Opportunities

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.
- B. In performing the Contract, the Contractor shall:
 1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 2. The Contractor shall submit an EEO policy statement to the New York State office of Parks, Recreation and Historic Preservation within seventy-two (72) hours after the date of the notice by the New York State office of Parks, Recreation and Historic Preservation to award the Contract to the Contractor.
 3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, the New York State office of Parks, Recreation and Historic Preservation may require the Contractor or subcontractor to adopt a model statement (see Form – Equal Employment Opportunity Policy Statement).
 4. The Contractor's EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment

opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

- c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Staffing Plan

To ensure compliance with this Section, for those contracts reaching \$250,000 or greater, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

D. Workforce Utilization Report

- 1) The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by the New York State Office of Parks, Recreation and Historic Preservation on a quarterly basis during the term of the Contract.
 - 2) Separate forms shall be completed by the Contractor and any subcontractors.
 - 3) Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.
- E. The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

4.11 Relationship as Independent Contractor

The relationship of the Contractor to OPRHP is that of an independent contractor, and the Contractor, in accordance with its status as such, covenants and agrees that it will conduct itself in a manner consistent with such status, that it will not hold itself out as an agent of OPRHP by reason of this agreement, and that no employee of Contractor, by reason of this agreement, will claim to be an officer or employee of OPRHP or make any claim, demand, or application for any benefit, right, or privilege applicable to employees of the State of New York.

4.12 Payment Requirements

The Contractor's compensation will be based on the Contractor's response to this IFB.

If applicable, payment requests shall be made on forms mutually agreed upon by the Contractor and the Agency and shall include appropriate back-up documentation to support the request for payment. All payments will be made in accordance with Article XI-A of the State Finance Law.

All requests for payment must include an explanation and breakdown showing determination of all charges.

The Agency pays charges after the services and or/products are provided and does not pay in advance for these services and/or products. Fees paid for which it is subsequently determined that the Contractor was not entitled must be reimbursed to the Agency, and the Agency may do so by subtracting such fees from any payments that later become due to the Contractor under the Contract.

Payment shall be made as follows:

- A. The Contractor shall submit to OPRHP for its approval, and for the audit and warrant of the State Comptroller, a proper invoice, receipts, and documents that verify the Contractor's expenditures as directed by OPRHP. The Contractor shall reference the contract number on the invoice.
- B. Invoices should be submitted for services rendered and for acceptance by OPRHP on a monthly basis to the following designated payment office:

DaniellePuma@parks.ny.gov
NYS Parks – Purchasing Dept.
PO Box 247
Babylon, NY 11702

- C. Contractor shall provide complete and accurate billing invoices to OPRHP in order to receive payment. Billing invoices submitted to OPRHP must contain all information and supporting documentation required by the Contract, OPRHP, and the State Comptroller. Payment for invoices submitted by the Contractor shall be sent to the address listed on the W-9 submitted by the Contractor with the returned, signed contract. In order to expedite payment, the Contractor may register for Electronic Funds Transfer by updating its registration with the Vendor Management Unit in the Office of the State Comptroller. Vendor support information is available at <http://www.sfs.ny.gov> as well as helpdesk@sfs.ny.gov and toll-free at (855) 233-8363.
- D. Contractor shall agree that payments for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Agency, in the Agency's sole discretion, due to extenuating circumstances. Such electronic payments shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller website at www.osc.state.ny.us, by e-mail at HelpDesk@sfs.ny.gov, or by telephone at (518) 457-7737 or toll free (877) 737-4185. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract that are payable by the State Comptroller if it does not comply with the State Comptroller's electronic payment procedures, except where the Agency has expressly authorized payment by paper check as set forth above.

4.13 CPI Price Adjustments

On each anniversary date of the Contract, the Contractor may request a rate change (increase or decrease) based upon the fluctuation in the latest published copy of the Consumer Price Index that is applicable to this service (all urban consumers, Northeast region, not seasonally adjusted, all items,

<https://data.bls.gov/cgi-bin/surveymost?cu>, Northeast Region All Items, 1982-1984=100 - CUUR0100SA0).

This index is published monthly by the US Bureau of Labor Statistics and posts statistics that include the preceding twelve (12) months service period. Some contract rates may not change; however increases or decreases will be based on the applicable CPI and may not exceed 5% of the contract rate paid during the prior term. The percentage change from 12 months prior for any goods or services listed in the CPI will be used to calculate the applicable rate increase or decrease.

Ninety days prior to the anniversary date, the contract rate will be reviewed using the CPI as a cost basis. The percentage change in price from the 15 months prior to the anniversary date will be used to calculate the applicable contract rate.

For example, if the anniversary date of the contract is April 1, 2020, the January 2020 CPI would be compared to the January 2019 CPI to calculate the rate. If the CPI lists a price that has risen in the prior 12 months, the contract rate may be adjusted by that percent change.

Sample Calculation

CPI for January 2020	262.188
Less CPI for January 2019	258.073
Equals index point change	4.115
Divided by previous period CPI	0.016
Result multiplied by 100 = Rounded Percent Change	1.57

The Contractor is solely responsible for notifying OPRHP that the Contractor wishes to receive the CPI rate change and to submit a request in writing to OPRHP at ServiceContracts@parks.ny.gov for the adjusted rate on the contract anniversary date.

Should the Contractor fail to make a written request to OPRHP at ServiceContracts@parks.ny.gov within ninety (90) days after the applicable anniversary date, the Contractor shall be deemed to have waived its right to any increase in price for that year, but OPRHP shall not be barred from making the appropriate adjustment in the case of a decrease determined in accordance with the above methodology.

CPI rate adjustments made pursuant to this section should only pertain to non-labor items (i.e. supplies and materials) or labor rates not covered under IFB Section 4.20 Prevailing Wages / Payroll Certification (if applicable).

4.14 Prime Contractor/Subcontractor

The successful Bidder shall act as prime Contractor under the Contract and shall be held solely responsible for Contractor performance by the Bidder, its partners, officers, employees, Subcontractors and agents. The Bidder shall be responsible for payment of all Subcontractors and suppliers, including all third-party service providers contracted by or through the Bidder in performance of the Contract.

Where Services are supplied by or through the Contractor under the Contract, it is mandatory for the Contractor to assume full integration responsibility for delivery, installation, maintenance, performance and support services for such items, as applicable. The Contractor shall also be responsible for payment of any license fees, rents or other monies due third parties for Services or materials provided under the Contract.

4.15 Diesel

Contractor certifies and warrants that all heavy-duty vehicles, as defined in New York State Environmental Conservation Law (ECL) section 19-0323, to be used under this Contract will comply with

the specifications and provisions of ECL section 19-0323, as well as any regulations promulgated pursuant thereto, including NYCRR Part 248; which, requires the use of Best Available Retrofit Technology (BART) and Ultra-Low Sulfur Diesel (ULSD) fuel.

4.16 Advertising

The Contractor agrees not to use the Agency's name, logos, images, or any data or results arising from this procurement process or Contract as a part of any commercial advertising without prior written approval by OPRHP.

4.17 Termination Provisions

In addition to the provisions for termination set forth in Appendix B, Section 51, Termination, the following apply:

4.17.1 Lobby Law Termination Provision

OPRHP reserves the right to terminate this contract in the event it is found that this certification filed by the Contractor, in accordance with NYS Finance Law 139-k, was intentionally false or incomplete. Upon such finding, OPRHP may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this contract.

4.17.2 Termination Pursuant to Tax Law §5-a

the Agency reserves the right to terminate this Contract in the event it is found that the certification filed by the Contractor in accordance with §5-a of the Tax Law was not timely filed during the term of the Contract, or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Agency may exercise its termination right by providing written notification to the Contractor.

4.17.3 Termination Pursuant to Vendor Responsibility (for Non-Responsibility):

Upon written notice to the Contractor and a reasonable opportunity to be heard with appropriate OPRHP officials or staff, the Contract may be terminated by the Commissioner or his or her designee, at the Contractor's expense, where the Contractor is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

4.18 Vendor Responsibility Provisions

The State must conduct business only with responsible entities.

4.18.1 General Responsibility

The contractor shall, at all times during the Contract term, remain responsible. The Contractor agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

4.18.2 Suspension of Work (for Non-Responsibility)

The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the Contract.

4.19 Insurance Requirements

OPRHP insurance requirements are set forth in *Appendix F, Insurance Requirements*.

4.20 Prevailing Wages / Payroll Certification

The work under this contract has been determined to be a public work pursuant to Article 9 of the New York Labor Law. That law requires prevailing wages to be paid. A willful violation of such may result in civil penalties and debarment from public contracting in the State of New York.

The applicable Prevailing Wage Rate Schedule for this bid and subsequently awarded contract is:

Prevailing Wage Schedule	
PRC Number	2022900333
Scheduled Period	2021 - 2022
Link	https://apps.labor.ny.gov/wpp/publicViewProject.do?method=schedule&id=1529793

OPRHP reserves the right to request that payroll certification reports be submitted with each invoice. Failure to provide this requested documentation shall result in non-payment of invoices. Additional requirements can be found in the Prevailing Wage Rate Schedule.

4.21 Contractor's Compensatory Liability

If the Contractor fails to complete any of the specified services within the timeframe required, OPRHP reserves the right to have such work completed either by another company or with in-house staff. In any such event, the Contractor shall be liable to reimburse OPRHP for all costs incurred to complete the work. OPRHP further reserves the right to collect such reimbursement from any outstanding payments due to the Contractor.

4.22 Warranties

Contractor warrants that the services acquired under the resultant contract will be provided in a professional and workmanlike manner in accordance with industry standards.

All materials and workmanship provided under the resultant contract shall be warranted for a minimum of one year. Where the Contractor, Product manufacturer, or service provider generally offers additional or more advantageous warranties, such additional or more advantageous warranty shall apply. All warranties contained in the resultant contract shall survive the termination of the resultant contract.

4.23 Security Procedures

Please note OPRHP locations may have on-site security policies that must be followed. The Contractor will work with OPRHP to obtain necessary clearances. The Contractor may be required to provide information such as, but not limited to, the company name, the employee's name (as it appears on valid driver license or photo identification), vehicle make, model and license plate, etc. to OPRHP.

4.24 Travel, Meals and Lodging

N/A

4.25 Damages

It is the Contractor's responsibility to replace or repair any property lost or damaged in the course of performing the contract through no fault of OPRHP. If, during the term of the contract, loss or damage to

property occurs through no fault of OPRHP, OPRHP has the right to withhold monies from the Contractor equivalent to the costs of the loss or damage sustained until the property is returned by the winning bidder to the condition immediately preceding the loss or damage, either by repair or replacement. OPRHP will not be liable for any deductible through any claim and retains the right to inspect and reject insufficient repairs.

4.26 Contract Staffing Requirements

The awarded bidder shall provide capable personnel to effectuate the business relationship, discovery, implementation, and ongoing services of the resultant contract. Any changes to the Contractor's project team must be approved by OPRHP. The contractor shall provide for the continuity of the responsibilities of any position that must be reassigned or replaced with a qualified replacement made available within ten (10) business days, subject to the review and approval by OPRHP. Should the need arise to make substitutions for any member of the project team, the Contractor will promptly provide resumes of comparably experienced staff for OPRHP's review and approval.

4.27 Additional Consultant Hours

N/A

4.28 Vehicles

Vehicles to be used in the performance of this service will be clearly marked as property of the Contractor and will travel to and from the service areas strictly in accordance with the directions and/or maps furnished by park staff.

Appendix A - Standard Clauses for New York State Contracts

October 2019

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was

arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Identification Number(s). Every invoice or

New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion,

transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in

writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5))) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely,

accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
<https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

Appendix B - General Specifications for OPRHP Contracts

GENERAL

1. **APPLICABILITY** The terms and conditions set forth in this Appendix B are expressly incorporated in and applicable to all procurements and resulting procurement contracts let by the New York State Office of Parks, Recreation and Historic Preservation ("OPRHP" or the "Agency"), or let by any other Issuing Entity where incorporated by reference in its Bid Documents. Appendix B shall govern such procurements or contracts unless expressly modified or amended by the terms of a Bid Specification, Solicitation, or a negotiated Contract/Clarification document, if any. Captions are intended as descriptive and are not intended to limit or otherwise restrict the terms and conditions set forth herein.

2. **GOVERNING LAW** This procurement, the resulting Contract and/or any purchase orders issued hereunder shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise, and actions or proceedings arising from the Contract shall be heard in a court of competent jurisdiction in the State of New York.

3. **APPENDIX A** The terms of Appendix A (*Standard Clauses for New York State Contracts*) are expressly incorporated herein.

4. **ETHICS COMPLIANCE** All Bidders/Contractors and their employees must comply with the requirements of Sections 73 and 74 of the Public Officers Law, other State codes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Bid, Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

5. **DEFINITIONS** Terms used herein shall have the following meanings:

a. **AFFILIATE** Any individual or other legal entity (including, but not limited to sole proprietor, partnership, limited liability company, firm or corporation) that effectively controls another company in which (a) the Bidder owns more than 50% of the ownership; or (b) any individual or other legal entity which owns more than 50% of the ownership of the Bidder. In addition, if a Bidder owns less than 50% of the ownership of another legal entity, but directs or has the right to direct such entity's daily operations, then that entity shall be considered an Affiliate hereunder.

b. **AGENCY** The State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York, including the Office of Parks, Recreation and Historic Preservation ("OPRHP").

c. **ATTORNEY GENERAL** Attorney General of the State of New York.

d. **BID** A response to the Solicitation submitted by a Bidder to provide Products.

e. **BIDDER** Any person or entity who submits a response to the Solicitation. At the time that a Bidder executes a Contract with the State, the Bidder shall become a "Contractor." See also "Contractor."

f. **BID SPECIFICATIONS** A written description drafted by OPRHP setting forth the specific terms of the intended procurement, which may include: physical or functional characteristics, the nature of a Product, any description of the work to be performed, Products to be provided, the necessary qualifications of the Bidder, the capacity and capability of the Bidder to successfully carry out the proposed Contract, or the process for achieving specific results and/or anticipated outcomes or any other requirement necessary to perform work. Where this Appendix B is incorporated in negotiated Contracts that have not been competitively solicited, the term "Bid Specifications" shall be deemed to refer to the terms and conditions set forth in the negotiated Contract and associated documentation.

g. **COMMISSIONER** The Commissioner of the Agency.

h. **COMPTROLLER** Comptroller of the State of New York.

i. **CONTRACT** The writings that contain the agreement of the Agency and the Bidder/Contractor setting forth the total legal obligation between the parties as determined by applicable rules of law, and which most typically include the following classifications of public procurements:

1. **Agency Specific Contracts** Contracts where the written description for a Product or a particular scope of work is described and defined to meet the needs of one or more Agencies.

2. **Centralized Contracts** Single- or multiple-award Contracts where the written description for a Product or general scope of work is described and defined by OGS to meet the needs of Authorized Users. Centralized Contracts may be awarded through multiple awards or through adoption of another jurisdiction's contract or on a sole source, single source, emergency, or competitive basis. Once established, procurements may be made from the selected Contractors without further competition or Mini-Bid unless otherwise required by the Contract.

3. **Back-Drop Contracts** Multiple-award Centralized Contracts where OGS provides a written description for a Product or general scope of work to meet the needs of Authorized Users. Bids may be submitted either at a date and time certain or may be accepted on a continuous or periodic recruitment basis, as set forth in the Solicitation. Selection of a Contractor from among Back-Drop contract holders for an actual Product, project or particular scope of work may be subsequently made as set forth in the Contract.

4. **Piggyback Contract** A Contract let by any department, agency or instrumentality of the United States government, or any department, agency, office, political subdivision or instrumentality of any state or group of states that is adopted and extended for use by OGS in accordance with the requirements of the State Finance Law.

5. **Contract Letter** A letter to the successful Bidder indicating acceptance of its Bid in response to a Solicitation. Unless otherwise specified, the issuance of a letter of acceptance forms a

Contract but is not an order for Product, and the Contractor should not take any action with respect to actual Contract deliveries except on the basis of Purchase Orders sent from Authorized Users.

j. CONTRACT AWARD NOTIFICATION

An announcement to Bidders that a Contract has been recommended for award prior to any negotiation and approval by the Office of the New York State Comptroller.

k. CONTRACTOR Any successful Bidder to whom a Contract has been awarded by the Agency.

l. DOCUMENTATION The complete set of manuals (e.g., user, installation, instruction or diagnostic manuals) in either hard or electronic copy, that are necessary to enable the Agency to properly test, install, operate and enjoy full use of the Product.

m. EMERGENCY An urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

n. ENTERPRISE The total business operations in the United States of OPRHP without regard to geographic location where such operations are performed or the entity actually performing such operations on behalf of the OPRHP.

o. ENTERPRISE LICENSE A license grant of unlimited rights to deploy, access, use and execute Product anywhere within the Enterprise up to the maximum capacity stated on the Purchase Order or in the Contract.

p. ERROR CORRECTIONS Machine executable software code furnished by Contractor which corrects the Product so as to conform to the applicable warranties, performance standards and/or obligations of the Contractor.

q. GROUP A classification of a Product.

r. INVITATION FOR BIDS (IFB) A type of Solicitation that is most typically used for procurements where requirements can be stated and award will be made based on lowest price to the responsive and responsible Bidder or Bidders.

s. ISSUING ENTITY The Agency who issued the Solicitation for a procurement.

t. LATE BID A bid not received in the location established in the Bid Specifications on or before the date and time of the submission deadline specified in the Solicitation.

u. LICENSED SOFTWARE Software transferred upon the terms and conditions set forth in the Contract. "Licensed Software" includes Error Corrections, upgrades, enhancements or New Licensed Software Releases, and any deliverables due under a technical support/maintenance or service contract (e.g., patches, fixes, PTFs, programs, code or data conversion, or custom programming).

v. LICENSEE The Agency who acquires Product from Contractor by issuing a Purchase Order in accordance with the terms and conditions of the Contract; provided that, for purposes of compliance with an individual license, the term "Licensee" shall be deemed to refer separately to the Agency who took receipt of and who is executing the Product, and who shall be solely responsible for performance and liabilities incurred. In the case of acquisitions by State Agencies, the Licensee shall be the State of New York.

w. LICENSE EFFECTIVE DATE The date Product is delivered to the Agency. Where a License involves Licensee's right to copy a previously licensed and delivered master copy of a program, the License Effective Date for additional copies shall be deemed to be the date on which the Purchase Order is executed.

x. LICENSOR A Contractor who transfers rights in proprietary Product to in accordance with the rights and obligations specified in the Contract.

y. NEW LICENSED SOFTWARE RELEASES (Licensed Software Revisions) Any commercially released revisions to the licensed version of Licensed Software as may be generally offered and available to the Agency that is currently on technical support/maintenance. New Licensed Software Releases involve a substantial revision of functionality from a previously released version of the Licensed Software. Updates are provided when available, and Contractor is under no obligation to develop any future Product or functionality.

z. OGS The New York State Office of General Services.

aa. PROCUREMENT RECORD Documentation by the Issuing Entity of the decisions made and approach taken during the procurement process, including but not limited to a copy of the Solicitation, any modification and justification for same, and any documentation considered necessary for contract review purposes by the Office of the New York State Comptroller.

bb. PRODUCTS Items or deliverables under any Solicitation or Contract and may include commodities, services and/or technology.

cc. PROPRIETARY Owned by a private individual, corporation or governmental entity under copyright, trademark, trade secret or patent laws.

dd. PURCHASE ORDER The Agency's fiscal form or format that is used when making a purchase (e.g., formal written Purchase Order, Purchasing Card, electronic Purchase Order, or other authorized instrument).

ee. REQUEST FOR PROPOSALS (RFP) A type of Solicitation which is used for procurements where factors in addition to cost are Haveconsidered and weighted in awarding the contract and where the award will be made based on "best value," as defined by the State Finance Law.

ff. REQUEST FOR QUOTATION (RFQ) A type of Solicitation that can be used when a formal Bid opening is not required (e.g., discretionary, sole source, single source or emergency purchases).

gg. RESPONSIBLE BIDDER A Bidder that is determined to have financial and organizational capacity, legal authority, satisfactory previous performance, skill, judgment and integrity, and that is found to be competent, reliable and experienced, as determined by the Agency. For purposes of being deemed responsible, a Bidder must also be determined to be in compliance with Sections 139-j and 139-k of the State Finance Law relative to restrictions on contacts during the procurement process and disclosure of contacts and prior findings of non-responsibility under these statutes.

hh. RESPONSIVE BIDDER A Bidder meeting the specifications or requirements prescribed in the Solicitation, as determined by the Agency.

ii. SINGLE SOURCE A procurement where two or more Bidders can supply the required Product, and the Agency may award the contract to one Bidder over the other.

jj. SITE The location (street address) where Product will be delivered or executed.

kk. SOLE SOURCE A procurement where only one Bidder is capable of supplying the required Product.

ll. SOLICITATION Writings by the State setting forth the scope, terms, conditions and technical specifications for a procurement of Product. The procurement may be undertaken on a competitive or non-competitive basis. Such writings typically include, but are not limited to: Invitation for Bids (IFB), Request for Quotations (RFQ), Request for Proposals (RFP), addenda or amendments thereto, and terms and conditions that are incorporated by reference, including but not limited to Appendix A (Standard Clauses for NYS Contracts), Appendix B (General Specifications for OPRHP Contracts), and identified attachments. Where the procurement is undertaken on a non-competitive basis, the term "Solicitation" shall be deemed to refer to all the terms and conditions identified by the State.

mm. SOURCE CODE The programming statements or instructions written and expressed in any language understandable by a human being skilled in the art which are translated by a language compiler to produce executable machine object code.

nn. STATE State of New York.

oo. STATE AGENCY OR AGENCIES The State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York, including OPRHP.

pp. SUBCONTRACTOR Any individual or legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.

qq. TERMS OF LICENSE The terms and conditions set forth in the Contract that are in effect and applicable to a Purchase Order at the time of order placement.

rr. VIRUS Any computer code, whether or not written or conceived by Contractor, that disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software, firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer.

BID SUBMISSION

6. INTERNATIONAL BIDDING All Bids, including all information and Product required by the Solicitation or provided as explanation thereof, shall be submitted in English. All prices shall be expressed, and all payments shall be made, in United States Dollars (\$US). Any Bids submitted which do not meet the above criteria will be rejected.

7. BID OPENING Bids may, as applicable, be opened publicly. The Agency reserves the right at any time to postpone or cancel a scheduled Bid opening.

8. LATE BIDS REJECTED Any Bid received at the specified location after the time specified will be considered a late Bid. A late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of the Solicitation are received or, (ii) in the case of a multiple award, an insufficient number of timely Bids were received to satisfy the multiple award; and acceptance of the late Bid is in the best interests of the Agency. Bids submitted for continuous or periodic recruitment contract awards must meet the submission requirements associated with the Solicitation. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the Agency, shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather, or security procedures for parking and building admittance, shall not excuse late Bid submissions. Determinations relative to Bid timeliness shall be at the sole discretion of the Agency.

9. BID CONTENTS Bids must be complete and legible. All bids must be signed. All information required by the Bid Specifications must be supplied by the Bidder on the forms or in the format specified. No alteration, erasure or addition is to be made to the Solicitation. Changes may be ignored by the Agency or may be grounds for rejection of the bid. Changes, corrections and/or use of white-out in the bid or Bidder's response portion of the Bid Document must be initialed by an authorized representative of the Bidder. Bidders are cautioned to verify their bids before submission, as amendments to bids or requests for withdrawal of bids received by the Agency after the time specified for the bid opening, may not be considered

10. EXTRANEOUS TERMS Bids must conform to the terms set forth in the Solicitation. Extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid.

Extraneous terms submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only.

Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

a. Each proposed extraneous term (addition, deletion, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form;

b. The writing must identify the particular Solicitation requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and

c. The Bidder shall enumerate the proposed addition, deletion, counter-offer, deviation, or modification from the Solicitation, and the reasons therefor.

No extraneous terms, whether or not deemed "material," shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the Agency expressly accepts each such terms in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of extraneous terms.

11. CONFIDENTIAL/TRADE SECRET MATERIALS

a. CONTRACTOR Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be

clearly marked and identified as such upon submission by the Bidder. Marking the Bid as “confidential” or “proprietary” on its face or in the document header or footer shall not be considered by the Agency to be sufficient without specific justification as to why disclosure of particular information in the Bid would cause substantial injury to the competitive position of the Bidder. Bidders/Contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing, setting forth the reasons for the claimed exemption. The State’s receipt/acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures. Properly identified information that has been designated confidential, trade secret, or proprietary by the Bidder will not be disclosed except as may be required by the Freedom of Information Law or other applicable State and federal laws.

b. AGENCY Contractor warrants, covenants and represents that any confidential information obtained by Contractor, its agents, Subcontractors, officers, distributors, resellers or employees in the course of performing its obligations, including without limitation, security procedures, business operations information, or commercial proprietary information in the possession of the State or the Agency hereunder or received from another third party, will not be divulged to any third parties without the written consent of the Agency. Contractor shall not be required to keep confidential any such material that is publicly available through no fault of Contractor, independently developed by Contractor without reliance on confidential information of the Agency, or otherwise obtained under the Freedom of Information Law or other applicable New York State laws and regulations. This warranty shall survive termination of this Contract. Contractor further agrees to take commercially reasonable steps to inform its agents, Subcontractors, officers, distributors, resellers or employees of the obligations arising under this clause to ensure such confidentiality.

12. PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS If any portion of work being solicited is subject to the prevailing wage rate provisions of the Labor Law, the following shall apply:

a. PREVAILING WAGE RATE APPLICABLE TO BIDS A copy of the applicable prevailing wage rate schedule is attached to the Solicitation and may also be obtained by visiting www.labor.ny.gov and typing in the search box: Prevailing Wage Schedule Request. Bidders must submit Bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (i.e., fringe benefits and any cash or non-cash compensation which are not wages, as defined by law) that equal or exceed the applicable prevailing wage rate(s) for the location where the work is to be performed. Bidders may not submit Bids based upon hourly wage rates and supplements below the applicable prevailing wage rates as established by the New York State Department of Labor. Bids that fail to comply with this requirement will be disqualified.

b. WAGE RATE PAYMENTS/CHANGES DURING CONTRACT TERM The wages to be paid under any resulting Contract shall not be less than the prevailing rate of wages and supplements as set forth by law. It is required that the Contractor keep informed of all changes in the prevailing wage rates during the Contract term that apply to the classes of individuals supplied by the Contractor on any projects resulting from this Contract, subject to the provisions of the Labor Law. Contractor is solely liable for and must pay such required prevailing wage adjustments during the Contract term for its employees as required by law and is responsible for ensuring any Subcontractors utilized on the Contract also comply with the prevailing wage provisions of the New York State Labor Law.

c. ARTICLE 8 CONSTRUCTION/PUBLIC WORKS CONTRACTS In compliance with Article 8, Section 220 of the New York State Labor Law:

i. Posting The Contractor must publicly post on the work Site, in a prominent and accessible place, a legible schedule of the prevailing wage rates and supplements.

ii. Payroll Records Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. For public works contracts over \$25,000 where the Contractor maintains no regular place of business in the State, such records must be kept at the work Site. For building services contracts, such records must be kept at the work Site while work is being performed.

iii. Submission of Certified Payroll Transcripts for Public Works Contracts Only Contractors and Subcontractors on public works Contracts must submit monthly payroll transcripts to the Agency issuing the Purchase Order for the work. This provision does not apply to Article 9 of the Labor Law building services contracts.

iv. Day’s Labor No laborers, workmen or mechanics in the employ of the Contractor, Subcontractor or other person doing or contracting to do all or part of the work contemplated by the Contract shall be permitted or required to work more than eight hours in any one calendar day or more than five calendar days in any one week except in cases of extraordinary emergency including fire, flood or danger to life or property. “Extraordinary emergency” shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the NYS Commissioner of Labor for the preservation of the Contract Site or for the protection of the life and limb of the persons using the Contract Site.

d. ARTICLE 9 BUILDING SERVICES CONTRACTS In compliance with Article 9, Section 230 of the New York State Labor Law:

i. Payroll Records Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. Where the Contractor or Subcontractor maintains no regular place of business in New York State, such records must be kept at the work Site while work is being performed.

ii. Overtime Employees of Contractors and Subcontractors who work in excess of eight hours in a day or forty hours in a week shall be paid at the overtime rate identified by the New York State Department of Labor.

13. TAXES

a. Unless otherwise specified in the Solicitation, Bid Specifications or Contract, the quoted Bid price includes all taxes applicable to the transaction.

b. Purchases made by the State of New York and the Agency are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State Sales tax exemption, either the Purchase Order issued by a State Agency or the invoice forwarded to authorize payment for such purchases will be sufficient evidence that the sale by the

Contractor was made to the State, an exempt organization under Section 1116 (a) (1) of the Tax Law. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor.

14. EXPENSES PRIOR TO CONTRACT EXECUTION The Agency is not liable for any costs incurred by a Bidder or Contractor in the preparation and production of a Bid, Mini-Bid, cost proposal revision, or for any work performed prior to Contract execution.

15. ADVERTISING RESULTS The prior written approval of the Agency is required in order for results of the Solicitation to be used by the Contractor as part of any commercial advertising. The Contractor shall also obtain the prior written approval of the Agency relative to the Solicitation or Contract for press or other media releases.

16. PRODUCT REFERENCES

a. "Or Equal" In all Solicitations or Bid Specifications, the words "or equal" are understood to apply where a copyrighted, brand name, trade name, catalog reference, or patented Product is referenced. References to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. Comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The Agency's decision as to acceptance of the Product as equal shall be final.

b. Discrepancies in References In the event of a discrepancy between the model number referenced in the Solicitation or Bid Specifications and the written description of the Products that cannot be reconciled, then the written description shall prevail.

17. REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS Upon the conditions specified in the Solicitation and in accordance with the laws of the State of New York, Contractors are encouraged to use recycled, recyclable or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health, welfare, safety requirements or in the Solicitation. Contractors are further encouraged to offer remanufactured Products to the maximum extent practicable without jeopardizing the performance or intended end use of the Product unless such use is precluded due to health, welfare, safety requirements or by the Solicitation. Where such use is not practical, suitable, or permitted by the Solicitation, Contractor shall deliver new materials in accordance with the "Warranties" set forth below.

Items with recycled, recyclable, recovered, refurbished or remanufactured content must be identified in the Bid or Bidder will be deemed to be offering new Product.

18. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS Bids offering Products that are manufactured or produced in public institutions will be rejected.

19. PRICING

a. Unit Pricing If required by the Solicitation, the Bidder should insert the price per unit specified and the price extensions in decimals, not to exceed four places for each item unless otherwise specified, in the Solicitation. In the event of a discrepancy between the unit price and the extension, the unit price shall govern unless, in the sole judgment of the Agency, such unit pricing is obviously erroneous.

b. Net Pricing Unless otherwise required by the Solicitation, prices shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination(s) indicated in the Solicitation.

c. "No Charge" Bid When Bids are requested on a number of Products as a Group or lot, a Bidder desiring to Bid "no charge" on a Product in the Group or lot must clearly indicate such. Otherwise, such Bid may be considered incomplete and be rejected, in whole or in part, at the discretion of the Agency.

d. Educational Pricing All Products to be supplied for educational purposes that are subject to educational discounts shall be identified in the Bid and such discounts shall be made available to qualifying institutions.

e. Third Party Financing If Product acquisitions are financed through any third party financing, Contractor may be required as a condition of Contract award to agree to the terms and conditions of a "Consent & Acknowledgment Agreement" in a form acceptable to the Agency.

f. Best Pricing Offer During the Contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, at the discretion of the Agency, shall be immediately reduced to the lower price.

g. Specific Price Decreases:

(i) GSA Changes: Where net pricing under the Contract is based on an approved GSA schedule, price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after the date the approved GSA schedule pricing decreases during the Contract term; or

(ii) Commercial Price List Reductions: Where net pricing under the Contract is based on a discount from Contractor's list prices, price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after the date Contractor lowers its pricing to its customers generally or to similarly situated government customers during the Contract term; or

(iii) Special Offers/Promotions Generally: Where Contractor generally offers more advantageous special price promotions or special discount pricing to other customers during the Contract term for a similar quantity, and the maximum price or discount associated with such offer or promotion is better than the discount or net pricing otherwise available under this Contract, such better price or discount shall apply for similar quantity transactions under this Contract for the life of such general offer or promotion; and

(iv) Special Offers/Promotions to the Agency: Contractor may offer the Agency, under either this Contract or any other contracting vehicle, competitive pricing which is lower than the net pricing set forth herein at any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the Contract pursuant to the foregoing paragraph (iii).

Unless otherwise specified in the Solicitation, Contractor may offer lower prices or better terms (see Modification of Contract Terms) on any specific Purchase Order(s) from the Agency without being in

conflict with, or having any obligation to comply on a global basis with, the terms of this clause.

h. Cost Proposal Revisions A Contractor may be solicited prior to Contract award to propose the best possible offer for the Product being bid on, in accordance with State Finance Law § 163(9)(c). A cost proposal revision must be a lower price than the initial price.

20. DRAWINGS

a. Drawings Submitted With Bid When the Solicitation requires the Bidder to furnish drawings and/or plans, such drawings and/or plans shall conform to the mandates of the Solicitation and shall, when approved by the Agency, be considered a part of the Bid and of any resulting Contract. All symbols and other representations appearing on the drawings shall be considered a part of the drawing.

b. Drawings Submitted During the Contract Term Where required to develop, maintain and deliver diagrams or other technical schematics regarding the scope of work, Contractor shall do so on an ongoing basis at no additional charge, and must, as a condition of payment, update drawings and plans during the Contract term to reflect additions, alterations, and deletions. Such drawings and diagrams shall be delivered to the Agency's representative.

c. Accuracy of Drawings Submitted All drawings shall be neat and professional in manner and shall be clearly labeled as to locations and type of Product, connections and components. Drawings and diagrams are to be in compliance with accepted drafting standards. Acceptance or approval of such plans shall not relieve the Contractor from responsibility for design or other errors of any sort in the drawings or plans, or from its responsibility for performing as required, furnishing Product, or carrying out any other requirements of the intended scope of work.

21. SITE INSPECTION Where a Site inspection is required, Bidder shall be required to inspect the Site, including environmental or other conditions, for pre-existing deficiencies that may affect the installed Product or that may affect Bidder's ability to properly deliver, install or otherwise provide the required Product. All inquiries regarding such conditions shall be made in writing. Bidder shall be deemed to have knowledge of any deficiencies or conditions that such inspection or inquiry might have disclosed. Bidder must provide a detailed explanation with its Bid if additional work is required under this clause in order to properly provide the required Product.

22. PURCHASING CARD The State's Purchasing Card program is designed to be an efficient and cost effective way to expedite purchases. The Purchasing Card (also referred to as the Procurement Card) is a credit card that enables the Agency to make authorized purchases directly from a Contractor without processing formal Purchase Orders. Purchasing Cards are issued to selected employees who are authorized to make purchases for the Agency. Cardholders can make purchases directly from any Contractor that accepts the Purchasing Card.

23. SAMPLES

a. Bidder Supplied Samples The Agency reserves the right to request from the Bidder/Contractor a representative sample(s) of the Product offered at any time prior to or after award of a Contract. Unless otherwise instructed, samples shall be furnished within the time specified in the request. Untimely submission of a sample may constitute grounds for rejection of the Bid or cancellation of the Contract. Samples must be submitted free of charge and be accompanied by the Bidder's name and address, any descriptive

literature relating to the Product and a statement indicating how and where the sample is to be returned. Where applicable, samples must be properly labeled with the appropriate Solicitation or Contract reference.

A sample may be held by the Agency during the entire term of the Contract and for a reasonable period thereafter for comparison with deliveries. At the conclusion of the holding period, the sample, where feasible, will be returned as instructed by the Bidder, at the Bidder's expense and risk. Where the Bidder has failed to fully instruct the Agency as to the return of the sample (i.e., mode and place of return, etc.) or refuses to bear the cost of its return, the sample shall become the sole property of the receiving entity at the conclusion of the holding period.

b. Enhanced Samples When an approved sample exceeds the minimum specifications, all Product delivered must be of the same enhanced quality and identity as the sample. Thereafter, in the event of a Contractor's default, the Agency may procure a Product substantially equal to the enhanced sample from other sources, charging the Contractor for any additional costs incurred.

c. Conformance with Samples Submission of a sample (whether or not such sample is tested by, or for, the Agency) and approval thereof shall not relieve the Contractor from full compliance with all terms and conditions, performance related and otherwise, specified in the Solicitation. If in the judgment of the Agency the sample or Product submitted is not in accordance with the specifications or testing requirements prescribed in the Solicitation, the Agency may reject the Bid. If an award has been made, the Agency may cancel the Contract at the expense of the Contractor.

d. Testing All samples are subject to tests in the manner and place designated by the Agency, either prior to or after Contract award. Unless otherwise stated in the Solicitation, Bidder samples consumed or rendered useless by testing will not be returned to the Bidder. Testing costs for samples that fail to meet Contract requirements may be at the expense of the Contractor.

e. Requests For Samples By the Agency Requests for samples by the Agency require the consent of the Contractor. Where Contractor refuses to furnish a sample, the Agency may, in its sole discretion, make a determination on the performance capability of the Product or on the issue in question.

BID EVALUATION

24. BID EVALUATION The Agency reserves the right to accept or reject any and all Bids, or separable portions of Bids, and waive technicalities, irregularities, and omissions if the Agency determines the best interests of the State will be served. The Agency, in its sole discretion, may accept or reject illegible, incomplete or vague Bids and his/her decision shall be final. A conditional or revocable Bid which clearly communicates the terms or limitations of acceptance may be considered, and Contract award may be made in compliance with the Bidder's conditional or revocable terms in the Bid.

25. TIE BIDS In the event two Bids are found to be substantially equivalent, price shall be the basis for determining the award recipient. While prompt payment discounts will not be considered in determining the low Bid, the Agency may consider any prompt payment discount in resolving Bids which are otherwise tied. If two or more Bidders submit substantially equivalent Bids as to pricing or other factors, the decision of the Agency to award a Contract to one or more of such Bidders shall be final.

26. QUANTITY CHANGES PRIOR TO AWARD The Agency reserves the right, at any time prior to the award of a specific quantity Contract, to alter in good faith the quantities listed in the Solicitation. In the event such right is exercised, the lowest responsible Bidder meeting the Solicitation requirements will be advised of the revised quantities and afforded an opportunity to extend or reduce its Bid price in relation to the changed quantities. Refusal by the low Bidder to so extend or reduce its Bid price may result in the rejection of its Bid and the award of such Contract to the lowest responsible Bidder who accepts the revised qualifications.

27. CLARIFICATION / REVISIONS Prior to award, the Agency reserves the right to seek clarifications on Bids, request revisions to Bids, or to request any information deemed necessary for proper evaluation of Bids from all Bidders deemed to be eligible for contract award. Failure to provide requested information may result in rejection of the Bid.

28. TIMEFRAME FOR OFFERS The Agency reserves the right to make awards within sixty days after the date of the Bid opening or such other period of time as set forth in the Solicitation, during which period, Bids must remain firm and cannot be withdrawn. Where an award is not made within the sixty day period or other time specified as set forth in the Solicitation, the Bids shall remain firm until such later time as either a Contract is awarded or the Bidder delivers to the Agency written notice of the withdrawal of its Bid.

TERMS & CONDITIONS

29. CONTRACT CREATION / EXECUTION Except for contracts governed by Article 11-B of the State Finance Law, subject to and upon receipt of all required approvals as set forth in the Solicitation, a Contract shall be deemed executed and created with the successful Bidder(s) upon the Agency's mailing or electronic communication to the address on the Bid/Contract of: (i) the final Contract Award Notice; (ii) a fully executed Contract; or (iii) a Purchase Order authorized by the Agency.

30. OFFICIAL USE ONLY/NO PERSONAL USE The Contract is only for official use by the Agency. Use of the Contract for personal or private purposes is strictly prohibited.

31. MODIFICATION OF CONTRACT TERMS The terms and conditions set forth in the Contract shall govern all transactions by the Agency under this Contract. The Contract may only be modified or amended upon mutual written agreement of the Agency and Contractor.

The Contractor may, however, offer the Agency more advantageous pricing, payment, or other terms and conditions than those set forth in the Contract. In such event, a copy of such terms shall be furnished to the Agency by the Contractor at the time of such offer.

Other than where such terms are more advantageous for the Agency than those set forth in the Contract, no alteration or modification of the terms of the Contract, including substitution of Product, shall be valid or binding against the Agency unless authorized by the Agency or specified in the Contract Award Notification. No such alteration or modification shall be made by unilaterally affixing such terms to Product upon delivery (including, but not limited to, attachment or inclusion of standard pre-printed order forms, product literature, "shrink wrap" terms accompanying software upon delivery, or other documents) or by incorporating such terms onto order forms, Purchase Orders or other documents forwarded by the Contractor for payment, notwithstanding the Agency's subsequent acceptance of Product, or that the Agency has subsequently processed such document for approval or payment.

32. SCOPE CHANGES The Agency reserves the right, unilaterally, to require, by written order, changes altering, adding to or deducting from the Contract specifications, such changes to be within the general scope of the Contract. The Agency may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the consent of the Contractor, which consent shall not be unreasonably withheld.

33. ESTIMATED/SPECIFIC QUANTITY CONTRACTS Estimated quantity contracts, also referred to as indefinite delivery/indefinite quantity contracts, are expressly agreed and understood to be made for only the quantities, if any, actually ordered during the Contract term. No guarantee of any quantity is implied or given. Unless otherwise set forth in the Bid Specifications, contracts for services and technology are completely voluntary as to use, and therefore no quantities are guaranteed.

With respect to any specific quantity stated in the Contract, the Agency reserves the right after award to order up to 20% more or less (rounded to the next highest whole number) than the specific quantities called for in the Contract. Notwithstanding the foregoing, the Agency may purchase greater or lesser percentages of Contract quantities should the Agency and Contractor so agree. Such agreement may include an equitable price adjustment.

34. EMERGENCY CONTRACTS In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or the Commissioner of the Agency determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of Product, the Commissioner reserves the right to obtain such Product from any source, including but not limited to this Contract(s), as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim for lost profits for Product procured from other sources pursuant to this clause. The reasons underlying the finding that an emergency exists shall be included in the procurement record.

35. PURCHASE ORDERS Unless otherwise authorized in writing by the Agency, no Product is to be delivered or furnished by Contractor until transmittal of an official Purchase Order from the Agency. Unless terminated or cancelled pursuant to the authority vested in the Agency, Purchase Orders shall be effective and binding upon the Contractor when placed in the mail or electronically transmitted prior to the termination of the Contract period, addressed to the Contractor at the address for receipt of orders set forth in the Contract or in the Contract Award Notification.

All Purchase Orders issued pursuant to a Contract let by the Agency must bear the appropriate Contract number and, if necessary, required State approvals. As deemed necessary, the Agency may confirm pricing and other Product information with the Contractor prior to placement of the Purchase Order. The State reserves the right to require any other information from the Contractor which the State deems necessary in order to complete any Purchase Order placed under the Contract. Unless otherwise specified, all Purchase Orders against Contracts will be placed by the Agency directly with the Contractor and any discrepancy between the terms stated on the Contractor's order form, confirmation or acknowledgment, and the Contract terms shall be resolved in favor of the terms most favorable to the Agency.

The Purchase Order shall indicate the address for delivery of the Product. The Agency shall confirm pricing, supported hardware platforms and model availability with Contractor prior to placement of orders. Contractor's order form shall, at a minimum, contain the NYS Product reference number, license type, price, and must separately

itemize quantities for software, documentation, and services. The State reserves the right to require any other information from the Contractor which the State deems necessary in order to verify any Purchase Orders placed under the Contract.

36. PRODUCT DELIVERY Delivery must be made as ordered to the address specified on the Purchase Order and in accordance with the terms of the Contract. Delivery shall be made within thirty calendar days after receipt of a Purchase Order by the Contractor, unless otherwise agreed to by the Agency and the Contractor. The decision of the Agency as to compliance with delivery terms shall be final. The burden of proof for delay in receipt of a Purchase Order shall rest with the Contractor. In all instances of a potential or actual delay in delivery, the Contractor shall immediately notify the Agency, and confirm in writing the explanation of the delay, and take appropriate action to avoid any subsequent late deliveries. Any extension of time for delivery must be requested in writing by the Contractor and approved in writing by the Agency. Failure to meet such delivery time schedule may be grounds for cancellation of the order or, in the Agency's discretion, the Contract.

37. WEEKEND AND HOLIDAY DELIVERIES Unless otherwise specified in the Contract or by the Agency, deliveries will be scheduled for ordinary business hours, Monday through Friday (excluding legal holidays observed by the State of New York). Deliveries may be scheduled by mutual agreement for Saturdays, Sundays or legal holidays observed by the State of New York where the Product is for daily consumption, an emergency exists, the delivery is a replacement, delivery is late, or other reasonable circumstance in which event the convenience of the Agency shall govern.

38. SHIPPING/RECEIPT OF PRODUCT

a. Packaging Product shall be securely and properly packed for shipment, storage and stocking in appropriate, clearly labeled shipping containers and according to accepted commercial practice, without any extra charges for packing materials, cases or other types of containers. The container shall become and remain the property of the Agency unless otherwise specified in the Contract documents.

b. Shipping Charges Unless otherwise stated in the Contract, all deliveries shall be deemed to be freight on board (F.O.B.) destination tailgate delivery at the dock of the Agency. Unless otherwise agreed, items purchased at a price F.O.B. shipping point plus transportation charges shall not relieve the Contractor from responsibility for safe and proper delivery notwithstanding the Agency's payment of transportation charges. Contractor shall be responsible for ensuring that the bill of lading states "charges prepaid" for all shipments.

c. Receipt of Product The Contractor shall be solely responsible for assuring that deliveries are made to personnel authorized to accept delivery on behalf of the Agency. Any losses resulting from the Contractor's failure to deliver Product to authorized personnel shall be borne exclusively by the Contractor.

39. TITLE AND RISK OF LOSS Notwithstanding the form of shipment, title or other property interest, risk of loss shall not pass from the Contractor to the Agency until the Products have been received, inspected and accepted by the receiving entity. Acceptance shall occur within a reasonable time or in accordance with such other defined acceptance period as may be specified in the Contract or Purchase Order. Mere acknowledgment by Agency personnel of the delivery or receipt of goods (e.g., signed bill of lading) shall not be deemed or construed as acceptance of the Products received. Any delivery of Product that is substandard or does not comply with the Contract may be rejected or accepted on an adjusted price basis, as determined by the Agency.

40. RE-WEIGHING PRODUCT Deliveries are subject to re-weighing at the point of destination by the Agency. If shrinkage occurs which exceeds that normally allowable in the trade, the Agency shall have the option to require delivery of the difference in quantity or to reduce the payment accordingly. Such option shall be exercised in writing by the Agency.

41. PRODUCT SUBSTITUTION In the event a specified Product listed in the Contract becomes unavailable or cannot be supplied by the Contractor for any reason (except as provided for in the Savings/Force Majeure clause), a Product deemed in writing by the Agency to be equal to or better than the specified Product must be substituted by the Contractor at no additional cost or expense to the Agency. Unless otherwise specified, any substitution of Product prior to the Agency's written approval may be cause for termination of Contract.

42. REJECTED PRODUCT When Product is rejected, it must be removed by the Contractor from the premises of the Agency within ten calendar days of notification of rejection by the Agency. Upon notification of rejection, risk of loss of rejected or non-conforming Product shall remain with Contractor. Rejected items not removed by the Contractor within ten calendar days of notification shall be regarded as abandoned by the Contractor, and the Agency shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Agency for any and all costs and expenses incurred in storage or effecting removal or disposition after the ten-calendar-day period.

43. INSTALLATION Where installation is required, Contractor shall be responsible for placing and installing the Product in the required locations. All materials used in the installation shall be of good quality and shall be free from any and all defects that would mar the Product or render it unsound. Installation includes the furnishing of any equipment, rigging and materials required to install or place the Product in the proper location. The Contractor shall protect the Site from damage for all its work and shall repair damages or injury of any kind caused by the Contractor, its employees, officers or agents. If any alteration, dismantling or excavation, etc. is required to effect installation, the Contractor shall thereafter promptly restore the structure or Site. Work shall be performed to cause the least inconvenience to the Agency and with proper consideration for the rights of other Contractors or workers. The Contractor shall promptly perform its work and shall coordinate its activities with those of other Contractors. The Contractor shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work, the building and surrounding area of work shall be left clean and in a neat, unobstructed condition, and everything in satisfactory repair and order.

44. REPAIRED OR REPLACED PRODUCTS, PARTS, OR COMPONENTS Where the Contractor is required to repair, replace or substitute Product or parts or components of the Product under the Contract, the repaired, replaced or substituted Products shall be subject to all terms and conditions for new parts and components set forth in the Contract including warranties, as set forth in the Warranties clause herein. Replaced or repaired Product or parts and components of such Product shall be new and shall, if available, be replaced by the original manufacturer's component or part. Remanufactured parts or components meeting new Product standards may be permitted by the Agency. Before installation, all proposed substitutes for the original manufacturers' installed parts or components must be approved by the Agency. The part or component shall be equal to or of better quality than the original part or component being replaced.

45. ON-SITE STORAGE With the written approval of the Agency, materials, equipment or supplies may be stored at the Agency's site(s) at the Contractor's sole risk.

46. EMPLOYEES, SUBCONTRACTORS AND AGENTS All employees, Subcontractors or agents performing work under the Contract must be trained staff or technicians who meet or exceed the professional, technical and training qualifications set forth in the Contract, and must comply with all security and administrative requirements of the Agency. The Agency reserves the right to conduct a security background check or otherwise approve any employee, Subcontractor or agent furnished by Contractor and to refuse access to or require replacement of any personnel for cause based on professional, technical or training qualifications, quality of work or change in security status or non-compliance with the Agency's security or other requirements. Such approval shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract terms. The Agency reserves the right to reject and/or bar from any facility for cause any employee, Subcontractor, or agent of the Contractor.

47. ASSIGNMENT In accordance with Section 138 of the State Finance Law, the Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the Contract or its right, title or interest therein, or its power to execute such Contract to any other person, company, firm or corporation in performance of the Contract without the prior written consent of the Agency (as applicable); provided, however, any consent shall not be unreasonably withheld, conditioned, delayed or denied. Notwithstanding the foregoing, the State shall not hinder, prevent or affect assignment of money by a Contractor for the benefit of its creditors. Prior to a consent to assignment of monies becoming effective, the Contractor shall file a written notice of such monies assignments with the State Comptroller. Prior to a consent to assignment of a Contract, or portion thereof, becoming effective, the Contractor shall submit the request for assignment to the Agency and seek written agreement from the Agency which will be filed with the State Comptroller. The Agency shall use reasonable efforts to promptly respond to any request by Contractor for an assignment, provided that Contractor supplies sufficient information about the party to whom the Contractor proposes to assign the Contract.

Upon notice to the Contractor, the Contract may be assigned without the consent of the Contractor to another State Agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the functions are transferred to a successor Agency or to another Agency that assumes responsibility for the Contract.

48. SUBCONTRACTORS AND SUPPLIERS The Agency reserves the right to reject any proposed Subcontractor or supplier for bona fide business reasons, which may include, but are not limited to: they are on the Department of Labor's list of companies with which New York State cannot do business; the Agency determines that the company is not qualified; the Agency determines that the company is not responsible; the company has previously provided unsatisfactory work or services; the company failed to solicit New York State certified minority- and women-owned business enterprises as required by prior Contracts.

49. PERFORMANCE/BID BOND The Agency reserves the right to require a Bidder or Contractor to furnish, without additional cost, a performance, payment or Bid bond, negotiable irrevocable letter of credit, or other form of security for the faithful performance of the Contract. Where required, such bond or other security shall be in the form prescribed by the Agency.

50. SUSPENSION OF WORK The Agency, in its sole discretion, reserves the right to suspend any or all activities under the Contract, at any time, in the best interests of the Agency. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze or

reduction in State spending, declaration of emergency, contract compliance issues or other circumstances. Upon issuance of such notice, the Contractor is not to accept any Purchase Orders, and shall comply with the suspension order. Activity may resume at such time as the Agency issues a formal written notice authorizing a resumption of performance under the Contract.

51. TERMINATION

a. For Cause For a material breach that remains uncured for more than thirty (30) calendar days or other longer period as specified by written notice to the Contractor, the Contract or Purchase Order may be terminated by the Agency at the Contractor's expense. Such termination shall be upon written notice to the Contractor. In such event, the Agency may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

b. For Convenience This Contract may be terminated at any time by Agency for convenience upon sixty (60) calendar days or other longer period as specified by written notice, without penalty or other early termination charges due. Such termination of the Contract shall not affect any project or Purchase Order that has been issued under the Contract prior to the date of such termination. If the Contract is terminated pursuant to this subdivision, the Agency shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Contractor shall use due diligence and fulfill any outstanding Purchase Orders.

c. For Violation of Sections 139-j and 139-k of the State Finance Law The Agency reserves the right to terminate the Contract in the event it is found that the certification filed by the Bidder in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the Agency may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

d. For Violation of Section 5-a of the New York State Tax Law The Agency reserves the right to terminate the Contract in the event it is found that the certification filed by the Contractor in accordance with Section 5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Agency may exercise his or her termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

e. For Non-Responsibility The Bidder agrees that if it is found by the State that the Bidder's responses to the Vendor Responsibility Questionnaire were intentionally false or intentionally incomplete, on such finding, the Agency may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Agency officials or staff, the Contract may be terminated by the Agency at the Contractor's expense where the Contractor is determined by the Agency to be non-responsible. In such event, the Agency may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

f. Upon Conviction of Certain Crimes The Agency reserves the right to terminate the Contract in the event it is found that a member, partner, director or officer of Contractor is convicted of one or more of the following: Bribery Involving Public Servants and Related Offenses as defined in Article 200 of the New York State Penal Law; Corrupting the Government as defined in Article 496 of the New York State Penal Law; or Defrauding the Government as defined in Section 195.20 of the New York State Penal Law.

52. SAVINGS/FORCE MAJEURE A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled and is not due to the negligence or willful misconduct of the affected party. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, terrorism, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or the Agency in the performance of the Contract where non-performance, by exercise of reasonable diligence, cannot be prevented.

The affected party shall provide the other party with written notice of any force majeure occurrence as soon as the delay is known and provide the other party with a written contingency plan to address the force majeure occurrence, including, but not limited to, specificity on quantities of materials, tooling, people, and other resources that will need to be redirected to another facility and the process of redirecting them. Furthermore, the affected party shall use its commercially reasonable efforts to resume proper performance within an appropriate period of time. Notwithstanding the foregoing, if the force majeure condition continues beyond thirty (30) days, the parties to the Contract shall jointly decide on an appropriate course of action that will permit fulfillment of the parties' objectives under the Contract.

The Contractor agrees that in the event of a delay or failure of performance by the Contractor under the Contract due to a force majeure occurrence:

- a. The Agency may purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to the State, or
- b. The Contractor will provide the Agency with access to Products first in order to fulfill orders placed before the force majeure event occurred. The Agency may accept allocated performance or deliveries during the occurrence of the force majeure event.

Neither the Contractor nor the Agency shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and the Agency to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Notwithstanding the above, at the discretion of the Agency where the delay or failure will significantly impair the value of the Contract to the State or to the Agency, the Agency may terminate the Contract or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relative part thereof.

In addition, the Agency reserves the right, in his or her sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the marketplace affect

pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of Contractor; (ii) the volatility affects the marketplace or industry, not just the particular Contract source of supply; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects Contractor's performance that continued performance of the Contract would result in a substantial loss. In the event of a dispute between the Contractor and the Agency, such dispute shall be resolved in accordance with the Agency's Dispute Resolution Procedures set forth in herein; provided, however, that nothing in this clause shall excuse the Contractor from performing in accordance with the Contract as changed.

53. CONTRACT INVOICING

a. Invoicing Contractor and the dealers/distributors/resellers designated by the Contractor, if any, shall provide complete and accurate billing invoices to the Agency in order to receive payment. Billing invoices submitted to the Agency must contain all information required by the Contract and the State Comptroller or other appropriate fiscal officer. Submission of an invoice and payment thereof shall not preclude the Agency from requesting reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the Contract or where the billing was inaccurate.

Contractor shall provide, upon request of the Agency, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in a commercially reasonable manner as requested by the Agency. The Agency may direct the Contractor to provide the information to the State Comptroller.

b. Payment of Contract Purchases made by the Agency when the State Comptroller is responsible for issuing such payment The Agency and Contractor agree that payments for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Agency, in the Agency's sole discretion, due to extenuating circumstances. Such electronic payments shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller website at www.osc.state.ny.us, by e-mail at HelpDesk@sfs.ny.gov, or by telephone at (518) 457-7737 or toll free (877) 737-4185. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract that are payable by the State Comptroller if it does not comply with the State Comptroller's electronic payment procedures, except where the Agency has expressly authorized payment by paper check as set forth above.

c. Payment of Contract Purchases made by the Agency when the State Comptroller is not responsible for issuing such payment The Agency and Contractor agree that payments for such Contract purchases shall be billed directly by Contractor on invoices/vouchers, together with complete and accurate supporting documentation as required by the Agency. Such payments shall be as mandated by the appropriate governing law from the receipt of a proper invoice. The Agency strongly encourages the Contractor to establish electronic payments.

54. DEFAULT – BY AGENCY

a. Breach by Agency The Agency's breach shall not be deemed a breach of the Contract; rather, it shall be deemed a breach of the Agency's performance under the terms and conditions of the Contract.

b. Failure to Make Payment In the event the Agency fails to make payment to the Contractor for Products delivered, accepted and properly invoiced, within thirty calendar days of such delivery and acceptance, the Contractor may, upon five business days advance written notice to the Agency, suspend additional provision of Products to such entity until such time as reasonable arrangements have been made and assurances given by such entity for current and future Contract payments.

c. Notice of Breach Notwithstanding the foregoing, the Contractor shall, at least ten business days prior to declaring a breach of Contract by the Agency, by certified or registered mail, notify the Agency of the specific facts, circumstances and grounds upon which a breach will be declared.

d. Insufficient basis If the Contractor's basis for declaring a breach is insufficient, the Contractor's declaration of breach and failure to provide Products to the Agency may constitute a breach of the Contract, and the Agency may thereafter seek any remedy available at law or equity.

55. PROMPT PAYMENTS

a. State Agencies Upon acceptance of Product or as otherwise provided by Contract, Contractor may invoice for payment. The required payment date shall be thirty (30) calendar days, excluding legal holidays, from the receipt of a proper invoice, as determined in accordance with State Finance Law Section 179-f(2) and 2 NYCRR Part 18. The payment of interest on certain payments due and owed by the State Agency may be made in accordance with State Finance Law Sections 179-d et seq. and the implementing regulations (2 NYCRR § 18.1 et seq.).

b. By Contractor Should the Contractor be liable for any payments to the State hereunder, interest, late payment charges and collection fee charges will be determined and assessed pursuant to Section 18 of the State Finance Law.

56. REMEDIES FOR BREACH It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law:

a. Cover/Substitute Performance In the event of Contractor's material, uncured breach, the Agency may, with or without issuing a formal Solicitation: (i) purchase from other sources; or (ii) if the Agency is unsuccessful after making reasonable attempts, under the circumstances then-existing, to timely obtain acceptable replacement Product of equal or comparable quality, the Agency may acquire acceptable replacement Product of lesser or greater quality.

Such purchases may be deducted from the Contract quantity without penalty or liability to the State. The Agency shall accept allocated performance or deliveries during a period where Contractor is making good faith efforts to cure a material breach.

b. Withhold Payment In any case where a reasonable question of material, uncured non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the Agency. Should Contractor and the Agency fail to agree upon the question of "materiality" in an instance of non-performance, such failure to agree shall be a dispute to be resolved in accordance with the Agency's Dispute Resolution Procedures.

c. Bankruptcy In the event that the Contractor files, or there is filed against Contractor, a petition under the U.S. Bankruptcy Code during the term of this Contract, the Agency may, at its discretion, make

application to exercise their right to set-off against monies due the debtor or, under the doctrine of recoupment, be credited the amounts owed by the Contractor arising out of the same transactions.

d. Reimbursement of Costs Incurred The Contractor agrees to reimburse the Agency promptly for any and all additional costs and expenses incurred for acquiring acceptable replacement Product. Should the cost of cover be less than the Contract price, the Contractor shall have no claim to the difference. The Contractor covenants and agrees that in the event suit is successfully prosecuted for any default on the part of the Contractor, all costs and expenses, including reasonable attorney's fees, shall be paid by the Contractor.

Where the Contractor fails to timely deliver pursuant to the guaranteed delivery terms of the Contract, the Agency may obtain replacement Product temporarily and the cost of the replacement Product shall be deducted from the Contract quantity without penalty or liability to the State.

e. Deduction/Credit Sums due as a result of these remedies may be deducted or offset by the Agency from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to the Agency the amount of such claim or portion of the claim still outstanding, on demand. The Agency reserves the right to determine the disposition of any rebates, settlements, restitution, damages, etc., that arise from the administration of the Contract.

57. ASSIGNMENT OF CLAIM Contractor hereby assigns to the State any and all claims for overcharges associated with this Contract that may arise under the antitrust laws of the United States, 15 USC Section 1, et seq. and the antitrust laws of the State of New York, General Business Law Section 340, et seq.

58. TOXIC SUBSTANCES Each Contractor furnishing a toxic substance, as defined by Section 875 of the Labor Law, shall provide the Agency with not less than two copies of a Material Safety Data Sheet, which sheet shall include for each such substance the information outlined in Section 876 of the Labor Law.

Before any chemical product is used or applied on or in any building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by the Agency representative.

59. INDEPENDENT CONTRACTOR It is understood and agreed that the legal status of the Contractor, its Subcontractors, agents, officers and employees under this Contract is that of an independent contractor, and in no manner shall they be deemed employees of the Agency, and therefore are not entitled to any of the benefits associated with such employment.

60. SECURITY Contractor warrants, covenants and represents that it will comply fully with all security procedures of the Agency in performance of the Contract including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

61. COOPERATION WITH THIRD PARTIES The Contractor shall be responsible for fully cooperating with any third party, including but not limited to other Contractors or Subcontractors of the Agency, as necessary to ensure delivery or performance of Product.

62. CONTRACT TERM - RENEWAL The Agency may extend by mutual agreement of the Agency and the Contractor any stated renewal periods in the Contract.

63. WARRANTIES

a. Product Performance Contractor hereby warrants and represents that the Products acquired by the Agency under this Contract conform to the manufacturer's specifications, performance standards and Documentation and that the Documentation fully describes the proper procedure for using the Products.

b. Title and Ownership Contractor warrants and represents that it has (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver specified license rights to any Products acquired by the Agency under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor shall indemnify and hold harmless the Agency from any damages and liabilities (including reasonable attorneys' fees and costs) arising from any breach of Contractor's warranties as set forth herein.

c. Product Warranty Contractor further warrants and represents that Products, components or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be free from defects in material and workmanship and will conform to all requirements of the Contract for the manufacturer's standard commercial warranty period, if applicable, or for a minimum of one (1) year from the date of acceptance, whichever is longer (the "Product warranty period").

During the Product warranty period, defects in the materials or workmanship of Products, components, or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be repaired or replaced by Contractor at no cost or expense to the Agency. Contractor shall extend the Product warranty period for individual Products, or for the system as a whole, as applicable, by the cumulative periods of time, after notification, during which an individual Product, or the system as a whole, requires repairs or replacement resulting in down time or is in the possession of the Contractor, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty").

Any component or part replaced by the Contractor under the Contract warranties shall be guaranteed for the greater of: (i) the Product warranty period set forth herein; or (ii) the manufacturer's standard commercial warranty period offered for the component or part, if applicable.

All costs for materials, labor, and transportation incurred to repair or replace Products, parts, components, or systems as a whole during the warranty period shall be borne solely by the Contractor, and the State or the Agency shall in no event be liable or responsible therefor.

Where Contractor, the independent software vendor (ISV), or other third-party manufacturer markets any Product delivered by or through Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor's warranty obligations during the Product warranty and extended warranty periods. Where such standard commercial warranty covers all or some of the Product warranty or extended warranty periods, Contractor shall be responsible for the coordination during the Product warranty or extended warranty periods with ISV or other third-party manufacturers for warranty repair or replacement of ISV or other third-party manufacturer's Product.

Where Contractor, ISV or other third-party manufacturer markets any Product with a standard commercial warranty that goes beyond the Product warranty or extended warranty periods, Contractor shall notify the Agency and pass through the standard commercial warranty to the Agency at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the standard

commercial warranty after expiration of the Product warranty and extended warranty periods.

Unless recycled, recyclable, or recovered materials are available in accordance with the Remanufactured, Recycled, Recyclable or Recovered Materials clause, Product offered shall be standard new equipment, current model or most recent release of regular stock product with all parts regularly used with the type of equipment offered. Contractor further warrants and represents that no component or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.

Contractor shall not be responsible for any modification of the Products made by the Agency without Contractor's approval.

d. Virus Warranty The Contractor represents and warrants that any Licensed Software acquired under the Contract by the Agency does not contain any known Viruses. Contractor is not responsible for Viruses introduced at Licensee's Site.

e. Date/Time Warranty Contractor warrants that Product furnished pursuant to this Contract shall, when used in accordance with the Product Documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

Where Contractor is providing ongoing services, including but not limited to: (i) consulting, integration, code or data conversion, (ii) maintenance or support services, (iii) data entry or processing, or (iv) contract administration services (e.g., billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

f. Workmanship Warranty Contractor warrants that the services acquired under this Contract will be provided in a professional and workmanlike manner in accordance with industry standards. The Agency must notify Contractor of any services warranty deficiencies within ninety calendar days from performance of the services that gave rise to the warranty claim.

g. Survival of Warranties All warranties contained in this Contract shall survive the termination of this Contract.

h. Prompt Notice of Breach The Agency shall promptly notify the Contractor in writing of any claim of breach of any warranty provided herein.

i. Additional Warranties Where Contractor, Product manufacturer or service provider generally offers additional or more advantageous warranties than those set forth herein, Contractor shall offer or pass through any such warranties to the Agency.

j. No Limitation of Rights The rights and remedies of the State and the Agency provided in this clause are in addition to and do not limit any rights afforded to the State and the Agency by any other clause of the Contract.

64. LEGAL COMPLIANCE Contractor represents and warrants that it shall secure all notices and comply with all applicable laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Agency that it meets or exceeds all requirements of the Solicitation and Contract and any applicable laws, including but not limited to, permits, licensing, and shall provide such proof as required by the Commissioner. Failure to comply or failure to provide proof may constitute grounds for the Agency to terminate or suspend the Contract, in whole or in part, or to take any other action deemed necessary by the Agency. Contractor also agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law.

65. INDEMNIFICATION Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully defend, indemnify and hold harmless the Agency from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, which shall arise from or result directly or indirectly from this Contract, without limitation; provided, however, that the Contractor shall not indemnify to the extent any claim, loss or damage arising hereunder solely due to the negligent act, failure to act, gross negligence or willful misconduct of the Agency.

The Agency shall give Contractor: (i) prompt written notice of any action, claim or threat of suit, or other suit for which Contractor is required to fully indemnify the Agency, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action, claim or suit at the expense of Contractor. Notwithstanding the foregoing, the State reserves the right to join such action, at its sole expense, if it determines there is an issue involving a significant public interest.

In the event that an action or proceeding at law or in equity is commenced against the Agency arising out of a claim for death, personal injury or damage to real or personal tangible property caused by any intentional or willful act, gross negligence, or negligence of Contractor, its agents, employees, partners or Subcontractors, which shall arise from or result directly or indirectly from the Products supplied under this Contract, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Agency and the New York State Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract and to what extent it is not so obligated to defend and indemnify. Contractor shall in such event attempt to secure a continuance to permit the State and the Agency to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the State and the Agency may have. In the event of a dispute regarding the defense, the Contractor and the Attorney General shall try to reach an amicable resolution, but the Attorney General shall have the final determination on such matters.

66. INDEMNIFICATION RELATING TO INFRINGEMENT The Contractor will also defend, indemnify and hold the Agency harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs in any action for infringement of a patent, copyright, trademark, trade secret or other proprietary right provided: (a) such claim arises solely out of the Products as supplied by the Contractor, and not out of any modification to the Products made by the Agency or by someone other

than Contractor at the direction of the Agency without Contractor's approval, and (b) the Agency gives Contractor prompt written notice of any such action, claim suit or threat of suit alleging infringement.

The Agency shall give Contractor the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and to provide assistance in the defense of any such action, claim or suit at the expense of Contractor.

Such indemnity shall only be applicable in the event of claims, judgments, liabilities and/or costs that may be finally assessed against the Agency in any action for infringement of a patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims, judgments, liabilities and/or costs arise solely from the Agency's negligent act, failure to act, gross negligence or willful misconduct.

If usage of a Product shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for the Agency the right to continue usage (ii) to modify the service or Product so that usage becomes non-infringing, and is of at least equal quality and performance; or (iii) to replace such Product or parts thereof, as applicable, with non-infringing Product of at least equal quality and performance. If the above remedies are not available, the parties shall terminate the Contract, in whole or in part as necessary and applicable, provided that the Agency is given a refund for any amounts paid for the period during which usage was not feasible.

In the event that an action at law or in equity is commenced against the Agency arising out of a claim that the Agency's use of the Product under the Contract infringes any patent, copyright, trademark, trade secret or proprietary right, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Agency and the New York State Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract and to what extent it is not so obligated to defend and indemnify. Contractor shall in such event protect the interests of the Agency and seek to secure a continuance to permit the Agency to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the Agency may have. This constitutes the Agency's sole and exclusive remedy for patent infringement, or for infringement of any other third party proprietary right.

67. LIMITATION OF LIABILITY Except as otherwise set forth in the Indemnification clause and the Indemnification Relating to Infringement clause, the limit of liability shall be as follows:

a. Contractor's liability for any claim, loss or liability arising out of, or connected with the Products provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (i) an amount equal to two (2) times the charges specified in the Purchase Order for the Products forming the basis of the Agency's claim or (ii) five hundred thousand dollars (\$500,000), whichever is greater.

b. The Agency may retain such monies from any amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like asserted against the Agency unless Contractor at the time of the presentation of claim shall demonstrate to the Agency's satisfaction that sufficient monies are set aside by the Contractor in the

form of a bond or through insurance coverage to cover associated damages and other costs.

c. Notwithstanding the above, neither the Contractor nor the Agency shall be liable for any consequential, indirect or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by the Agency, the Contractor, or by others.

68. AGENCY'S DISPUTE RESOLUTION PROCEDURES The first step of the dispute resolution will be through conference between the Agency and the Contractor. The party initiating the process shall notify the other party in writing and set forth the issues for resolution and provide all necessary documentation. Unresolved disputes will be resolved by the Commissioner or his/her designee, whose decision is final and binding. During this period all work required hereunder shall be performed. If the Contractor pursues any legal or equitable remedy outside the Agency, the Contractor will continue to perform work in accordance with the direction of the Agency until such proceedings may be concluded and will continue to be paid in accordance with the Agreement, and less any amounts attributable to the dispute. Disputes that go to litigation must be pursued in a court of competent jurisdiction of the State of New York. New York law will govern the dispute and venue must be laid in Albany County, New York.

THE FOLLOWING CLAUSES PERTAIN TO TECHNOLOGY & NEGOTIATED CONTRACTS

69. SOFTWARE LICENSE GRANT Where Product is acquired on a licensed basis the following shall constitute the license grant:

a. **License Scope** Licensee is granted a non-exclusive, perpetual license to use, execute, reproduce, display, perform, or merge the Product within its business enterprise in the United States up to the maximum licensed capacity stated on the Purchase Order. Product may be accessed, used, executed, reproduced, displayed or performed up to the capacity measured by the applicable licensing unit stated on the Purchase Order (i.e., payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation). Licensee shall have the right to use and distribute modifications or customizations of the Product to and for use by the Agency otherwise licensed to use the Product, provided that any modifications, however extensive, shall not diminish Licensor's proprietary title or interest. No license, right or interest in any trademark, trade name, or service mark is granted hereunder.

b. **License Term** The license term shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the license term shall be extended by the time period for testing, acceptance or trial.

c. **Licensed Documentation** If commercially available, Licensee shall have the option to require the Contractor to deliver, at Contractor's expense: (i) one (1) hard copy and one (1) master electronic copy of the Documentation in a mutually agreeable format; (ii) hard copy instructions for access by downloading from the Internet; and (iii) hard copies of the Product Documentation by type of license in the following amounts, unless otherwise mutually agreed:

- Individual/Named User License - one (1) copy per License
- Concurrent Users - 10 copies per Site
- Processing Capacity - 10 copies per Site

Software media must be in a format specified by the Agency, without requiring any type of conversion.

Contractor hereby grants to Licensee a perpetual license right to make, reproduce (including downloading electronic copies of the Product) and distribute, either electronically or otherwise, copies of Product Documentation as necessary to enjoy full use of the Product in accordance with the Terms of License.

d. **Product Technical Support & Maintenance** Licensee shall have the option of electing the Product technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to Contractor any time during the Contract term. Maintenance terms and any renewals thereof are independent of the expiration of the Contract term and shall not automatically renew.

Maintenance shall include, at a minimum, (i) the provision of Error Corrections, updates, enhancements, revisions, fixes, upgrades and New Licensed Software Releases to Licensee, and (ii) help desk assistance with locally accessible "800" or toll free, local telephone service, or alternatively on-line help desk accessibility. Contractor shall maintain the Product so as to provide Licensee with the ability to utilize the Product in accordance with the Product Documentation without significant functional downtime to its ongoing business operations during the technical support/maintenance term.

The Agency shall not be required to purchase maintenance for use of Product, and may discontinue maintenance at the end of any current maintenance term upon notice to Contractor. In the event that the Agency does not initially acquire or discontinues maintenance of licensed Product, it may, at any time thereafter, reinstate maintenance for Product without any additional penalties or other charges, by paying Contractor the amount which would have been due under the Contract for the period of time that such maintenance had lapsed, at then current NYS net maintenance rates.

e. **Permitted License Transfers** As Licensee's business operations may be altered, expanded or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated Site not originally specified in the license, including transfers between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) and certify in writing that the Product is not in use at the prior Site. There shall be no additional license or other transfer fees due Contractor, provided that: (i) the maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred Site (e.g., named users, seats, or MIPS); or (ii) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to the Product to that unit of licensed capacity solely dedicated to beneficial use for Licensee. In the event that the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred Site, and a logical or physical partition or other means of restricting use is not available, the fees due Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

f. **Restricted Use By Outsourcers, Facilities Management, Service Bureaus, or Other Third Parties** Outsourcers, facilities management or service bureaus retained by Licensee shall have the right to use the Product to maintain Licensee's business operations, including data processing, for the time period that they are engaged in such activities, provided that: (i) Licensee gives notice to Contractor of such party, site of intended use of the Product, and means of access; and (ii) such party has executed, or agrees to execute, the Product manufacturer's standard nondisclosure or restricted use agreement

which executed agreement shall be accepted by the Contractor ("Non-Disclosure Agreement"); and (iii) if such party is engaged in the business of facility management, outsourcing, service bureau or other services, such third party will maintain a logical or physical partition within its computer system so as to restrict use and access to the program to that portion solely dedicated to beneficial use for Licensee. In no event shall Licensee assume any liability for third party's compliance with the terms of the Non-Disclosure Agreement, nor shall the Non-Disclosure Agreement create or impose any liabilities on the State or Licensee.

Any third party with whom a Licensee has a relationship for a State function or business operation, shall have the temporary right to use Product (e.g., JAVA Applets), provided that such use shall be limited to the time period during which the third party is using the Product for the function or business activity.

g. Archival Back-Up and Disaster Recovery Licensee may use and copy the Product and related Documentation in connection with: (i) reproducing a reasonable number of copies of the Product for archival backup and disaster recovery procedures in the event of destruction or corruption of the Product or disasters or emergencies that require Licensee to restore backups or to initiate disaster recovery procedures for its platform or operating systems; (ii) reproducing a reasonable number of copies of the Product and related Documentation for cold site storage. The phrase "cold site" storage shall be defined as a restorable back-up copy of the Product not to be installed until and after the declaration by the Licensee of a disaster; (iii) reproducing a back-up copy of the Product to run for a reasonable period of time in conjunction with a documented consolidation or transfer otherwise allowed herein. "Disaster Recovery" shall be defined as the installation and storage of Product in ready-to-execute, back-up computer systems prior to disaster or breakdown which is not used for active production or development.

h. Confidentiality Restrictions The Product is a trade secret, copyrighted and proprietary product. Licensee and its employees will keep the Product strictly confidential, and Licensee will not disclose or otherwise distribute or reproduce any Product to anyone other than as authorized under the terms of Contract. Licensee will not remove or destroy any proprietary markings of Contractor.

i. Restricted Use by Licensee Except as expressly authorized by the Terms of License, Licensee shall not: (i) copy the Product; (ii) cause or permit reverse compilation or reverse assembly of all or any portion of the Product; or (iii) export the Licensed Software in violation of any U.S. Department of Commerce export administration regulations.

70. PRODUCT ACCEPTANCE Unless otherwise provided by mutual agreement of the Agency and the Contractor, the Agency shall have thirty (30) days from the date of delivery to accept hardware Products and sixty (60) days from the date of delivery to accept all other Product. Where the Contractor is responsible for installation, acceptance shall be from completion of installation. Title or other property interest and risk of loss shall not pass from Contractor to the Agency until the Products have been accepted. Failure to provide notice of acceptance or rejection or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Agency as of the expiration of that period. The license term shall be extended by the time periods allowed for trial use, testing and acceptance unless the Agency agrees to accept the Product at completion of trial use.

Unless otherwise provided by mutual agreement of the Agency and the Contractor, the Agency shall have the option to run testing on the Product prior to acceptance, such tests and data sets to be specified by

the Agency. Where using its own data or tests, the Agency must have the tests or representative set of data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the Agency, and shall be made part of the Contractor's standard documentation. The test data shall remain accessible to the Agency after completion of the test.

In the event that the documented installation test cannot be completed successfully within the specified acceptance period, and the Contractor or Product is responsible for the delay, the Agency shall have the option to cancel the order in whole or in part, or to extend the testing period for an additional thirty (30) day increment. The Agency shall notify Contractor of acceptance upon successful completion of the documented installation test. Such cancellation shall not give rise to any cause of action against the Agency for damages, loss of profits, expenses, or other remuneration of any kind.

If the Agency elects to provide a deficiency statement specifying how the Product fails to meet the specifications within the testing period, Contractor shall have thirty (30) days to correct the deficiency, and the Agency shall have an additional sixty (60) days to evaluate the Product as provided herein. If the Product does not meet the specifications at the end of the extended testing period, the Agency, upon prior written notice to Contractor, may then reject the Product and return all defective Product to Contractor, and Contractor shall refund any monies paid by the Agency to Contractor therefor. Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not have been caused by negligent or willful acts or omissions of the Agency's agents or employees. Said costs shall be limited to the amounts set forth in the Limitation of Liability clause for any liability for costs incurred at the direction or recommendation of Contractor. When Product is not accepted, it must be removed by the Contractor from the premises of the Agency within ten calendar days of notification of non-acceptance by the Agency. Rejected items not removed by the Contractor within the ten calendar day period shall be regarded as abandoned by the Contractor and the Agency shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Agency for any costs incurred in storage or effecting removal or disposition after the ten calendar day period.

71. AUDIT OF LICENSED PRODUCT USAGE Contractor shall have the right to periodically audit, no more than annually, at Contractor's expense, use of licensed Product at any Site where a copy of the Product resides provided that: (i) Contractor gives Licensee at least thirty (30) days advance written notice, (ii) such audit is conducted during such party's normal business hours, (iii) the audit is conducted by an independent auditor chosen on mutual agreement of the parties. Contractor shall recommend a minimum of three (3) auditing/accounting firms from which the Licensee will select one (1). In no case shall the Business Software Alliance (BSA), Software Publishers Association (SPA), Software and Industry Information Association (SIIA) or Federation Against Software Theft (FAST) be used directly or indirectly to conduct audits, or be recommended by Contractor; (iv) Contractor and Licensee are each entitled to designate a representative who shall be entitled to participate, and who shall mutually agree on audit format, and simultaneously review all information obtained by the audit. Such representatives also shall be entitled to copies of all reports, data or information obtained from the audit; and (v) if the audit shows that such party is not in compliance, Licensee shall be required to purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the net pricing in effect under the Contract at time of audit, or if none, then at the Contractor's U.S. commercial list price. Once such additional licenses or capacities are purchased, Licensee shall be deemed to have been in compliance retroactively, and Licensee shall

have no further liability of any kind for the unauthorized use of the software.

72. OWNERSHIP/TITLE TO PROJECT DELIVERABLES

a. Definitions

(i) For purposes of this clause, "Products." Deliverables furnished under this Contract by or through Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment, b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on diskette, CD, DVD or other electronic media c) third party software, d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, Source Code, object code).

(ii) For purposes of this clause, "Existing Products." Tangible Products and intangible licensed Products that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the Project.

(iii) For purposes of this clause, "Custom Products." Products, preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for the Agency under the Contract.

b. Title to Project Deliverables Contractor acknowledges that it is commissioned by the Agency to perform the services detailed in the Purchase Order. Unless otherwise specified in writing in the Solicitation or Purchase Order, the Agency shall have ownership and license rights as follows:

(i) Existing Products:

1. Hardware - Title and ownership of Existing Hardware Product shall pass to the Agency upon acceptance.

2. Software - Title and ownership to Existing Software Products delivered by Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other independent software vendor proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or the proprietary owner of other independent software vendor(s) (ISV). Effective upon acceptance, such Product shall be licensed to the Agency in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant the Agency a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the Agency as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the Agency's satisfaction) and distribute Existing Licensed Product to the Agency up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purposes stated in the Solicitation or the Agency's Purchase Order or work order, including the financing assignment rights set forth in paragraph (c) below; and (b) recognize the State of New York as the Licensee where the Agency is a State Agency. Where these rights are not otherwise covered by the ISV's owner's standard license agreement, the Contractor shall be responsible for obtaining these

rights at its sole cost and expense. The Agency shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this clause.

(ii) **Custom Products:** Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to the Agency the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a Purchase Order, project definition or work order in the course of Contractor's business. The Agency may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of the Agency taking exclusive ownership and title to such Products. In such case, Licensee on behalf of all the Agency shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated in paragraph (b)(i)(2), above.

c. Transfers or Assignments to a Third Party Financing Agent It is understood and agreed by the parties that a condition precedent to the consummation of the purchases under the Contract may be the obtaining of acceptable third party financing by the Agency. The Agency shall make the sole determination of the acceptability of any financing proposal. The Agency will make all reasonable efforts to obtain such financing, but makes no representation that such financing has been obtained as of the date of Bid receipt. Where financing is used, the Agency may assign or transfer its rights in Licensed Products (existing or custom) to a third party financing entity or trustee ("Trustee") as collateral where required by the terms of the financing agreement. Trustee's sole rights with respect to transferability or use of Licensed Products shall be to exclusively sublicense to the Agency all of its Licensee's rights under the terms and conditions of the License Agreement; provided, further, however, in the event of any termination or expiration of such sublicense by reason of payment in full, all of Trustee's rights in such Licensed Product shall terminate immediately and the Agency's prior rights to such Existing Licensed Product shall be revived.

d. Sale or License of Custom Products Involving Tax-Exempt Financing (i.e., Certificates of Participation - COPS) The Agency's sale or other transfer of Custom Products which were acquired by the Agency using third party, tax-exempt financing may not occur until such Custom Products are, or become, useable. In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value determined at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the Agency which complies with the terms of this clause.

e. Contractor's Obligation with Regard to ISV (Third Party) Product Where Contractor furnishes Existing Licensed Product(s) as a project deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or ISV's standard license agreement, Contractor shall be responsible for obtaining from the ISV third party proprietary owner/developer the rights set forth herein to the benefit of the Agency at Contractor's sole cost and expense.

73. PROOF OF LICENSE The Contractor must provide to each Licensee who places a Purchase Order either: (i) the Product developer's certified License Confirmation Certificates in the name of such Licensee; or (ii) a written confirmation from the proprietary

owner accepting Product invoice as proof of license. Contractor shall submit a sample certificate, or alternatively such written confirmation from the proprietary developer. Such certificates must be in a form acceptable to the Licensee.

74. PRODUCT VERSION Purchase Orders shall be deemed to reference Manufacturer's most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by the Agency and Contractor is willing to provide such version.

75. CHANGES TO PRODUCT OR SERVICE OFFERINGS

a. Product or Service Discontinuance Where Contractor is the Product Manufacturer/Developer, and Contractor publicly announces to all U.S. customers ("date of notice") that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by Contractor ("withdrawn support") is no longer going to be offered, Contractor shall be required to: (i) notify the Agency and each Licensee then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: (a) the best terms offered by Contractor to any other customer, or (b) not less than twelve (12) months from the date of notice; and (iii) at the Agency's option, provided that the Agency is under contract for maintenance on the date of notice, either: provide the Agency with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable the Agency to continue use and maintenance of the Product.

In the event that the Contractor is not the Product Manufacturer, Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five (5) business days of Contractor receiving notice from the Product Manufacturer, and (ii) include in such notice the period of time from the date of notice that the Product Manufacturer will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate Contractor's obligations where withdrawn support is being provided by an independent Subcontractor. In the event that such Subcontractor ceases to provide service, Contractor shall be responsible for subcontracting such service, subject to State approval, to an alternate Subcontractor.

b. Product or Service Re-Bundling In the event that Contractor is the Product manufacturer and publicly announces to all U.S. customers ("date of notice") that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, Contractor shall be required to: (i) notify the State and the Agency in writing of the intended change; (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current NYS Contract for the greater of: (a) the best terms offered by Contractor to any other customer, or (b) not less than twelve (12) months from the date of notice; and (iii) shall submit the proposed re-bundling change to the Agency for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product manufacturer.

76. NO HARDSTOP/PASSIVE LICENSE MONITORING

Unless the Agency is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, Contractor hereby warrants and represents that the Product and all upgrades do not and will not contain any computer code that would disable the Product or upgrades or impair in any way its operation based on the elapsing of a

period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as "time bombs," "time locks," or "drop dead" devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a "trap door" device). Contractor agrees that in the event of a breach or alleged breach of this provision that the Agency shall not have an adequate remedy at law, including monetary damages, and that the Agency shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which the Agency shall be entitled.

77. SOURCE CODE ESCROW FOR LICENSED PRODUCT If Source Code or Source Code escrow is offered by either Contractor or Product manufacturer or developer to any other commercial customers, Contractor shall: (i) provide Licensee with the Source Code for the Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) certify to the State that the Product manufacturer/developer has named the State, acting by and through the Agency, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such Source Code, shall be updated for each new release of the Product in the same manner as provided above and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this clause.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product

Appendix C - Participation by Minority Group Members and Women with Respect to State Contracts

I. General Provisions

- A. The New York State Office of Parks, Recreation and Historic Preservation is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Office of Parks, Recreation and Historic Preservation, to fully comply and cooperate with the New York State Office of Parks, Recreation and Historic Preservation in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). The Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Appendix or enforcement proceedings as allowed by the Contract.

II. Contract Goals

- A. For purposes of this procurement, the New York State Office of Parks, Recreation and Historic Preservation hereby establishes New York State certified minority-owned business enterprises ("MBE") participation and New York State certified women-owned business enterprises ("WBE") participation (collectively, "MWBE Contract Goals") based on the current availability of qualified MBEs and WBEs as defined in the bidders documentation provided at the time of solicitation. After contract approval, MWBE Contract Goals as defined on the approved utilization plan will be endorsed to determine compliance for the contract term.
- B. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of New York State Certified MBWEs found at the following internet address: <https://ny.newnycontracts.com>.

Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

- C. Where MWBE Contract Goals have been established herein, pursuant to 5 NYCRR § 142.8, the Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR § 142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the New York State Office of Parks, Recreation and Historic Preservation for liquidated or other appropriate damages, as set forth herein.

III. Equal Employment Opportunity (EEO)

A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.

B. In performing the Contract, the Contractor shall:

1. Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
2. The Contractor shall submit an EEO policy statement to the New York State Office of Parks, Recreation and Historic Preservation within seventy-two (72) hours after the date of the notice by the New York State office of Parks, Recreation and Historic Preservation to award the Contract to the Contractor.
3. If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, the New York State Office of Parks, Recreation and Historic Preservation may require the Contractor or subcontractor to adopt a model statement (see Form – Equal Employment Opportunity Policy Statement).
4. The Contractor's EEO policy statement shall include the following language:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
 - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
 - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

C. Staffing Plan

To ensure compliance with this Section, for those contracts reaching \$250,000 or greater, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

D. Workforce Utilization Report

1. The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by the New York State Office of Parks, Recreation and Historic Preservation on a [MONTHLY/QUARTERLY] basis during the term of the Contract.
 2. Separate forms shall be completed by the Contractor and any subcontractors.
 3. Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.
- E. The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. MWBE Utilization Plan

- A. The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan, by submitting evidence thereof through the New York State Contract System ("NYSCS"), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to the New York State Office of Parks, Recreation and Historic Preservation, either prior to, or at the time of, the execution of the contract.
- B. The Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.
- C. The Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, New York State Office of Parks, Recreation and Historic Preservation shall be entitled to any remedy provided herein, including but not limited to, a finding of the Contractor non-responsiveness.

V. Waivers

- A. For Waiver Requests, the Contractor should use the NYSCS, provided, however, that Bidder may arrange to provide such evidence via a non-electronic method to New York State Office of Parks, Recreation and Historic Preservation.
- B. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the New York State Office of Parks, Recreation and Historic Preservation shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.
- C. If the New York State Office of Parks, Recreation and Historic Preservation, upon review of the MWBE Utilization Plan and updated MWBE Contractor Compliance Reports determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals and no waiver has been issued in regards to such non-compliance, the New York State Office of Parks, Recreation and Historic Preservation may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

VI. MWBE Contractor Compliance Report

The Contractor is required to submit MWBE Contractor Compliance Reports through the NYSCS, provided, however, that Bidder may arrange to provide such evidence via a non-electronic method to the New York State Office of Parks, Recreation and Historic Preservation. Reports will be generated by the NYSCS for completion upon the generation of a payment to the Contractor. Reports should be completed for the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

VII. Liquidated Damages - MWBE Participation

- A. Where New York State Office of Parks, Recreation and Historic Preservation determines that the Contractor is not in compliance with the requirements of the Contract and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to the New York State Office of Parks, Recreation and Historic Preservation liquidated damages.
- B. Such liquidated damages shall be calculated as an amount equaling the difference between:
 - 1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
 - 2. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.
- C. In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the New York State Office of Parks, Recreation and Historic Preservation, the Contractor shall pay such liquidated damages to the New York State Office of Parks, Recreation and Historic Preservation within sixty (60) days after they are assessed by the New York State Office of Parks, Recreation and Historic Preservation unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the New York State Office of Parks, Recreation and Historic Preservation.

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. The New York State Office of Parks, Recreation and Historic Preservation recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of the New York State Office of Parks, Recreation and Historic Preservation contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, the New York State Office of Parks, Recreation and Historic Preservation encourages the use of good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>

Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

Appendix D - Bid Protest Procedures

It is the policy of the Office of Parks, Recreation and Historic Preservation (OPRHP) to provide bidders with an opportunity to administratively resolve disputes or inquiries related to OPRHP contract awards. Bidders are encouraged to seek resolution of disputes through consultation with the Designated Contact(s). After being notified of the results of this contract opportunity, any entity or individual that participated in the procurement may submit a protest of the resulting contract award.

OPRHP reserves the right to suspend, modify, or cancel this procurement at any time during the procurement process. OPRHP also reserves the right to waive or extend the deadlines in this procedure.

Submission of Formal Written Protests

Protests must be received by the Designated Contact no later than five (5) business days after a debriefing or ten (10) business days after the written notice of selection or non-selection for contract award, whichever is later.

Protests must be submitted in writing, clearly marked as a protest on the envelope or in the email subject line, and include the following information:

1. Solicitation or contract number
2. Name, address, email address and telephone number of the filer
3. Detailed statement of the legal and factual grounds for the protest
4. Statement of the relief requested
5. Copies of relevant documents

Agency Response

Within 30 business days of receipt of a protest, OPRHP's protest officer (the Director of Audit or her designee) will respond with a protest determination stating the agency's decision on the protest and the reasoning on which it is based. In making a determination, the protest officer will consider the legal and factual grounds stated in the protest, consult with the Designated Contact and appropriate program staff, and review all relevant documents.

Finality: Appeal

For contract opportunities subject to the approval of the Office of the State Comptroller, the protesting party may appeal OPRHP's protest determination to the Office of the State Comptroller in accordance with the regulations contained in Part 24 of Title 2 of the New York Codes, Rules and Regulations.

For contract opportunities that are not subject to the approval of the Office of the State Comptroller, OPRHP's protest determination is the conclusive and final determination of the protest.

Nothing in these bid protest procedures is intended to limit or impair the rights of any bidder to seek and pursue remedies of law through the judicial process.

(Revised 6/2020)

Appendix F – Insurance Requirements

Prior to the start of this Agreement, the Contractor shall procure, at its sole cost and expense, all insurance coverage required by this Appendix. During the term of this Agreement, the Contractor shall maintain in force any and all policies of insurance required by this Appendix.

All policies of insurance required by this Appendix shall be written by companies licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York (“Authorized Carriers”) with an A.M. Best Company rating of “A-” Class “VII” or better. If during the term of the policy, a carrier’s rating falls below “A-” Class “VII”, the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to the Office of Parks, Recreation and Historic Preservation (OPRHP) and rated at least “A-” Class “VII” in the most recently published Best’s Insurance Report.

The Contractor shall deliver to OPRHP evidence of such policies in a form acceptable to OPRHP. These policies must be written in accordance with the requirements of the paragraphs below, as applicable. Acceptance and/or approval by OPRHP does not and shall not be construed to relieve Contractor of any obligations, responsibilities, or liabilities under any contract resulting from this solicitation.

All policies of insurance required by any contract resulting from this solicitation must meet the following requirements:

- All required policies of insurance shall be endorsed to name the “State of New York, Office of Parks, Recreation, and Historic Preservation, and their officers, employees, and agents” as an additional insured.
- Forms shall be filled out with the date of issuance, names of the insured, carrier, policy numbers, coverage period, any deductible or self-insured retention amounts, each occurrence and aggregate limits, and exclusions or additional insured endorsements to the policy.
- Forms shall be signed by an authorized representative of the reference insurance carriers.
- Only original forms or electronic versions of the same that can be directly traced back to the insurer, agent, or broker via email distribution or similar means will be accepted.
- Forms shall refer to the contract number resulting from the solicitation.
- Upon renewal of insurance coverage, the Contractor shall submit to OPRHP current proof of insurance.
- All required policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the State.
- If the policy is written on a claims-made basis, Contractor must submit to OPRHP an Endorsement providing proof that the policy provides the option to purchase an Extended Reporting Period (“tail coverage”) providing coverage for no less than one (1) year after work is completed in the event that coverage is cancelled or not renewed. This requirement applies to both primary and excess liability policies, as applicable.
- All required policies shall be written such that OPRHP is afforded at least thirty (30) calendar days’ prior notice of cancellation, modification or renewal of coverage.
- The Contractor shall notify OPRHP of any claims arising from the activities or operations under this Agreement as soon as practicable, but in no event more than five (5) business days from the Contractor’s receipt of notice of the accident or claim.

Subcontractors

Contractor shall require any of its subcontractors retained in relation to this Agreement to meet the requirements of this Section, including but not limited to naming the “State of New York, Office of Parks, Recreation, and Historic Preservation, and their officers, employees, and agents” as additional insureds on all required policies of insurance. Prior to the commencement of any work, an Additional Insured Endorsement CG 20 38 04 13 (or the equivalent) evidencing such coverage shall be provided to the Contractor by their subcontractor and shall be provided to OPRHP upon request.

Insurance Coverage Types and Minimum Policy Limits

Contractor shall procure the types of insurance coverage and minimum liability limits set forth below. Contractor may meet the required insurance coverage limits through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided after renewal and/or upon request.

A. **Commercial General Liability** Said policy shall cover the liability of the Contractor for bodily injury, property damage, premises liability and personal/advertising injury from all work and operations under any contract resulting from this solicitation. The limits under such policy shall not be less than the following:

- Each Occurrence limit \$2,000,000.00
- General Aggregate \$2,000,000.00
- Products/Completed Operations \$2,000,000.00
- Personal Advertising Injury \$1,000,000.00
- Damage to Rented Premises \$50,000.00
- Medical Expense \$5,000.00

The following ISO forms must be endorsed to the policy:

- a. CG 00 01 01 96 or an equivalent – Commercial General Liability Coverage Form
- b. CG 20 10 11 85 or an equivalent – Additional Insured – Owner, Lessees or Contractors (Form B)
- c. Waiver of Subrogation

B. **Comprehensive Business Automobile Liability Insurance.** Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least \$2,000,000 each accident. Said policy shall cover liability arising out of any automobile used in connection with performance under this Agreement including owned, leased, hired, and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Law of the State of New York to bear license plates.

If the Contractor does not own, lease, or hire any automobiles used in connection with performance under this Agreement, the Contractor is not required to obtain Comprehensive Business Automobile Liability Insurance.

C. **Fire Insurance.** Said policy shall have a liability limit of at least \$500,000; if such insurance contains an aggregate limit, it shall apply separately on a per-location basis.

Workers' Compensation and Disability Benefits Insurance

Prior to the start of this Agreement, the Contractor shall provide OPRHP with proof of Workers' Compensation Insurance and Disability Benefits Insurance. The following are the only acceptable means of proof; ACORD forms are NOT acceptable proof of coverage.

Acceptable Proof of Workers' Compensation	
CE-200	Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage
C-105.2	Certificate of Workers' Compensation Insurance
U-26.3	NYS Insurance Fund Certificate
GSI-105.2	Certificate of Participation in Workers' Compensation Group Board - approved self-insurance
SI-12	Certificate of Workers' Compensation Self-Insurance

Acceptable Proof of Disability Benefits

CE-200	Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage
DB-120.1	Certificate of Disability Benefits Insurance

For more information about Workers' Compensation and Disability insurance, log onto the Workers Compensation Board website at www.wcb.state.ny.us or call them toll-free at 1-866-546-9322.

Attachment 1 - Bid Form

Method of Award is based on the lowest Grand Total Cost to OPRHP from a responsive and responsible vendor.

The figures shown below represent OPRHP's best estimate, included for bidding purposes. OPRHP guarantees no minimum or maximum amount of work. Payment to awarded contractor will reflect only work completed. All ancillary costs (excluding travel – See IFB Section "Travel, Meals and Lodging"), **must** be included in rates bid. To submit a bid, please enter your price(s) below, being mindful of any required mathematical extensions (i.e. multiplied by quantities/frequency, etc.). **All figures must be rounded to two decimal places.**

#	Description	A	B	A × B
		Estimated Annual Hours/Volume	Rate Bid	Total Cost
1	Bi-Weekly Service	26 Visits		
2	Bi-Monthly Service	6 Visits		
3	Semi-Annual Visits	2 Visits		
4	Annual Visit	1 Visit		
5	Emergency Visits during Normal Work Hours	10 Hours		
6	Emergency Visits After Hours (Nights, Weekend, Holidays)	10 Hours		
Yearly Total Cost to OPRHP (1 + 2 + 3 + 4 + 5+6)				
Grand Total Cost to OPRHP (Yearly Total Cost to OPRHP x 5)				

Note: All bids must be valid for at least 180 days.

Bidder Certification				
By completing this bid form, the Bidder certifies that it has carefully examined the bidding and contract documents, has a full understanding of ORRHP's requirements, and agrees to perform this contract and to provide all goods and / or services, labor, material and equipment necessary for this contract at the bid price offered, if so awarded.				
Company Name:			Federal ID No.:	
Doing Business As:			SFS ID No.:	
<input type="checkbox"/> NYS Small Business* ¹ # Employees	<input type="checkbox"/> NYS Certified Minority-Owned Business	<input type="checkbox"/> NYS Certified Women-Owned Business	<input type="checkbox"/> NYS Service-Disabled Veteran Owned Business	
Address:			City	
			State	
			Zip Code	
Name of Official:			Title:	
E-Mail			Telephone:	
Signature			Date	

Bidder Certification Signature shall be completed in ink.

¹ A "New York State Small Business" is defined as a company that is a resident to New York State, independently owned and operated, with 100 or fewer employees, and not dominant in its field. There is no certification process to be considered a New York State Small Business.

Attachment 2 – Lobbying Law Certification

Pursuant to State Finance Law §§139-j and 139-k, this solicitation [or use identifier that is pertinent such as “Invitation for Bid” or “Request for Proposal”, etc.] includes and imposes certain restrictions on communications between a Governmental Entity and an Offerer/bidder during the procurement process. An Offerer/bidder is restricted from making contacts from the earliest posting, on a Governmental Entity’s website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with article four-C of the economic development law of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from Offerers intending to result in a Procurement Contract with a Governmental Entity through final award and approval of the Procurement Contract by the Governmental Entity and, if applicable, the Office of the State Comptroller (“Restricted Period”) [conform for pertinent government entity] to other than the Designated Contacts for the Governmental Procurement unless it is a Contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). The Designated Contact(s) for this Governmental Procurement, as of the date hereof, are identified on the first page of this solicitation [or conform to whatever location is used to identify Designated Contacts]. Governmental Entity employees [conform for pertinent government entity] are also required to obtain certain information when Contacted during the Restricted Period and make a determination of the responsibility of the Offerer/bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4-year period, the Offerer/bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found [conform for how will provide copies of the rules, regulations, guidelines or procedures].

Offerer Disclosure of Prior Non-Responsibility Determinations

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such Contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j (10)(b) and 139-k(3).

Instructions

The Governmental Entity reserves the right to terminate this contract in the event it is found that the certification filed by the Offerer in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Governmental Entity may exercise its termination right by providing written notification to the Offerer in accordance with the written notification terms of this contract.

The Office of State Parks, Recreation and Historic Preservation (OPRHP) includes this disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to OPRHP unit conducting the Governmental Procurement.

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please mark):
☐ No ☐ Yes
If yes, please answer the next questions:
2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j (Please mark):

☐ No ☐ Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please mark):

☐ No ☐ Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(attach additional pages as necessary)

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please mark):

☐ No ☐ Yes

6. If yes, please provide details below.

Governmental Entity: _____

Date of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

(attach additional pages as necessary)

Lobbying Affirmation and Certification

Offerer affirms that it understands and agrees to comply with the procedures of the OPRHP relative to permissible Contacts as required by State Finance Law §139-j(3) and §139-j(6)(b). Offerer certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k, §139-j(3) and §139-j(6)(b), §139-k(5) is complete, true and accurate.

Company Name: _____

Doing Business As: _____

Address: _____

City

State

Zip Code

Name of Official: _____

Title

E-Mail

Telephone: _____

 Signature Date

Attachment 3 - Non-Collusive Bidding Certification

The undersigned hereby certifies his or her compliance with the following:

By submission of this bid, each bidder and each person signing on behalf of any other bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

- A. The prices of this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- B. Unless otherwise required by law, the prices which have been quoted in this bid have not have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
- C. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

1. Within the previous four years, has the bidder been found non-responsible by a government entity? (Please mark):
☐ No ☐ Yes

2. If "yes," was the determination of non-responsibility due to (1) engaging in impermissible contacts with a government entity, or (2) the intentional provision of false or incomplete information to a government entity? (Please mark)

☐ No ☐ Yes - If yes, please explain on a separate sheet.

Certification	
The undersigned has carefully examined the bidding and contract documents and agrees to perform this contract and to provide all goods and / or services, labor, material and equipment necessary for this contract. In addition, the bidder certifies that all information submitted regarding the Procurement Lobbying Law * is complete, true and accurate. If such information is found to be intentionally false or intentionally incomplete, OPRHP reserves the right to terminate the resulting contract.	
Company Name:	
Doing Business As:	
Address:	<div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px;"></div>
Name of Official:	City
E-Mail	State
	Zip Code
	Title
	Telephone:
<div style="border-bottom: 1px solid black; width: 60%; display: inline-block; margin-right: 20px;"></div> <div style="border-bottom: 1px solid black; width: 35%; display: inline-block;"></div>	
<div style="display: inline-block; width: 60%;">Signature</div> <div style="display: inline-block; width: 35%;">Date</div>	

* Relevant to transactions with an annualized value in excess of \$15,000.

Attachment 4 - Public Officers Law

THE FOLLOWING PROHIBITIONS PERTAIN TO THE SALE OF GOODS AND SERVICES BY STATE EMPLOYEES TO NEW YORK STATE AGENCIES PURSUANT TO THE NYS PUBLIC OFFICERS LAW § 73(4)

Current State Employees - Current employees of New York State cannot sell goods or services valued at \$25 or more to any state agency, either as a private contractor or through a company in which that employee holds ownership of at least 10%, unless the procurement opportunity is first advertised in the NYS Contract Reporter and competitively bid.

Former OPRHP State Employees - Former employees of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) cannot sell goods or services to OPRHP under any circumstance for two (2) years following the date they leave OPRHP's employ. This applies only to OPRHP and OPRHP's employees, and does not preclude a former employee of another state agency from selling goods or services to OPRHP within two years following the last date of that person's state employment.

Please check (X) as appropriate, sign and date.

☐ I am currently a state employee, and:

☐ am a private contractor

☐ own at least 10% of the company that is being asked to provide goods or services to OPRHP.

☐ I am a former OPRHP employee, and my service with OPRHP ended less than two (2) years prior to the date of my signature below.

☐ None of the above apply.

Certification	
Company Name:	
Doing Business As:	
Name of Official:	Title
E-Mail	Telephone:
<div style="display: flex; justify-content: space-between;"><div>_____ Signature</div><div>_____ Date</div></div>	

Please complete this form and return it with your bid

Revised July 2021

Attachment 5 - Encouraging Use of New York State Businesses in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its New York State business partners. New York State businesses will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of New York businesses by its contractors. The State therefore expects bidders/proposers to provide the maximum assistance to New York businesses in their use of the contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

Will New York State Businesses be used in the performance of this contract? ☐ Yes ☐ No

Winning bidders will be asked to identify the New York State businesses that will be used.

[illegible]

Attachment 6 - NYS Finance Law §139-I and Executive Order No. 177 Certification

State Finance Law § 139-I Certification

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.

Executive Order No. 177 Certification

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Certification	
By signing, you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of the above certifications and that all information provided is complete, true and accurate.	
Company Name:	
Doing Business As:	
Name of Official:	Title
E-Mail	Telephone:
<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 60%; text-align: center;"> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Signature </div> <div style="width: 35%; text-align: center;"> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Date </div> </div>	

Attachment 7 – Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement

M/WBE and EEO Policy Statement

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at _____

M/WBE This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.

Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.

Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.

Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.

Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.

Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

EEO (a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this _____ day of _____, 2____ By _____
Print: _____ Title: _____

_____ is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison), responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

M/WBE Contract Goals

0 % Minority and Women's Business Enterprise Participation

0 % Minority Business Enterprise Participation

0 % Women's Business Enterprise Participation

Attachment 8 – Vendor Responsibility Attestation

If this or any other contract you have with the State of New York is valued at \$100,000.00 or more, Office of Parks, Recreation and Historic Preservation (OPRHP) requires that Vendor file the required Vendor Responsibility Questionnaire.

To comply with the Vendor Responsibility Requirements outlined in Section 6.20, Administrative. Vendor Responsibility Questionnaire, I hereby certify:

Choose One:

- ☐ The total value bid/proposed is less than \$100,000; therefore, a Vendor Responsibility Questionnaire is not required at this time.²
- ☐ An on-line Vendor Responsibility Questionnaire has been updated or created at OSC's website: <https://www.osc.state.ny.us/state-vendors/vendrep/file-your-vendor-responsibility-questionnaire> within the last six months.
- ☐ A hard copy Vendor Responsibility Questionnaire is included with this proposal/bid and is dated within the last six months. <https://www.osc.state.ny.us/state-vendors/vendrep/profit-non-construction-questionnaire>
- ☐ A Vendor Responsibility Questionnaire is not required due to an exempt status. Exemptions include governmental entities, public authorities, public colleges and universities, public benefit corporations, and Indian Nations. https://www.osc.state.ny.us/vendrep/documents/vendrep/document_requirements.pdf

Certification	
Company Name:	
Doing Business As:	
Name of Official:	Title
E-Mail	Telephone:
<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 60%; text-align: center;"> <hr style="border: none; border-top: 1px solid black;"/> Signature </div> <div style="width: 35%; text-align: center;"> <hr style="border: none; border-top: 1px solid black;"/> Date </div> </div>	

January 2019

² If during the term of the contract the value exceeds \$100,000 due to an amendment or extension, a Vendor Responsibility Questionnaire may be required.

Attachment 9 - No Bid Form

If your firm has chosen not to bid on this procurement opportunity, please use the space below to briefly explain why and return this form to ServiceContracts@parks.ny.gov or mail hardcopy to:

Office of Parks, Recreation and Historic Preservation
Contract Bureau
625 Broadway
Albany, NY 12207

Reason(s):

Certification	
Company Name:	
Doing Business As:	
Name of Official:	Title
E-Mail	Telephone:
<div style="display: flex; justify-content: space-between; margin-top: 20px;"><div>_____ Signature</div><div>_____ Date</div></div>	

Attachment 10 – References

Bidder Name:

Per IFB Section 1.3 Minimum Requirements, please provide three (3) satisfactory client references for whom the Bidder has performed services similar to those defined in this IFB in the past five (5) years. Please provide phone number, email, and address for all references.

Reference 1

Company/Organization Name:	
Contact Person:	
Address:	
City, State, Zip Code:	
Telephone Number:	
E-Mail Address:	
Timeframe of Services Provided:	
Brief Description of Services Provided:	

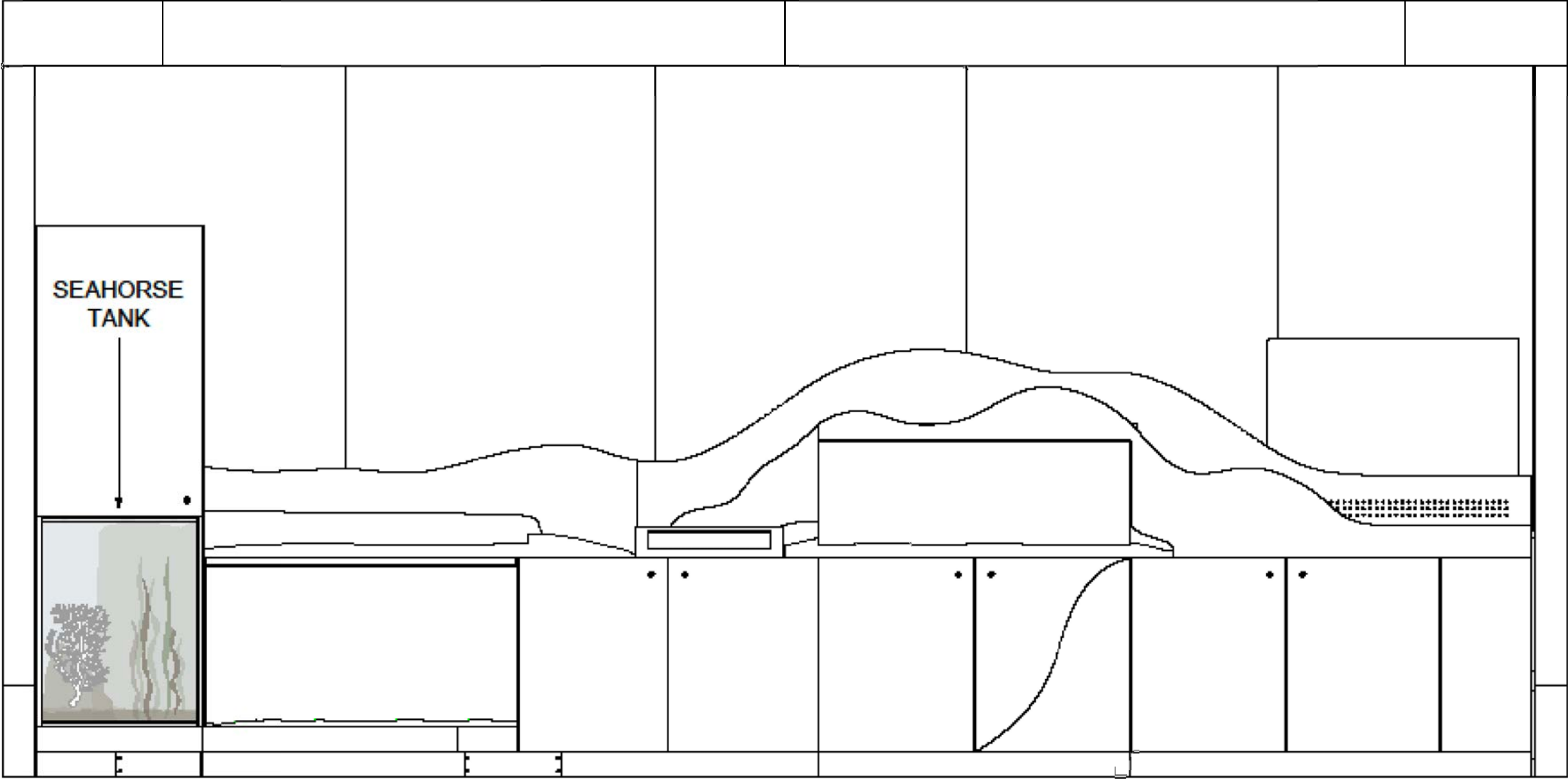
Reference 2

Company/Organization Name:	
Contact Person:	
Address:	
City, State, Zip Code:	
Telephone Number:	
E-Mail Address:	
Timeframe of Services Provided:	
Brief Description of Services Provided:	

Reference 3

Company/Organization Name:	
Contact Person:	
Address:	
City, State, Zip Code:	
Telephone Number:	
E-Mail Address:	
Timeframe of Services Provided:	
Brief Description of Services Provided:	

Exhibit A
Drawings of Ecosystems - Seahorse Habitat



232 3rd Street, Suite E301
BROOKLYN, NY 11215
T: 718.237.1496
F: 718.865.8212

PROJECT:
JBENC

JOB NUMBER:
19-143

EXHIBIT / COMPONENT:
EX21.04
SEAHORSE
HABITAT

CLIENT:

PROPRIETARY AND CONFIDENTIAL
THE INFORMATION CONTAINED IN
THIS DRAWING IS THE SOLE
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DRAWN BY:
ISF

DATE:
2/11/2021

PHASE	
ESTIMATE	
DEVELOPMENT	
APPROVED	
AS BUILT	
LIVE AND TRIM	

DO NOT SCALE DRAWING

SHEET SIZE: 12 x 18 (inches)

APPROVAL
BY: _____
DATE: _____

MILESTONE:	PAGE:
	1/26

ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED
FINISH: AS NOTED
COLOR: AS NOTED



232 3rd Street, Suite E301
BROOKLYN, NY 11215
T: 718.237.1496
F: 718.865.8212

PROJECT:
JBENC

JOB NUMBER:
19-143

EXHIBIT / COMPONENT:
EX21.04

LOCATION
OVERVIEW

CLIENT:

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DATE:
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PHASE	
ESTIMATE	
DEVELOPMENT	
APPROVED	
AS BUILT	
LIVE AND TRIM	

DO NOT SCALE DRAWING

SHEET SIZE: 12 x 18 (inches)

APPROVAL

BY:_____

DATE:_____

MILESTONE: DV1	PAGE: 2/26
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ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED

FINISH: AS NOTED

COLOR: AS NOTED

SEAHORSE HABITAT
- PLUMBING & RETURN LINES
PASS THROUGH WALL

SEAHORSE HABITAT - LIFE SUPPORT EQUIPMENT

ANIMAL CARE ROOM

OCEANS/EAST GALLERY

SEAHORSE CABINET

EAST MECHANICAL ROOM

EX21.04 ECOSYSTEM WALL

PLAN VIEW

OVERFLOW BOX LOCATED IN BACK-RIGHT CORNER
PLUMBING ENTERS/EXITS FROM BOTTOM OF CABINET
TRAVELS TO SUMP IN ANIMAL CARE ROOM

TANK VOLUME: 80 GAL
TANK FILL VOLUME: 75 GAL
*est

moeyinc

232 3rd Street, Suite E301
BROOKLYN, NY 11215
T: 718.237.1496
F: 718.865.8212

PROJECT:
JBENC

JOB NUMBER:
19-143

EXHIBIT / COMPONENT:
EX21.04
SEAHORSE
HABITAT

CLIENT:

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DATE:
2/11/2021

PHASE	
ESTIMATE	
DEVELOPMENT	
APPROVED	
AS BUILT	
LIVE AND TRIM	

DO NOT SCALE DRAWING

SHEET SIZE: 12 x 18 (inches)

APPROVAL

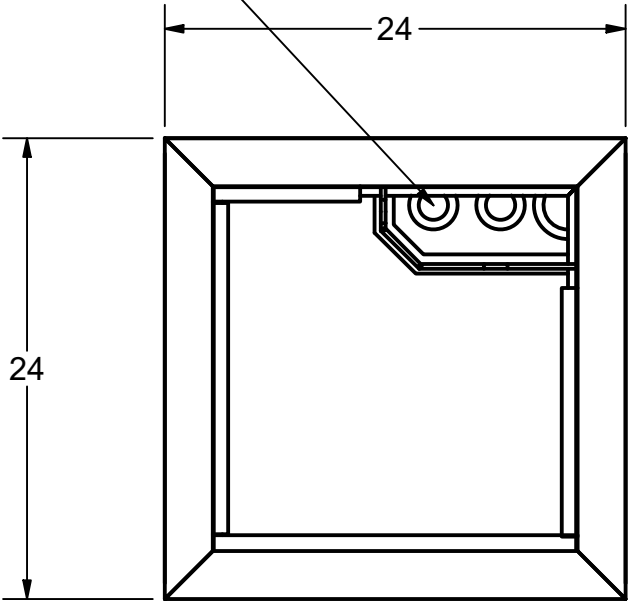
BY: _____

DATE: _____

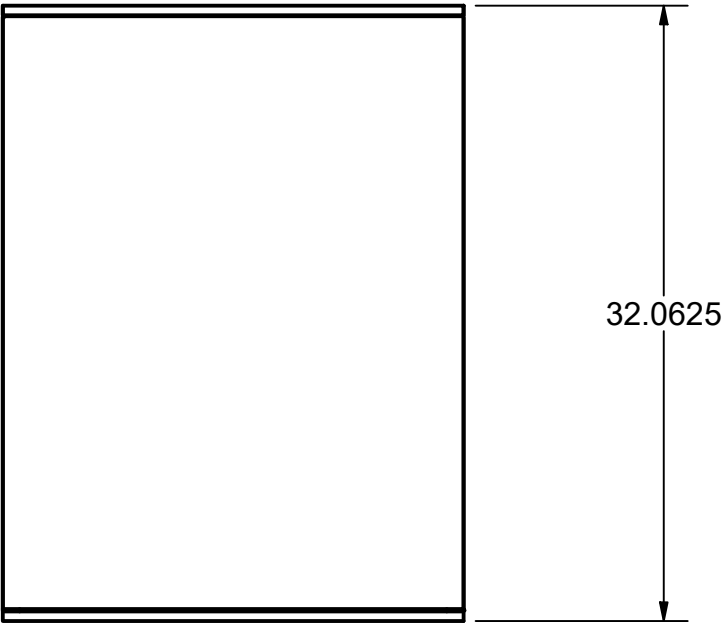
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	3/26

ALL TOLERANCE WITHIN ±

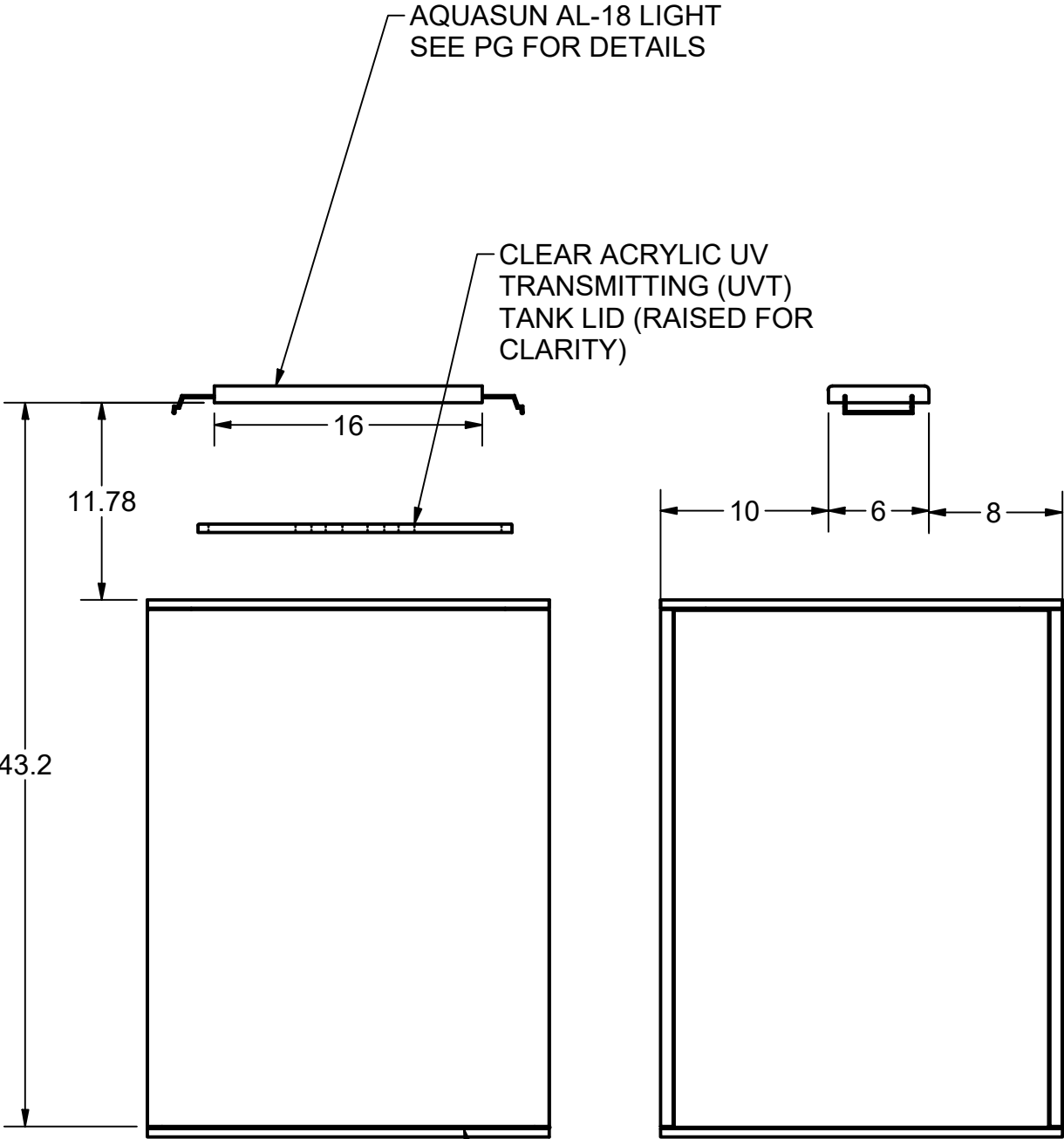
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TOP



FRONT

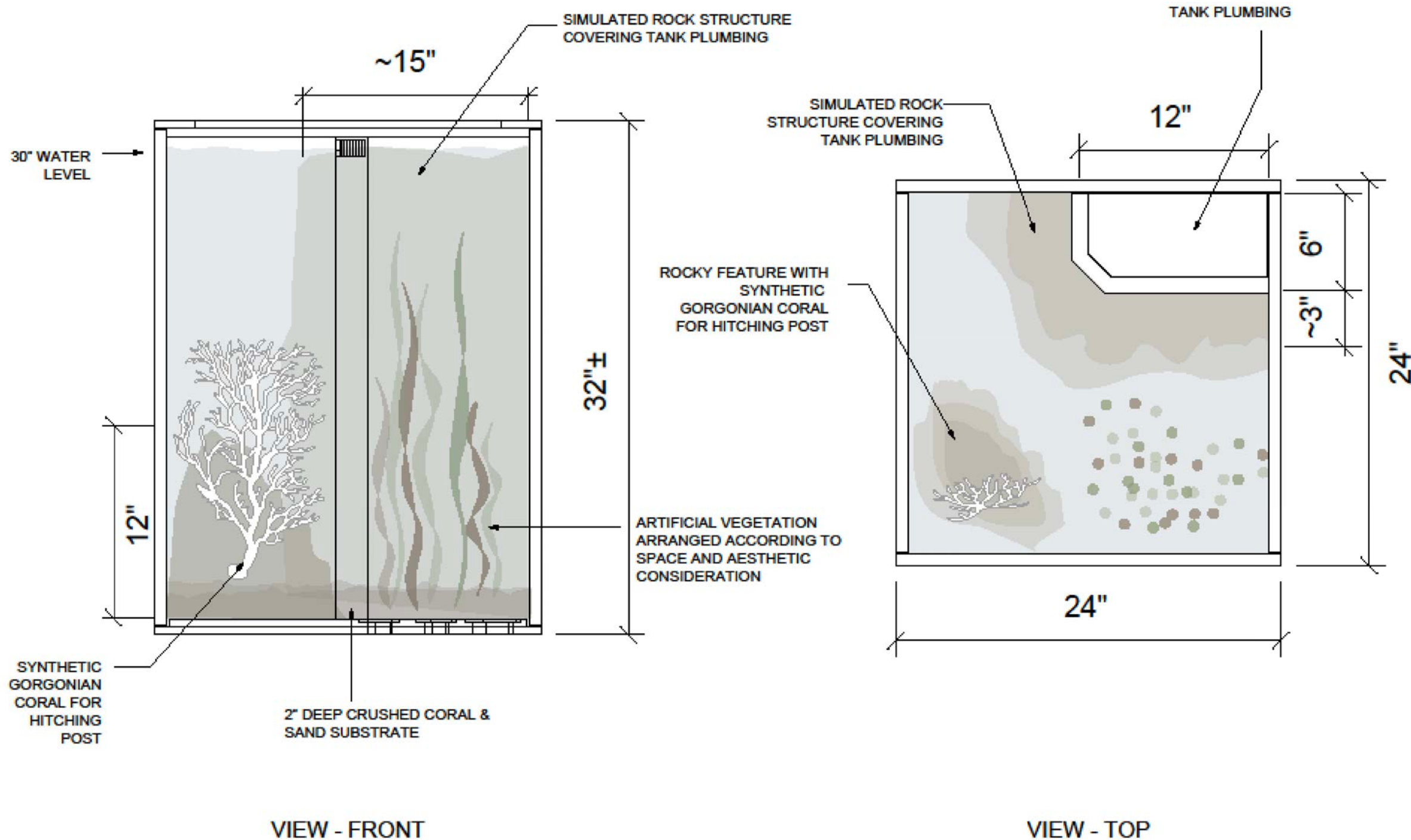


FRONT

SIDE

HABITAT TANK

SEAHORSE TANK



moeyinc

232 3rd Street, Suite E301
BROOKLYN, NY 11215
T: 718.237.1496
F: 718.865.8212

PROJECT:
JBENC

JOB NUMBER:
19-143

EXHIBIT / COMPONENT:
EX21.04
SEAHORSE
HABITAT

CLIENT:

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DATE:
2/11/2021

PHASE

ESTIMATE

DEVELOPMENT

APPROVED

AS BUILT

LIVE AND TRIM

DO NOT SCALE DRAWING

SHEET SIZE: 12 x 18 (inches)

APPROVAL

BY:

DATE:

MILESTONE: PAGE:
4/26

ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED

FINISH: AS NOTED

COLOR: AS NOTED

PROJECT:
JBENC

JOB NUMBER:
19-143

EXHIBIT / COMPONENT:
EX21.04

SUMP EQUIPMENT

CLIENT:

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DRAWN BY:
ISF

DATE:
2/11/2021

PHASE

ESTIMATE	
DEVELOPMENT	
APPROVED	
AS BUILT	
LIVE AND TRIM	

DO NOT SCALE DRAWING

SHEET SIZE: 12 x 18 (inches)

APPROVAL

BY: _____

DATE: _____

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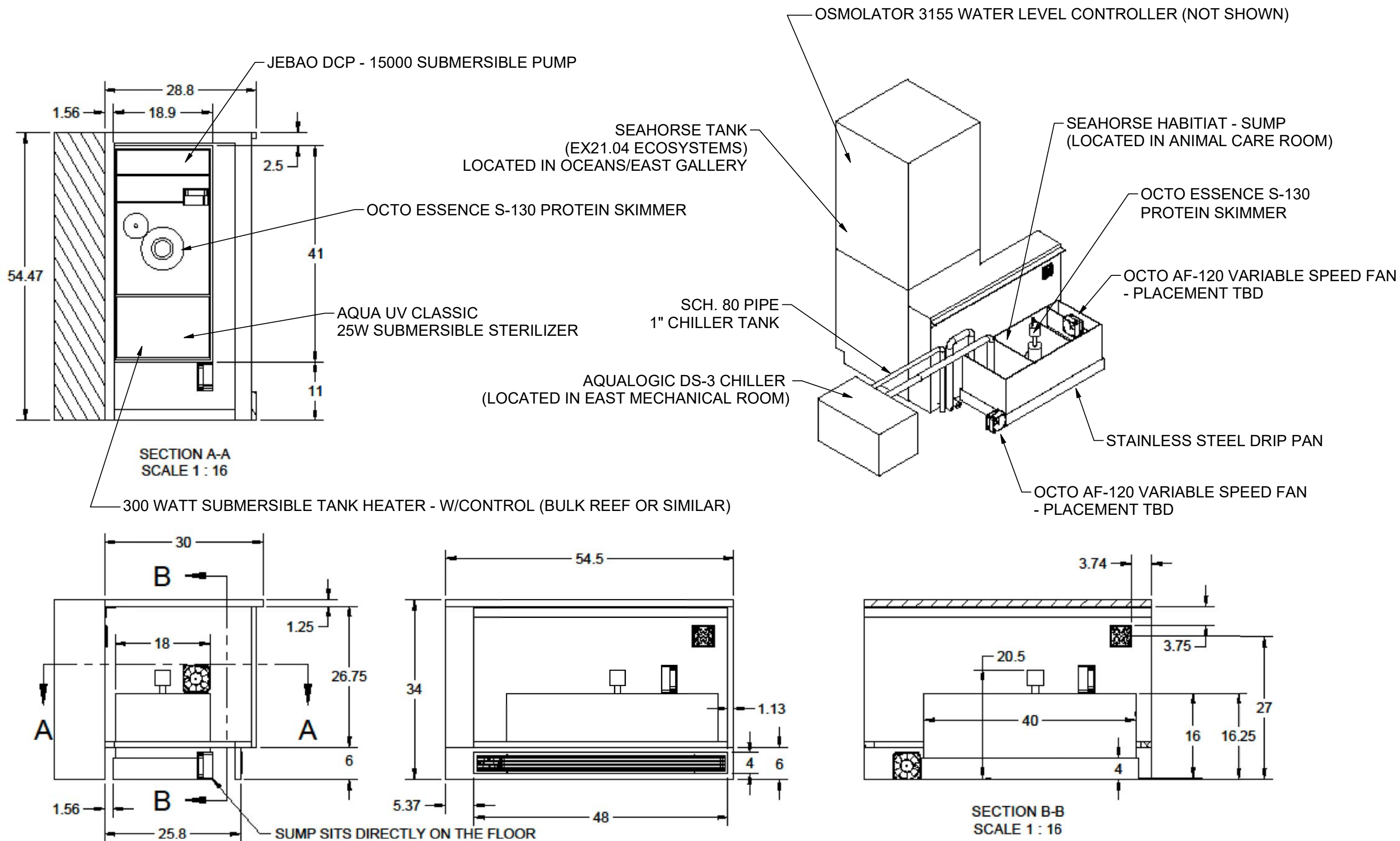
5/26

ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED

FINISH: AS NOTED

COLOR: AS NOTED





AQUASUN LED 18"

AQUARIUM FIXTURE

INSTRUCTIONS

ITEM# AL-18



Congratulations on your purchase of Zoo Med's **AQUASUN LED** Aquarium Light Fixture! The following instructions will assist you with the proper set-up and operation of this light fixture. Please read the following instructions carefully. If you have any questions regarding these instructions or the proper use of this item, please contact our customer service department at zoomed@zoomed.com or by calling (888) 496-6633 (US and Canada only). Customers in other countries, please call (805) 542-9988.

FEATURES:

- Long life: 20,000 hours lifetime rating.
- Shimmer effect: Bright white light produces shimmer, just like in nature.
- Nighttime mode: Includes four blue LED's for "Lunar Effect".
- Brighter! More LED's than comparable hoods on the market = more light!
- Aluminum housing (not plastic) for better heat transfer = longer LED life.
- Hang it! Stainless steel "aircraft cable" suspension kit included.

IMPORTANT SAFETY NOTICE!

To reduce the risk of fire, injury, or electric shock, read and follow these instructions prior to operating this light fixture. Save these instructions for future reference.

SAFETY INSTRUCTIONS:

- Caution must be taken when using electrical appliances near water. To reduce the risk of **electric shock**, be sure that the lamp fixture is unplugged during any of the following situations:
 - Unplug when installing the lamp fixture on or over your aquarium.
 - Unplug when performing aquarium maintenance.
 - Unplug before placing your hand(s) in the water of the aquarium. Be sure that your hands are completely dry before plugging the lamp fixture into an appropriate grounded outlet.
 - Unplug if the lamp fixture comes into direct contact with water, or if any part of the lamp fixture becomes wet (other than drops of water on the outside of the clear splash guard).
 - Unplug when not in use.
- When unplugging the lamp fixture, grasp the plug to prevent damage to the power cord. Never pull on the power cord to unplug the lamp fixture.
- **DO NOT** exceed electrical rating. Lamps must be of the correct wattage as noted on the product packaging. If you are unsure about which lamp to use, contact our customer service department for assistance at the phone number listed above.
- **DO NOT** splice, repair, or modify the power cord. Inspect the power cord periodically for damage.
- For indoor use only.
- For use with aquariums only.
- Keep children and pets (other than your aquarium inhabitants) away from fixture.
- **DO NOT** alter or modify this product. Contact an electrician if you are unsure about the electrical connection.
- This unit has no user-serviceable parts. Do not attempt to repair this product yourself. Return to Zoo Med for inspection and repair.

NOTES ON THE OPERATING RANGE:

The operating range is the distance from the lamp to the reptile's basking site. When placing UVB lamps over a terrarium, it is important that the lamp is positioned in a way that creates a UVB gradient in the habitat. UVB will be strongest close to the lamp, and will gradually decrease with distance. This can often be achieved by placing the lamp fixture above the terrarium and off to one end of the habitat. The habitat must be large enough to provide this gradient and allow reptiles to photoregulate (adjust their exposure to UVB as needed). Always provide a shelter for reptiles to retreat completely from any light and UVB exposure. In order for your reptile to benefit from the UVB, you must provide your reptile with the appropriate temperature zone. Be sure to provide an appropriate temperature and UVB gradient. This will allow your reptile to adjust their distance to heat and UVB lamps in order to regulate their body temperature and UVB exposure. **CAUTION: Always have your lamp at least six inches away from your reptiles, and provide a gradient as described above.**

IMPORTANT NOTES ON REPTILE BEHAVIOR:

Watch for abnormal behaviors: It is important to monitor the reptile's behavior following the introduction of a new UVB lamp. If the reptile spends unusually long periods of time basking as close as possible to the UVB and heat lamp(s), then the temperature and/or UVB level may be too low for that species. If an animal appears to be trying to avoid the UVB lamp, spending most of its time as far from the lamp as possible then the lamp may be too close. Under ideal conditions, reptiles should spend some time basking, and should also move throughout the habitat to perform natural behaviors (feeding, sleeping, etc.).

WHY YOUR REPTILES NEED UVB AND UVA LIGHTING:

- **UVB:** Reptiles need UVB for vitamin D production and calcium metabolism. Without UVB, reptiles can develop Metabolic Bone Disease in 6 months or less. UVB along with proper temperatures, will enable your reptiles to make vitamin D and process calcium from their diet.
- **UVA:** Reptiles and amphibians can see things that humans can't. UVA is part of the rainbow of colors that reptiles can see. UVA helps to increase activity levels, appetite, and reproductive behaviors. Without UVA, they are colorblind!

WHEN TO REPLACE YOUR LAMP:

This lamp will provide your animals with beneficial UVB for a period of 12 months when used to 10 to 12 hours per day. Record date of first use on lamp and replace after 12 months. Use Zoo Med's "UVB Reminder" tool online at www.zoomed.com.

CAUTION:

ReptiSun UVB lamps emit UV radiation and must be used in accordance with these instructions. Just as you would not stare into the sun, do not stare into this lamp! This lamp must be placed directly overhead of your reptiles, and not to the side which would force them to stare into the lamp. Always have your lamp at least six inches away from your reptiles. Failure to use this lamp according to these instructions may result in personal injury or may cause injury to your reptile(s).

DIGITAL UV METERS:

If you are interested in measuring the amount of UVB that your lamp is producing, you may want to purchase Zoo Med's Digital UV Index Radiometer (Item# ST-7). This meter is available in the "store" section at www.zoomed.com, or by special order through your reptile product retailer.

CHANGING OR REPLACING THE LED MODULES:

The LED modules in your light fixture can be replaced as needed at the end of the LED's useful life.

1. Carefully remove one plastic end cover by extending the sliding rails and removing the four screws using a Phillips screwdriver. Gently pull the end cover away, being careful not to strain the wires.



Step 1

2. Remove the clear splash guard by sliding it out of the grooves.



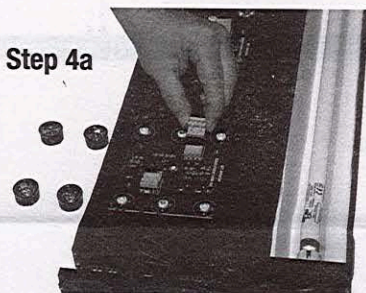
Step 2

3. Carefully pull the optics off of the LED module that you are removing. Save them for reinstallation on the new module.

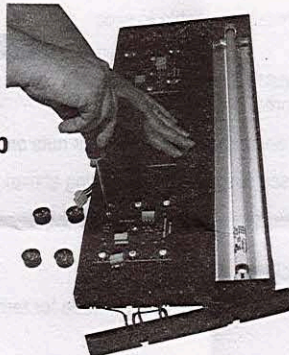


Step 3

4. Disconnect the wires from both ends of the LED module and remove the four screws and washers holding it in place. Remove the LED module from the housing.



Step 4a



Step 4b

5. Place the new LED module in the same location and orientation as the original module. The text on the LED module should be in the same orientation as the module that was removed. Reinstall screws.



Step 5

6. Reinstall the optics on the new LED module and reassemble by reversing the steps outlined above. If you have questions, please contact Zoo Med's customer service department.

WARRANTY:

Zoo Med Laboratories, Inc. (Zoo Med) warrants this product to be free of defects in material and workmanship under normal use and service for one year from the date of purchase. The obligation under this warranty is limited to the repair or replacement, at Zoo Med's discretion, of the product or any part thereof, when the product is returned to Zoo Med, freight prepaid. No claim shall be allowed under this warranty if, in the opinion of Zoo Med, this product has been subject to accident or improper usage, including but not limited to: water damage, improper storage, accidental dropping, etc. This warranty is in lieu of all other warranties and representations express or implied. Please include your receipt, full name, address, phone number, and email address along with a note explaining failure when sending any product back to Zoo Med. Please allow 4 to 6 weeks for repair or replacement.

(Safety Instructions Cont.)

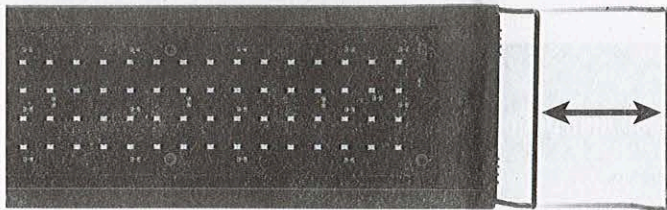
DRIP LOOP: This lamp fixture must be used near a grounded receptacle with a “drip loop” (see figure 1). The drip loop will prevent water from running along the power cord and getting the plug or wall receptacle wet. To create a drip loop, be sure that a portion of the power cord is lower than the level of the wall receptacle as shown in figure 1. If for any reason the plug or wall receptacle gets wet, do not grasp or unplug the power cord until after the power has been switched off at the main fuse or circuit breaker.

GROUND FAULT PROTECTION: To reduce the risk of electric shock, this light fixture must be plugged into a GFCI receptacle (see figure 2). If you are unsure about the electrical supply and connection, contact a qualified licensed electrician.

SUSPENSION KIT WARNING: Failure to securely suspend this fixture over an aquarium can result in damage, injury, or electric shock. When suspending this light fixture using the enclosed suspension kit, be sure that the cables are securely attached to hardware that is capable of supporting the weight of the light fixture. If you are unsure about safe hanging methods, contact a qualified licensed contractor to hang this fixture for you. Zoo Med Laboratories, Inc. accepts no liability for damage or injury resulting from improper or unsafe use of the suspension kit.

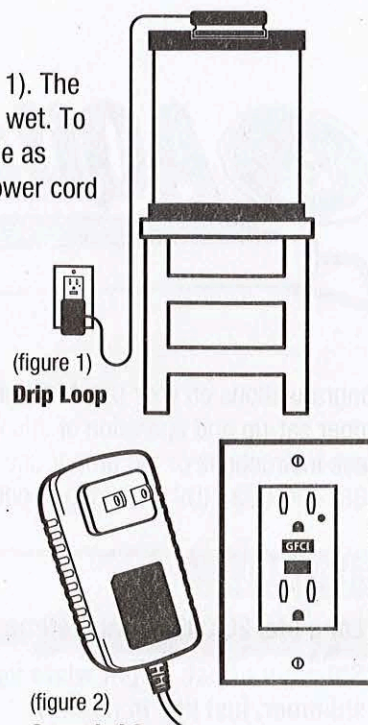
INSTALLATION USING SLIDING RAILS:

Check to make sure that the light fixture is unplugged before installing the fixture on the aquarium. To install using the adjustable sliding rails, adjust the width of the rails to match the width of the aquarium, and securely place the fixture on the frame of the aquarium.

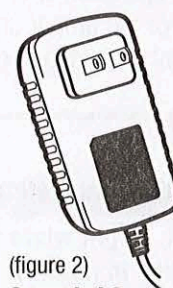


Each rail should be extended the same amount, and should not be pulled completely from the aluminum housing (see figure 3).

(figure 3) Sliding Rails



(figure 1)
Drip Loop



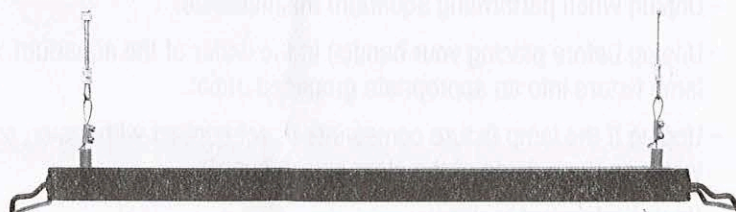
(figure 2)
Grounded 2
Pronged Plug
and GFCI Receptacle

SUSPENSION KIT:

Your new light fixture may be suspended above your aquarium using the enclosed stainless steel aircraft cable suspension kit.

CAUTION: See suspension kit warning for important safety information before hanging this light fixture over your aquarium. To attach the aircraft cables to the light fixture, perform the following steps:

- Remove the plastic cover from the T-nuts located in the slot on the top of the fixture.
- Fully thread the cable fittings onto the T-nuts.
- Secure the cable using appropriate hardware to suspend the fixture (see suspension kit warning under safety instructions).



Fixture with Suspension Kit

WARRANTY:

Zoo Med Laboratories, Inc. (Zoo Med) warrants each AQUASUN LED Fixture to be free of defects in material and workmanship under normal use and service for one year from the date of purchase. The obligation under this warranty is limited to the repair or replacement, at Zoo Med's discretion, of the product or any part thereof, when the product is returned to Zoo Med, freight prepaid. No claim shall be allowed under this warranty if, in the opinion of Zoo Med, the AQUASUN LED Fixture has been subject to accident or improper usage, including but not limited to: water damage, improper storage, accidental dropping, etc. This warranty is in lieu of all other warranties and representations expressed or implied. Please include your receipt, full name, address, phone number, and email address along with a note explaining failure when sending any product back to Zoo Med. Please allow 4 to 6 weeks for repair or replacement.



HONYA CO., LTD
www.reefoctopus.com

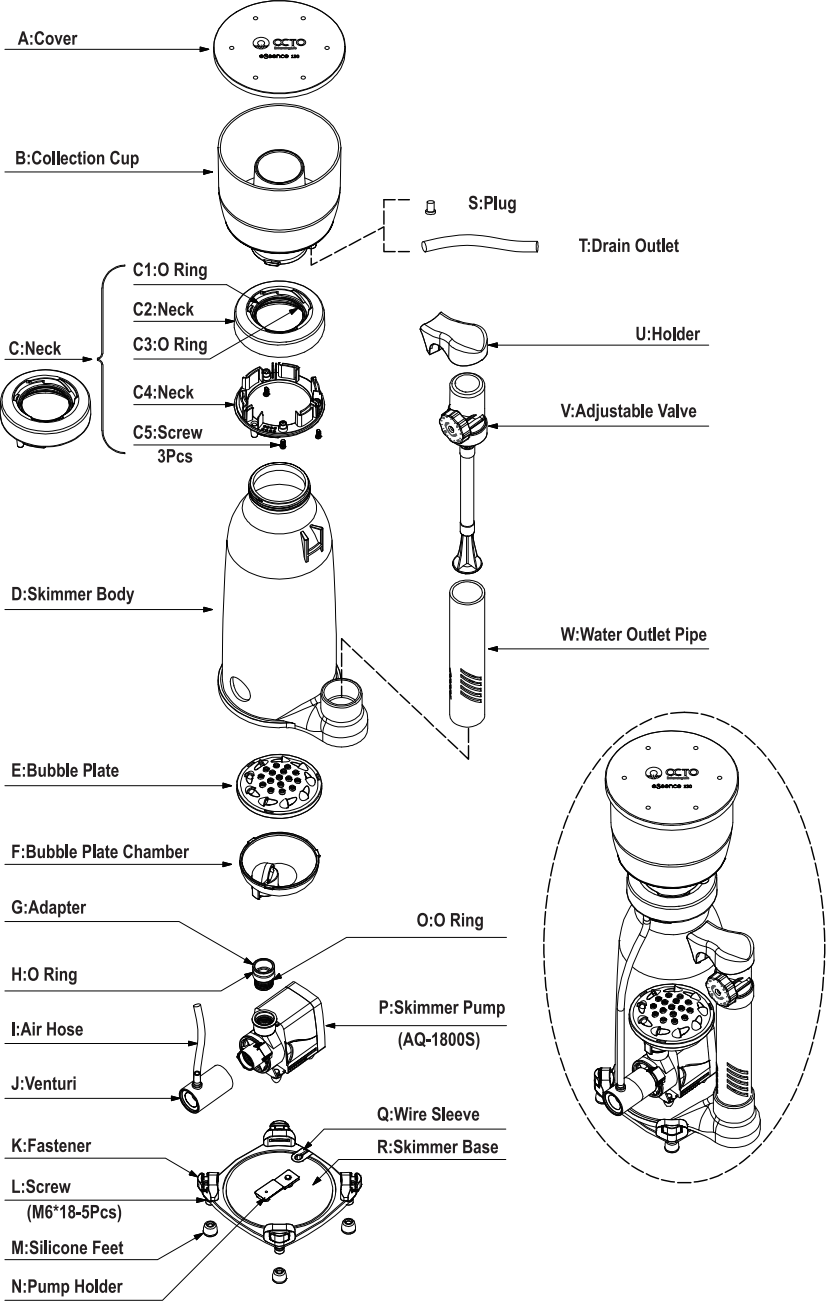


eSsence 130

Instruction Manual

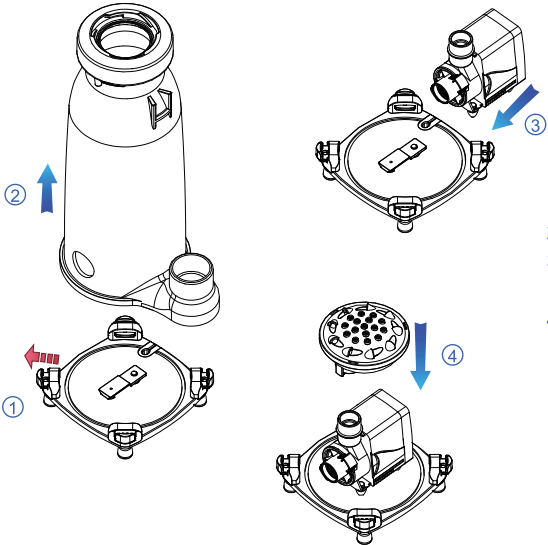


Explosion Chart for eSsence 130



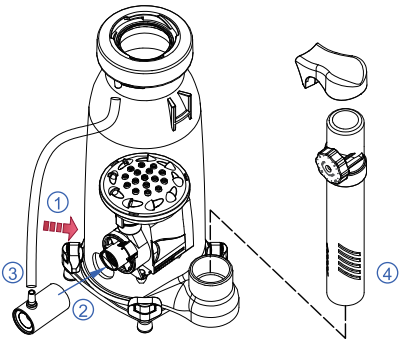
Assembly

STEP 1



1. Release the 4 Fasteners
2. Detach the Skimmer Body
3. Insert the Pump onto the Skimmer Base
4. Attach the Bubble Plate and Chamber to the Skimmer Pump Outlet

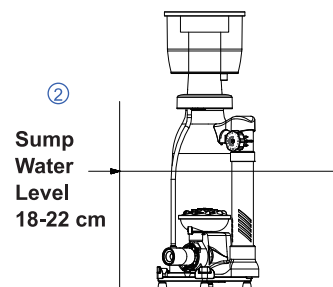
STEP 2



1. Place the Skimmer Body onto the Skimmer Base and lock Fasteners
2. Insert the Venturi to the Intake of the Pump
3. Insert the Air Hose
4. Assemble the Skimmer Outlet Pipe and Adjustable Valve

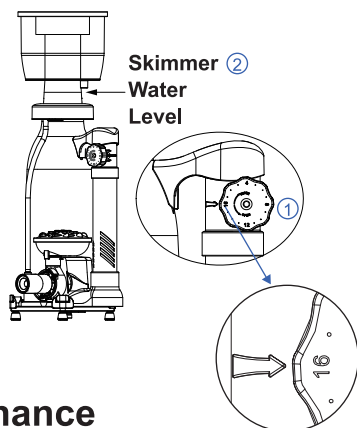
Assembly

STEP 3



- 1.Position the Skimmer into the Sump
- 2.For optimal performance the water in the Sump should be between 18-22cm(7.1-8.7")
- 3.Maintain consistence water level. Fluctuating water level will affect Skimmers' performance

STEP 4



- 1.Ensure that the Adjustable Valve (part V) is fully open, before starting Pump
- 2.Adjust the valve until the Skimmer water level is between the Skimmer's Neck and just below the Collection Cup
- 3.A New Skimmer will need a run-in period of 1-2 weeks before stabilising. During this time, please monitor water level to prevent overflowing into the Collection Cup.

Maintenance

- Collection Cup (part B): should be cleaned at least once every 7 -10 days, depending on the organic waste collected.
- Skimmer Body: It is recommended that you clean the Skimmer Body once every 3-6 months. Clean and Rinse off with fresh water only.
- Neck: Remove and Clean Neck (part C) every 2-3 months or when Air Intake is impeded. You will need a screw driver to remove this part, please also ensure all O rings are in place and not to over tighten the screws during re-assembling.
- Pump: It is recommended to clean the Pump once every 3 - 6 months. Clean the Impeller, and if necessary soak the Pump and Impeller in White Vinegar to dissolve stubborn calcium deposits

Safety Tips

- Check the voltage shown on the label of the Pump, it must corresponds to the voltage of the main supply.
- Never allow the Pump to run dry
- Do not touch the Socket with wet hands
- Do not clean the Skimmer with any cleaning agents

Warranty

Dear Customer,

Thank you for choosing OCTO, a quality product manufactured by HONYA CO.,LTD.

Your product shall be under warranty against defects of material and workmanship under the Terms and Conditions.

HONYA CO.,LTD warrants your products against defects in MATERIAL and WORKMANSHIP, for the period of warranty. During the warranty period, this product will be repaired or replaced without charge (excluding incidentals), at the sole discretion of HONYA CO.,LTD.

- 1.In the unlikely event that servicing of your product is required during the warranty period, kindly bring the product to one of our Authorised Dealer where you purchased the product from, with Proof of Purchase and this Warranty Card. Without the Proof of Purchase, the warranty period will be determined by the product serial number at the sole discretion of HONYA CO.,LTD.
- 2.Warranty excludes and does not cover any Damage, Loss, Malfunction, Defect or other issues arising from or related to:
 - 2.1.Inappropriate or improper installation, set-up or use, as according in the User's Manual,
 - 2.2.Any repair/modification by any person not authorised and approved by HONYA CO.,LTD,
 - 2.3.Any consumables or moving parts due to normal wear and tear (e.g. O Ring, Sealing Sing, Impeller)
 - 2.4.Negligence, Accidents or Mishandling,
 - 2.5.Transportation or Shipping,
 - 2.6.Natural or Man-Made disasters,
 - 2.7.Corrosion, electrical surge, power failure
- 3.The warranty extends only to products purchased from HONYA CO.,LTD through our Official Authorised Dealers.
- 4.HONYA CO.,LTD is not liable for any direct or indirect, special, incidental, punitive, exemplary, consequential or economic damage or loss arising from the use of our productsor related to the warranty.
- 5.HONYA CO.,LTD liability under or in relation to the warranty is limited to the cost of replacing the product with the same or an equivalent product, or of repairing the product, whichever is lower.
- 6.HONYA CO.,LTD reserves all rights to the final interpretation and amendment (without prior notice) of the terms and conditions in this warranty card.

Warranty Period of HONYA CO.,LTD Productsare as listed below:

1 Year Warranty

All Skimmer, Reactor Body, DC Pump Adapter and Control Module, Aquarium Tank and Furniture.

Pumps – OTP Pumps

2 Years Warranty

Pumps - AQ, HY, DC

HONYA CO.,LTD is committed to continuous product development, we hereby reserve the right to revise the product specifications or designs without prior notice.

For any further enquiry/assistance and latest product updates, kindly send us an email with your contact details at info@reefoctopus.com.



Aquarium Fan (2 models available)

“Quiet Operation. ”

Model No.: AF-80, AF-120

Categories: Aquarium Fan, Others



Features & Benefits	Overview	Technical Data
<div><h2>Technical Data</h2><div>AF-80<ul style="list-style-type: none">• Dimensions: 80 x 80 x 25mm (3.15 x 3.15 x 1 in)• Mounting Holes Spacing: 72mm / 2.83 in• Fan Speed: 25-55 CFMs• Voltage: DC5V• Thermistor Cable Length: 40cm / 16in• Power Cable Length: 2m / 78in</div><div>AF-120<ul style="list-style-type: none">• Dimensions: 120 x 120 x 25mm (4.25 x 4.25 x 1in)• Mounting Holes Spacing: 105mm / 4.13 in• Fan Speed: 65-100 CFMs• Voltage: DC5V• Thermistor Cable Length: 40cm / 16in• Power Cable Length: 2m / 78in</div></div>		

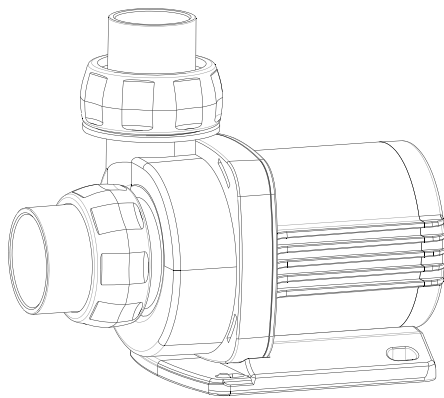


DC Pump OWNER'S MANUAL

DCP-2500, DCP-3000, DCP-4000, DCP-5000, DCP-6500, DCP-8000,
DCP-10000, DCP-18000, DCP-20000

Introduction

The DCP pumps are carefully inspected and tested to ensure both safety and operating performance. However, failure to follow the instructions and warnings in this manual may result in the pump's damage and/or serious injury. Be sure to read and save this manual for future reference.



Pump Features

- High performance with innovative motor and energy saving up to 65%
- super quiet operation.
- IC electronic detection, automatic power-off protection if no water.
- No-copper element.
- Suitable for both marine and fresh water
- Rust free. With anti-resistant ceramic shaft, Longer operation file.

Controller Features

- Adjustable flow rate.
- “Feed” Mode – pauses pump for 10 minutes and then restarts
- Memory function – after power off ensures that the pump retains parameter settings.

Control and Panel Function

1. LED display and controller key Instructions

The LED display indicates the power/speed setting/fault codes - the key panel is touch controlled.

2. Operating instructions

The pump must be connected with the controller and the 24V or 36V power adaptor correctly before use.

Lock / unlock function:

Press the "+" or "-" button for three seconds until the LED light flashes twice, the controller is locked; Similarly, press the "+" or "-" button for three seconds until the LED indicator light flashes twice, the controller is unlocked

Feed Function:

When the pump is running, press "II" button, pump stops working, the "10min" indicator lights up. The pump re starts automatically at previous settings after 10 minutes. Or you can press the “II” button at any time to make the pump re start.

Normal Operation:

After connecting the pump, the controller is set as per the last setting (memory function). Touch the “II” button and the pump will stop working, and Feed indicates in LED. Touch “II” button again, and the pump will resume working. Normal operating mode is with PXXX shown on LED (P is short for power). There are 71 settings for speed. When touching up/down buttons, the LED will indicate the current speed setting (FXX). You can set speed ranging from 30% to 100% in 1% increments. After more than 1 second with no press of the +/- button, the display will revert to Watts display (PXXX).

Power save mode

Turn on the power - after more than 25 seconds with no touch to the control buttons, the LED brightness will reduce; the led returns to normal brightness when any button is pressed.

Dry Running Automatic shut off:

If pump runs dry for 2 minutes, the pump will automatically shut off.
To restart, disconnect the power and re connect power.

3. Error code and description

The LED will display a flashing error code when a fault is detected. Error code explanation is as below:

Er01: Abnormal Working current - Check if the pump power adapter is functioning correctly or broken.

Er02: Controller overheating - Check if the controller exposed to the direct sunshine or is in a high temperature environment.

Er03: Pump idling – Check if the pump is working dry.

Er04: Impeller stops running - Check if the impellor is dirty or jammed.

Er05: Abnormal Working voltage. Check the input supply voltage.

●Note: for indoor use, the power socket must be installed with the leakage current protecting device, and the leakage current shall not exceed 30mA.

Performance Parameters Table

No:	Model No:	Voltage	Control box (W)	Consumption (W)	Flow rate (L/H)	Head Max (M)
1	DCP-2500	DC 24V	DCP-2500	23	2500	2.5
2	DCP-3000	DC 24V	DCP-3000	25	3000	3.0
3	DCP-4000	DC 24V	DCP-4000	32	4000	4.0
4	DCP-5000	DC 24V	DCP-5000	40	5000	4.0
5	DCP-6500	DC 24V	DCP-6500	55	6500	4.5
6	DCP-8000	DC 24V	DCP-8000	65	8000	5.2
7	DCP-10000	DC 24V	DCP-10000	80	10000	6.0
8						
9	DCP-18000	DC 36V	DCP-18000	130	18000	9
10	DCP-20000	DC 36V	DCP-20000	165	20000	9.5

WARNING

- Do not connect to any power supply over the rated voltage
- Do not immerse the pump in the flammable liquid.
- Do not use the pump in the water temperature above 35°C
- Maximum water depth 1.5M
- Maximum head - please see the parameter table.
- Do not immerse the plug/connectors into water or any other liquid.
- This appliance is not allowed to use by persons (including children) with reduced physical, sensory or mental capabilities, or lack of experience and knowledge, unless they have been given supervision or instruction concerning use of the appliance by a person responsible for their safety.
- Children should be supervised to ensure that they do not play with the appliance.
- This appliance can be used by children aged from 8 years and above and persons with reduced physical, sensory or mental capabilities or lack of experience and knowledge if they have been given supervision or instruction concerning use of the appliance in a safe way and understand the hazards involved.

CAUTION

Always disconnect the pump from the power supply before cleaning, maintenance and handling.

Do not let the pump work dry.

Do not lift the pump by holding the power cord only

Do not use the pump in heated liquid.

The pump is suitable for both fresh water and sea water

The pump can used submersed or externally (non-submersed) – the pump housing must be primed with water.

The pump is not suitable for use in swimming pools.

General

A clogged or dirty intake screen will reduce the pump performance.

If the pump is used on a dirty surface, raise it slightly to reduce the amount of debris contacting the intake.

Do not let the pump run dry. Place pump into water before powering on. Initially the pump may not work due to air in the pipe work If this is the case, please power off and on several times and this will help prime the pump.

Used as submersible pumps (Figure 1)

IMPORTANT: Do not let the pump run dry – this could cause damage to the motor.

- Submerge the pumps completely in your aquarium so as to make the pump body fill with water.
- A water level of approx. 15 cm (6.5 in.) is required for submersible use in order to prevent the pump from taking in air.
- To prevent the filter becoming prematurely clogged, place the aquarium pump above any detritus in the aquarium!
- Install the enclosed intake screen to prevent the inlet from becoming clogged.

Used as non-submersible pumps (Figure 2)

- Position the pump lower than the water surface on the side of the pond so that the water can be drained to the pump because it is not self-priming.
- Remove the filter cover and connect suction hose (A: inlet) and pressure hose (B: outlet) from the pump. The connection should be waterproof.
- Fill the suction hose and pump with water before turning it on.
- To prevent the pump from becoming clogged, provide the suction hose with an adequate suction filter.
- Never let the pump run dry.

Installation diagram (Figure 3)

Figure 1

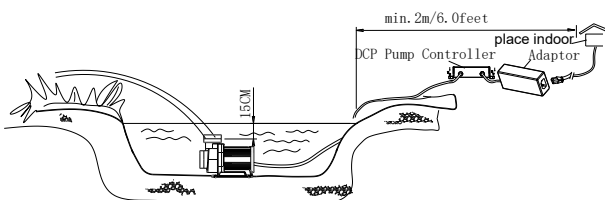


Figure 2

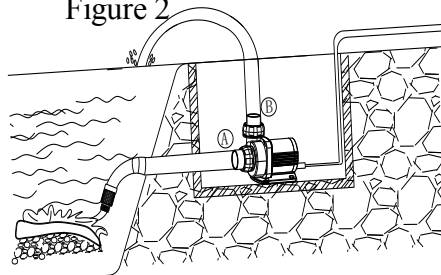
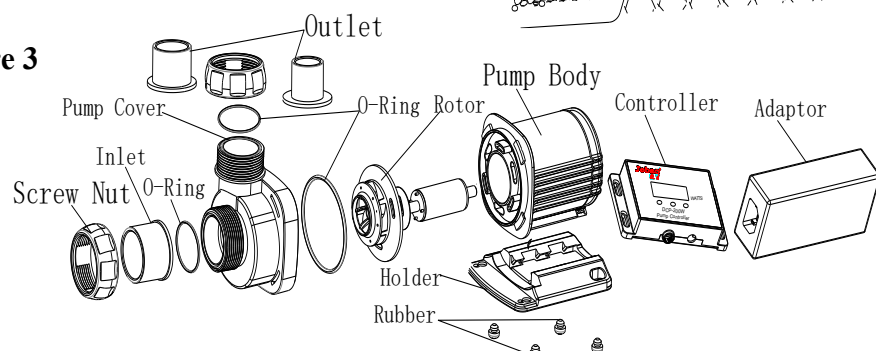


Figure 3



MAINTENANCE

To clean the pump, remove the back cover, sealing cover and the impeller. Use a small brush or stream of water to remove any debris.

If the pump does not work, check as following:

- Check the circuit. Please try to plug on another power socket, to ensure the pump switched on with power. Note, please do not plug on before operation.
- Check the pump impellor and outlet – they may be clogged/dirty.
- Check the inlet to ensure not clogged by debris.
- Remove the pump inlet to access the impeller. Turn around the rotor to check if broken or jammed.
- Monthly maintenance will prolong your pump's life. Clean the impellor, remove the dirt, etc

NOTE: Ensure the electrical cord loops below the power socket like a “Drip Loop”. It will prevent the water from running around the cable into the power socket



DISPOSAL:

Do not dispose this product as unsorted municipal waste. Collection of such waste separately for special treatment is necessary. This product must not be disposed together with the domestic waste. This product has to be disposed at an authorized place for recycling of electrical and electronic appliances. By collecting and recycling waste, you help save natural resources, and make sure the product is disposed in an environmental friendly and healthy way.

Jebao Co.,Ltd

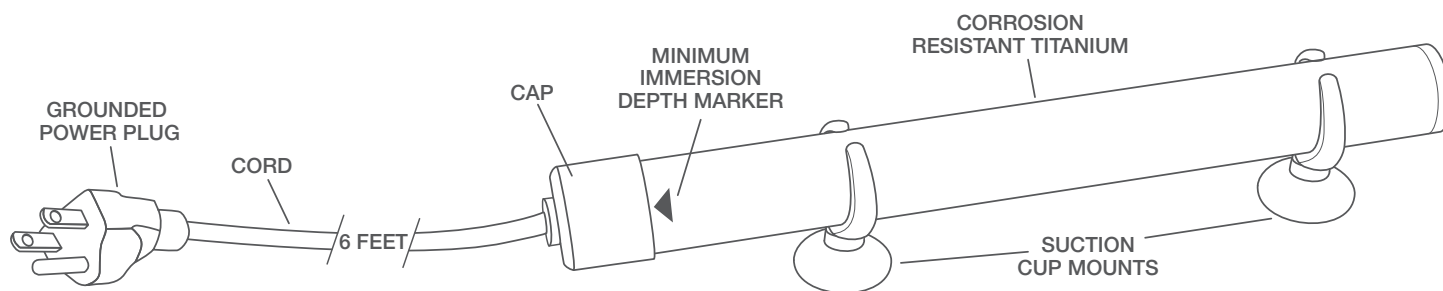
Tongmao Industrical Park, Dongsheng Town, Zhongshan, Guangdong, China.

Email: info@jebao.com

Website: www.jebao.com

Tel: +86-760-28136717/19/20

Fax: +86-760-28136725



MODEL	WATER VOLUME	ELEMENT LENGTH/DIAMETER
100W	UP TO 40G	10.25" / 1"
200W	UP TO 75G	10.25" / 1"
300W	UP TO 100G	10.25" / 1"
600W	UP TO 200G	14" / 1"

MAXIMUM WATER IMMERSION DEPTH: 4'**CABLE LENGTH: 6'****LINE VOLTAGE: 110 V/60 Hz****PROTECTION CLASS: IP 68**

Read this operating manual completely through before using the heating element. Keep this manual where it is safe and accessible. If you make the heating element available to a third party, provide this operating manual along with the heating element. Failure to comply with the instructions in this manual can result in personal injury and material damage. We assume no liability whatsoever for personal injury and material damage due to failure to comply with the instructions in this operating manual.

Note/Caution: this heater is for aquarium use only and requires a temperature controller

OPERATION

Unpack the entire contents and ensure that the heater and accessories are complete and undamaged. If any damage or defects are identified, please contact Bulk Reef Supply immediately.

- 1 Ensure that the power of the heating element is appropriate for the volume of water that will be heated.
- 2 Pay attention to the minimum immersion depth when installing. The element can be damaged if it is not completely surrounded by water. Note the minimum water level marker when installing vertically; this is the minimum point to which the heating element must be immersed in the water. For horizontal installation, ensure that the heating element is always fully immersed.
- 3 Slide the supplied suction cup holders onto the heating element.
- 4 It is possible to attach the heating element in any desired position below the surface of the water, using the supplied suction cup attachments. Press the heating element with the holders into the desired position on a clean surface of your sump or aquarium. Note: The suction cups do not adhere to uneven, dirty surfaces, and the heater may fall off. Surfaces and equipment can be damaged from prolonged direct contact with the heating element.
- 5 Plug the power plug of the heating element into a suitable temperature controller.

MAINTENANCE

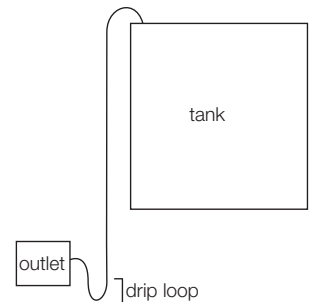
Safety Note: Prior to performing any work, disconnect the heating element from the power supply. To do this, unplug the power plug from the socket and allow the heating element to cool before reaching into the aquarium.

- The controller and heating element should be inspected during regular aquarium maintenance to ensure proper operation. Remove any deposits from the heating element with a suitable brush so there is no encrustation and damage to the heating element.
- A 20 to 30 minute soak in a dilute vinegar or citric acid solution can assist in removing stubborn mineral deposits. Do not use any harsh cleaning chemicals. Rinse the equipment thoroughly before returning to the aquarium. If the power cord is damaged replace the entire heating element, as the power cord cannot be replaced separately.

SAFETY INSTRUCTIONS

WARNING: The heating element is operated with electric power and generates high operating temperatures that can cause burn injuries and material damage if there is contact with the heating element. The connections of the heating element are not designed for outdoor use.

- Use a temperature controller to prevent uncontrolled heating of the element.
- Only use the heating element in enclosed, dry areas.
- Protect the power plug from moisture, and utilize a drip loop in the power cord to prevent water from entering the outlet.
- Only operate the heating element in conjunction with a ground fault circuit interrupter.
- Prior to performing any work, disconnect the heating element from the power supply. To do this, unplug the power plug from the socket and allow the heating element to cool before reaching into the aquarium.
- Allow the heating element to cool to ambient temperature before you touch it.
- Only grasp the heating element on the cap.
- Do not leave the heating element unattended if children or persons who cannot assess the hazards are in the vicinity.
- The heating element is not designed to be used by persons (including children) with limited physical, sensory, or mental capacities, or lack of experience and/or knowledge, unless such persons are supervised by a person responsible for their safety, and have received instructions on how to operate the device from the person responsible for their safety.



DISPOSAL

When the device has reached the end of its service life, dispose of the heating element and all accessories as specified by applicable environmental regulations. Electrical waste should not be disposed of together with household waste.

WARRANTY

We provide a guarantee of 36 months from the date of purchase. Within the guarantee period we will provide replacement at no charge for product failure due to material or manufacturing faults. Guarantee performances do not extend or renew the guarantee period. Defects in consumable accessories or parts subject to wear, as well as cleaning, maintenance or replacement of wear parts do not fall under the guarantee. The customer is fully responsible for proper installation and regular maintenance. Bulk Reef Supply cannot be held liable for damage to other equipment or household caused by product failure. There are no other warranties including warranties on particular uses which extend beyond what is described above. To receive warranty service the customer must contact us at support@bulkreefsupply.com and receive a RMA number and form. You may be required to ship the product back for proper inspection and replacement.



HEATER CONTROLLER



SETTINGS

Temperature Control Range Setting (TS1, DS1)

When the controller is working normally, the **PV** window displays current measured temperature, while the **SV** window displays set temperature.

When **PV** (measured temperature) \leq **TS1** (set temperature) - **DS1** (temperature differential value), system will enter heating status, the **Heater Indicator Lamp** will turn on, and heating relay will start working; when **PV** \geq **TS1**, the **Heater Indicator Lamp** will turn off, and heating relay will stop working.

For example, if **TS1** = 78.5°F, **DS1** = 0.5°F, when measured temperature is lower than or equal to 78.0°F (**TS1-DS1**), heater turns on; when the temperature reaches 78.5°F, heater turns off.

Temperature Calibration (CA)

When there is deviation between measured temperature and actual temperature, use temperature calibration function to align the measured temperature and actual temperature. The corrected temperature is equal to temperature before calibration plus corrected value (corrected value could be positive value, zero, or negative value).

Display in Fahrenheit or Celsius unit (CF)

Temperature can be set to display in Fahrenheit or Celsius according to preference. Default setting is to display in Celsius. To display in Fahrenheit, set **CF** value to F.

Attention: when **CF** value is changed, all other settings will be reset to factory settings.

MENU KEY

When TR=0 (default)

Code	Function	Setting	Default
TS1	Temperature Set Value	-50° to 37.7°C / -58° to 99.9°F	25°C / 77°F
DS1	Heating Differential Value	0.3° to 15°C / 0.3° to 15°F	2°C / 2°F
CA	Temperature Calibration	-15° to 15°C / -15° to 15°F	0°C / 0°F
CF	Display in °F or °C	°C / °F	°C

ERROR DESCRIPTION

Sensor fault alarm

If the controller detects a fault in the temperature sensor, either due to a short circuit or open loop, the controller will initiate sensor fault mode, and cancel all the actions. An alarm will sound, and LED will display "ER". Buzzer alarm can be dismissed by pressing any key. After fault is solved, the system will return to normal operation.

Over-temperature alarm

If the measured temperature exceeds the set point (TS) by more than 3°F, the controller will initiate over-temperature alarm mode, and cancel all actions. An alarm will sound and LED will display "HL". Buzzer alarm can be dismissed by pressing any key. When the measured temperature returns to within 3°F of the set point, the system will resume normal operation.



BULK REEF SUPPLY®

Questions?

bulkreefsupply.com

support@bulkreefsupply.com

OVERVIEW

The Bulk Reef Supply Heater controller is a pre-wired heating output temperature controller for use with a separate heating element. This heater controller offers some key advantages that ensure long-term accuracy and reliability.

MAIN FEATURES

- Dual display window; displays measured temperature (PV) and set temperature (SV) at the same time
- Fast and easy programming
- Temperature calibration
- Adjustable control precision; down to 0.3°F heating differential value
- Replaceable probe
- Large power output (Max load: 1,200W (110v))
- Sensor fault alarm
- Supports readings in Fahrenheit or Celsius
- Over-temperature alarm

SPECIFICATIONS

Control Range	-50° to 37.7°C / -58° to 99.9°F
Control Precision	0.3° to 15°C / 0.3° to 15°F
Display Resolution	0.1°C / 0.1°F
Accuracy	±1°C / ±1°F
Control Mode	On/Off Control, Heating
Input Power	100 to 265VAC, 50Hz/60Hz
Output	Max. 10A, 100V to 265VAC
Sensor Type	NTC sensor
Sensor Length	6.5'
Relay Contact Capacity	Heating (10A, 100 to 240VAC)
Cable Length	Input: 5' / Output:1'
Body Dimension	5.5x2.7x1.3"
Socket Dimension	3.3x1.7x1"
Ambient Temperature	-30° to 75°C / -22° to 167°F
Storage	-20° to 60°C / -4° to 140°F Humidity 20 to 85% (No Condensate)
Warranty	1 Year

OPERATING KEYS

- ① **PV: Process Value**
Displays current temperature
In setting mode: displays menu code
- ② **SV: Setting Value**
Displays set temperature
In setting mode: displays setting value
- ③ **Heater Indicator Lamp**
When lit, indicates outlets are on
- ④ **SET**
Press **SET** for 3 seconds to enter menu for parameter setting. When done, press **SET** for 3 seconds to quit and save setting changes
- ⑤ **Increase**
In setting mode: press ▲ to increase or change setting value
- ⑥ **Decrease**
In setting mode: press ▼ to decrease or change setting value
- ⑦ **Socket**
Both sockets are for heating output and are synchronized



PROGRAMMING

When the controller is working normally, press **SET** for 3 seconds to enter parameter setting mode. **PV** window displays the temperature setting code **TS1**, while **SV** window displays according setting value. Press **SET** to go to the next menu; press ▲ or ▼ key to set desired parameter value.

When finished, press **SET** for 3 seconds to save the settings and return to normal temperature display mode. While in setting mode, if there is no operation for 10 seconds, the system will automatically quit setting mode and return to normal temperature display mode without saving changes.

HOLD SET FOR 3 SECONDS FOR SET-UP MODE

TS1	Temperature Set Value 1
SET	
DS1	Heating Differential
.5°C / .5°F	
SET	
CA	Temperature Calibration
0°C / 0°F	
SET	
CF	Temperature Unit
F	
SET	



CLASSIC UV STERILIZER SERIES

PROVIDES A SAFE & HEALTHY ENVIRONMENT

Quality you can count on.

The Classic Series UVs are ideal for the control of water quality in an extensive array of applications such as greenhouse growing systems, water features, pools/spas, ponds, aquariums, etc. (not drinking water).

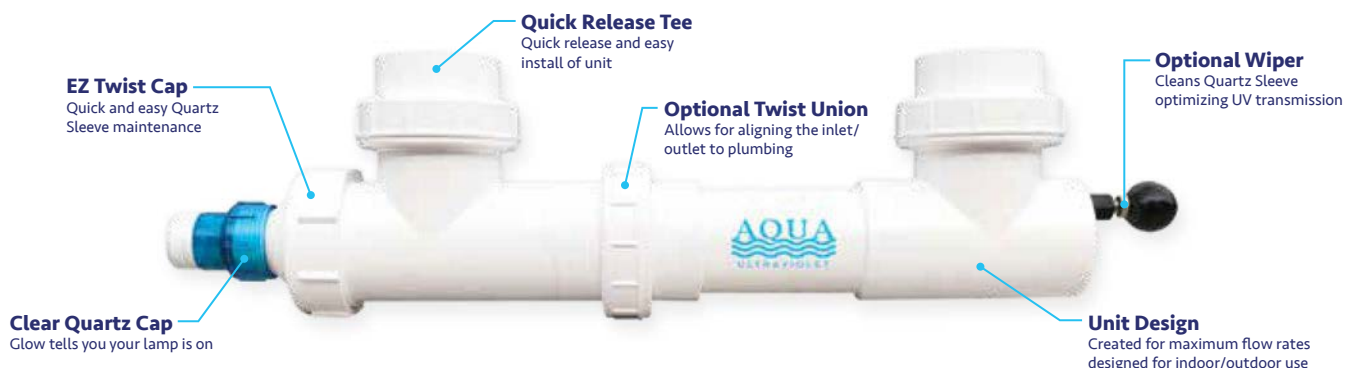
UV is a proven dependable method for controlling algae, bacteria and protozoa. The ultraviolet lamp emits a germicidal ray which alters or disrupts the DNA or RNA of single celled organisms. By properly implementing an Aqua Ultraviolet system in-line these organisms can be eradicated effectively without any harmful residuals. UV controls the spread of disease and keeps your water clear by destroying free floating algae.



(951) 296-3480 | (800) 454-2725 | info@aquauv.com | AquaUV.com



CLASSIC UV STERILIZER SERIES



CLASSIC UV SIZING CHART

MODEL	FRESH WATER TANK GALLONS	30,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	SALT WATER TANK GALLONS	45,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	60,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	75,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	90,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH
Classic 8 Watt	200	642	70	428	321	256	214
Classic 15 Watt	500	700	75	466	350	280	233
Classic 25 Watt	1,200	1,200	150	800	600	480	400
Classic 40 Watt	2,000	2,900	325	1,930	1,450	1,160	967
Classic 57 Watt	3,000	3,200	355	2,133	1,600	1,280	1,066
Classic 80 Watt	4,400	3,678	600	2,452	1,839	1,471	1,226
Classic 114 Watt	4,400	3,900	700	2,600	1,950	1,560	1,300
Classic 120 Watt	6,000	4,080	900	2,720	2,040	1,632	1,360



IMPORTANT FOR AQUARIUM APPLICATIONS

REEF TANKS

A UV rated in the 30,000 or 45,000 column is ideal for the reef environment. UV's used at higher kill rates will destroy the planktonic food supply for the reef.

MARINE FISH TANKS

(No reef or live rock) A UV rated in the 75,000 or 90,000 column will be the most effective at controlling fish disease. All UV dosages are calculated at the end of lamp life (14 month).

(951) 296-3480 | (800) 454-2725 | info@aquauv.com | AquaUV.com



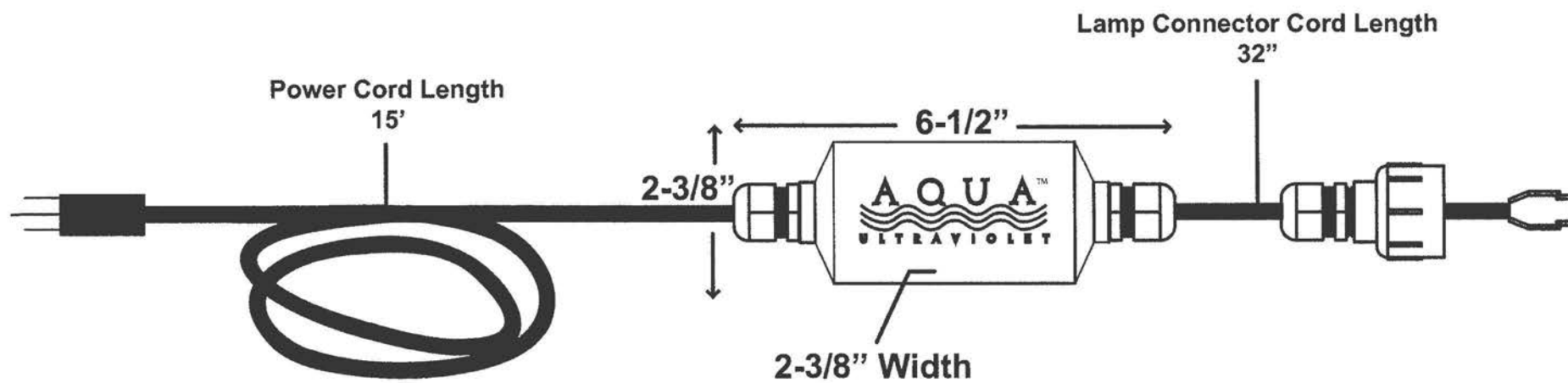
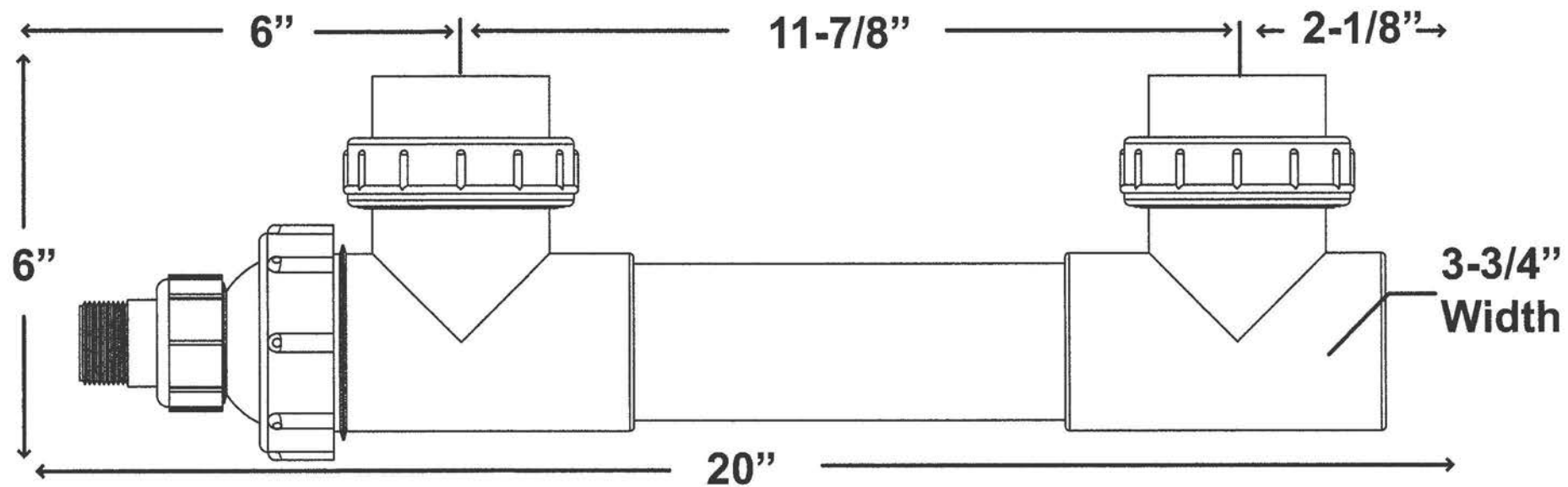
@AquaUV



@aquauv



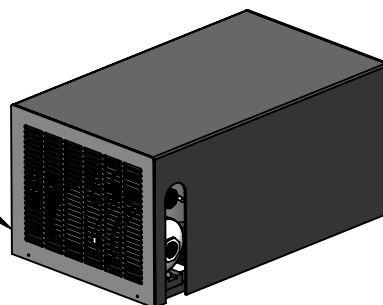
AquaUltraviolet



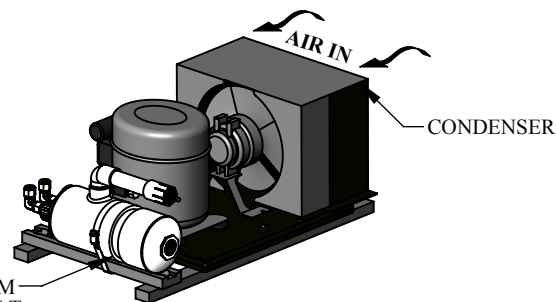
DS-3 THRU DS-6 CHILLER SPECIFICATION

FOR INDOOR FRESH AND SALT WATER APPLICATIONS

REMOVAL BE
BLACK ABS
COVER



TITANIUM
COIL HEAT
EXCHANGER



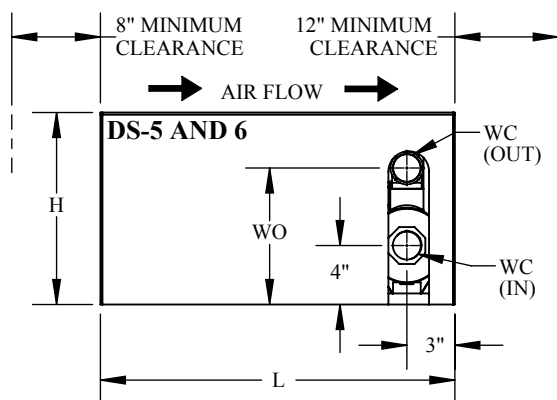
POWER CORD
PLUG TYPE



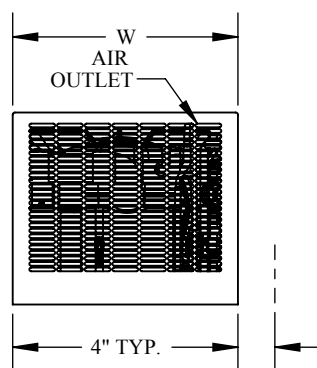
#5-15P
DS-3 THRU DS-5



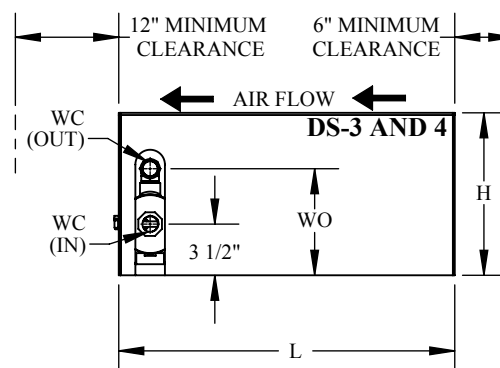
#6-15P
DS-6



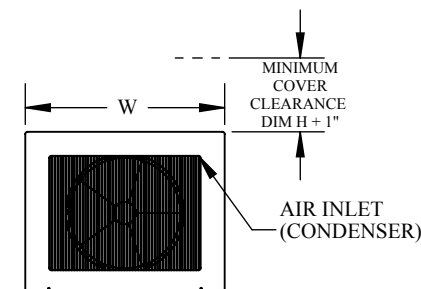
LEFT SIDE



FRONT



RIGHT SIDE



BACK

WO: WATER OUTLET WC: WATER CONNECTION SIZE

-ALL MODELS INCLUDES 18" LONG POWER CORD.

CHILLER SPECIFICATIONS															
MODEL NO.	HP	NOMINAL BTUH	R134A REFRIGERANT CHARGE (OZ.)	VOLTS / PHASE	AMPS.	WATTS	WATER FLOW RATE (GPM)	AIR OUTPUT (CFM)	L	W	H	WO	WC WATER IN / OUT (FPT)	SHIPPING WEIGHT (LBS.)	SHIPPING DIMENSIONS (IN.)
DS-3	1/4	3,000	5	115	5.4	621	8-15	240	22 1/2"	13"	11"	7 1/4"	3/4"	53	28 x 17 x 15
DS-4	1/3	4,000	8	115	7.2	828	10-20	260	22 1/2"	13"	11"	7 1/4"	3/4"	62	28 x 17 x 15
DS-5	1/2	6,000	9.5	115	9.5	1092	12-25	350	23 3/4"	15 1/4"	13"	9 3/8"	1 1/2"	110	33 x 26 x 24
DS-6	1/2	6,000	9.5	230 / 1	4.8	1104	12-25	350	23 3/4"	15 1/4"	13"	9 3/8"	1 1/2"	112	33 x 26 x 24

NOTE:

- STANDARD MODEL CHILLERS OPERATE WITHIN A TEMPERATURE RANGE OF 65-80°F.
- ADD "CWCT" (COLD WATER CAP TUBE) TO MODEL NUMBER FOR WATER TEMPERATURES BETWEEN 50-65°F.
- ADD "TXV" (THERMAL EXPANSION VALVE) TO THE MODEL NUMBER FOR WATER TEMPERATURES BETWEEN 40-80°F.
- ALL DIMENSIONS ARE APPROXIMATE AND CAN CHANGE WITHOUT NOTICE.

aqua
LOGIC
Aquatic Design, Manufacturing & Integration

9558 Camino Ruiz, San
Diego, CA 92126

DRAWING #
PDF-0012

SHEET TITLE
DS-3 THRU DS-6
CHILLER
SPECIFICATION

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DESCRIPTION
DELTA STAR AIR COOLED WATER CHILLERS

DRAWN BY
Arnaldo Guzman

DATE
11/12/2015

REVISION

SCALE
1:13

SHEET #
1 OF 1



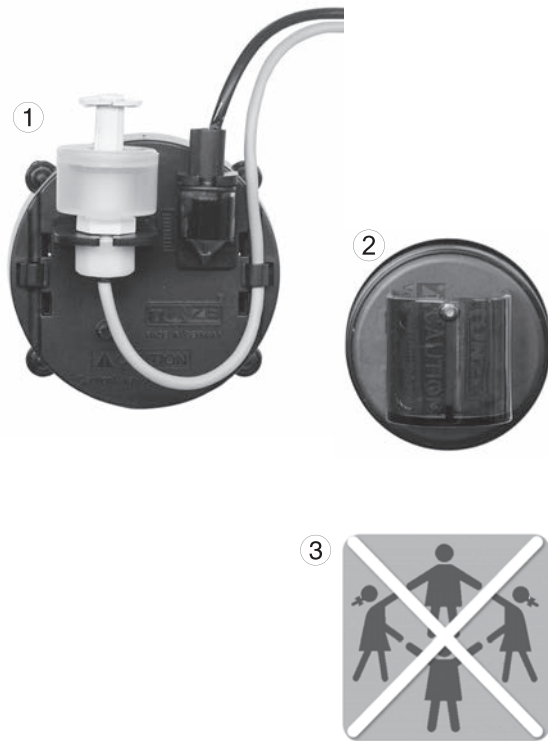
Osmolator[®] 3155

Gebrauchsanleitung

Instructions for Use

Mode d'emploi

x3155.8888
05/2019



Allgemeines

Der TUNZE Osmolator® 3155 (1) wird zur Sicherung der osmotischen Stabilität in Süß- und Meerwasseraquarien eingesetzt. Er gewährleistet den genauen und sicheren Ausgleich des verdunsteten Wassers.

Dieser Wasserstandsregler enthält einen Controller, zwei Sensoren, zwei Magnet Holder für Sensoren und zahlreiches Zubehör. Er ist geeignet zur Platzierung in Unterschrank-Filteranlagen, in Comline-Filter oder unmittelbar am Rand des Aquariums. Der Magnet Holder für zwei Sensoren (1) ist für eine Glasstärke bis 15mm, der Magnet Holder für separaten Sicherheitssensor (2) für eine Glasstärke bis 12mm geeignet.

Dieses Gerät ist für Benutzer (einschl. Kinder) mit eingeschränkten physischen, sensorischen oder psychischen Fähigkeiten bzw. ohne jegliche Erfahrung oder Vorwissen nur dann geeignet, wenn eine angemessene Aufsicht oder ausführliche Anleitung zur Benutzung des Gerätes durch eine verantwortliche Person sichergestellt ist. Achten Sie darauf, dass Kinder nicht mit dem Gerät spielen (3).

General aspects

TUNZE Osmolator® 3155 (1) is used to ensure the osmotic stability in freshwater and saltwater aquariums. It guarantees the accurate and safe compensation of evaporated water.

This water level regulator comprises a controller, two sensors, two magnet holders for sensors and numerous accessories. It is suitable for use in cabinet filter plants, in Comline filters or directly on the edge of the aquarium. The Magnet Holder for two sensors (1) is suitable for a glass thickness of up to 15mm (1/2"), and the Magnet Holder for the separate safety sensor (2) for a glass thickness up to 12mm (3/8").

This device is suitable for users (including children) with limited physical, sensorial or mental abilities or without any experience or previous knowledge only, if a suitable supervision or detailed instructions on the operation of the device is assured by a responsible person. Please make sure that children do not play with the device (3).

Généralités

L'Osmolator® TUNZE® 3155 (1) est conçu pour assurer la stabilité osmotique d'un aquarium d'eau douce ou d'eau de mer par une compensation précise et précise de l'eau évaporée. Cette régulation de niveau comporte un Controller, deux capteurs de niveau, deux supports magnétiques pour capteurs et de nombreux accessoires. L'Osmolator® est conçu pour un placement dans les filtrations sous aquariums, les filtres Comline® ou directement au bord de la cuve. Le support magnétique à deux capteurs (1) est prévu pour une épaisseur de verre jusqu'à 15mm, le support magnétique à un seul capteur (2) jusqu'à 12mm.

Les utilisateurs (enfants inclus) ayant des limitations physiques, sensorielles, psychiques, ne bnficient pas d'une expérience ou de connaissances suffisantes ne peuvent utiliser cet appareil qu'avec le concours d'une tierce personne responsable, assurant la surveillance ou veillant à l'observation du mode d'emploi. Veuillez vous assurer que des enfants ne puissent jouer avec cet appareil (3).



Lieferform

Der Osmolator® ist einbaufertig mit Netzteil (1), Dosierpumpe (2), Schlauch (3), Spannhalter (4), Magnet Holder für zwei Sensoren (5) und Magnet Holder für separaten Überlaufsensor (6).

Funktion

Im TUNZE Osmolator® 3155 sind zwei Sensoren eingesetzt, d.h. ein Arbeitssensor (7) zur Überwachung des Wasserniveaus und ein Sicherheitssensor (8) gegen Überfüllung des Aquariums. Der Arbeitssensor tastet die ☐☐☐☐☐☐☐☐☐☐

Unterschreitung des eingestellten Wasserniveaus den Controller (9). Dieser schaltet die Dosierpumpe (2) ein, die soviel Wasser aus dem Vorratsbehälter ins Aquarium fördert, bis die verdunstete Wassermenge ersetzt ist. Danach schaltet der Controller mit elektronischer Zeitüberwachung die Dosierpumpe automatisch ab. Sollte aus technischen Gründen der Arbeitssensor versagen, verhindert der Sicherheitssensor das Überfüllen des Aquariums und es ertönt ein Signalton. Läuft die Dosierpumpe länger als 10 Min. wird sie zur Sicherheit abgeschaltet.

Bei Aquarien über 1.000L empfehlen wir aufgrund der hohen Verdunstung, statt der Dosierpumpe 5000.02 die Schaltsteckdose 3150.11 (10) mit Rückförderpumpe Silence 1073.02 oder 1073.04 zu verwenden.

Delivery condition

The Osmolator® is ready for installation with the power supply (1), metering pump (2), hose (3), clamp (4), Magnet Holder for two sensors (5) and the Magnet Holder for separate overflow sensor (6).

Functions

There are two sensors implemented into the TUNZE Osmolator 3155®, whereas an operating sensor (7) is used to monitor the water level and a safety sensor (8) to prevent an ☐☐☐☐☐ of the aquarium. The operating sensor scans the water surface, and triggers the controller (9) if the water level falls below the preset water threshold. This switches on the metering pump (2), which then conveys a ☐☐☐☐☐ amount of water from the reservoir into the aquarium to replenish the evaporated water. After this process has concluded, the controller which is equipped with an electronic time monitoring, automatically switches ☐☐ the metering pump. The operating sensor should fail due to technical reasons, the safety sensor will prevent an ☐☐☐☐☐ of the aquarium, and a signal tone will be emitted. If the metering pump runs longer ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Due to the high rate of evaporation in aquariums with more than 1,000l (264 USgal.) we recommend the use of the switched socket outlet 3150.11 (10) with the recirculation pump Silence 1073.02 or 1073.04 instead of the metering pump 5000.02.

Contenu

L'Osmolator® est livré prêt à l'emploi avec alimentation secteur (1), pompe de dosage (2), tuyau d'amenée (3), support (4), Magnet Holder à deux capteurs (5) et Magnet Holder pour capteur anti-débordement séparé (6).

Fonctions

L'Osmolator® TUNZE® est équipé de deux capteurs: un capteur de niveau précis (7) et un capteur de sécurité anti-débordement (8). Le capteur de niveau ☐☐☐☐☐ un contrôle précis du niveau réel de l'eau en relation avec le Controller (9). Lors d'une baisse de niveau d'eau, le Controller enclenche la pompe de dosage (2), qui transporte une ☐☐☐☐☐ placée dans le réservoir jusqu'à la compensation totale de l'eau. Si pour une raison technique le capteur de régulation devait être défectueux ou si la pompe de dosage devait ne plus s'arrêter, le deuxième capteur de sécurité évitera un débordement de l'aquarium et actionnera une signalisation lumineuse et sonore. Si le temps de fonctionnement de la pompe de dosage dépasse 10 minutes, la pompe est automatiquement stoppée avec une signalisation.

En raison du volume d'évaporation des aquariums de plus de 1.000L, nous recommandons l'utilisation de la prise commandée 3150.11 (10) avec pompe de reprise Silence 1073.02 ou 1073.04 à la place de la pompe de dosage 5000.02.



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BROOKLYN, NY 11215
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F: 718.865.8212

PROJECT:
JBENC

JOB NUMBER:
19-143

EXHIBIT / COMPONENT:
EX21.04
TURTLE
HABITAT

CLIENT:

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DATE:
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PHASE

ESTIMATE

DEVELOPMENT

APPROVED

AS BUILT

LIVE AND TRIM

DO NOT SCALE DRAWING

SHEET SIZE: 12 x 18 (inches)

APPROVAL

BY: _____

DATE: _____

MILESTONE:

PAGE:

1/17

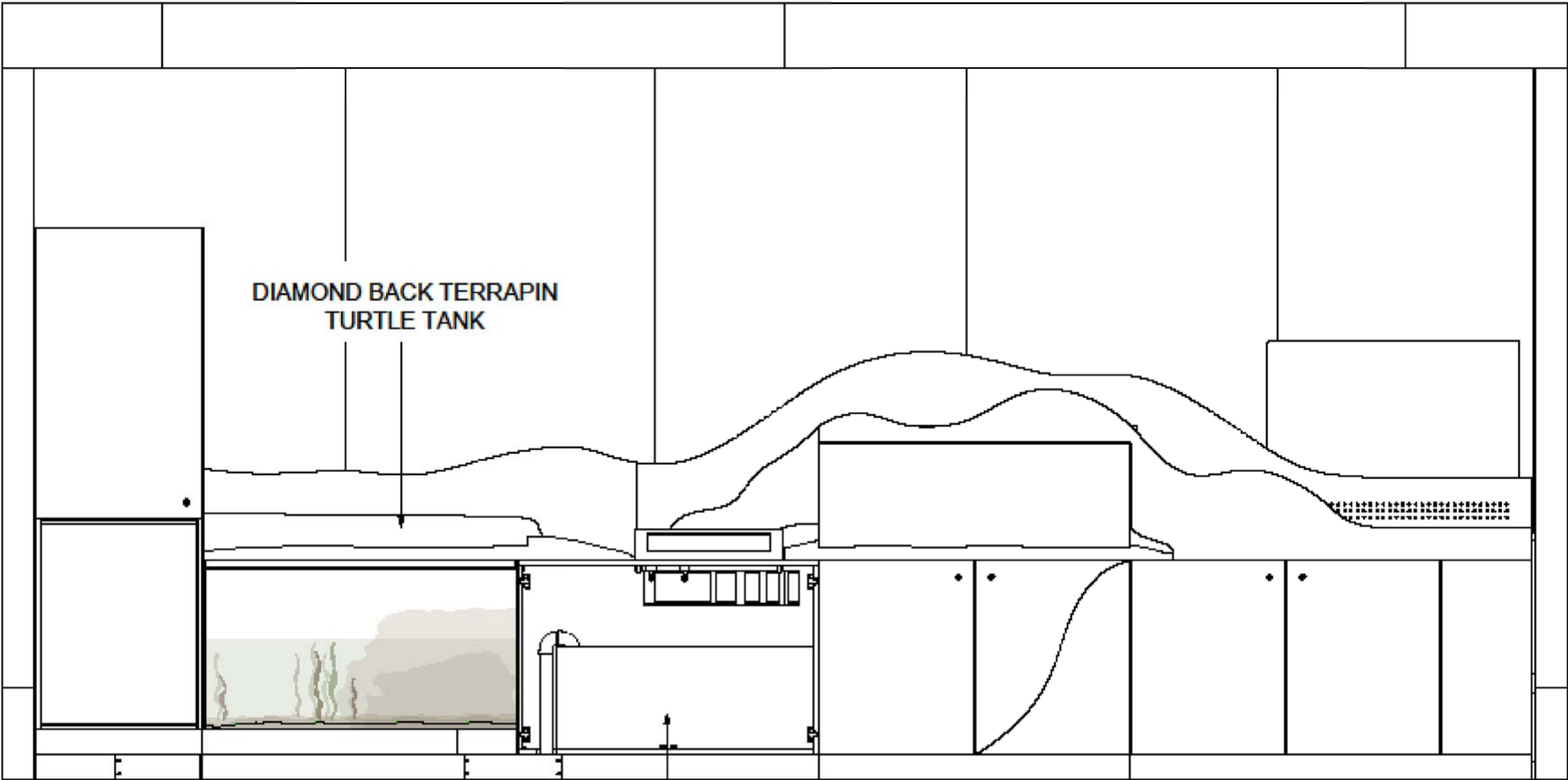
ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED

FINISH: AS NOTED

COLOR: AS NOTED

Exhibit B
Drawings of Ecosystems - Turtle Habitat



DIAMOND BACK TERRAPIN
TURTLE SUMP
(DOORS HIDDEN FOR CLARITY)

TANK VOLUME: 120 GAL
TANK FILL VOLUME: 50 GAL
*est



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PHASE	
ESTIMATE	
DEVELOPMENT	
APPROVED	X
AS BUILT	
LIVE AND TRIM	

DO NOT SCALE DRAWING

SHEET SIZE: 12 x 18 (inches)

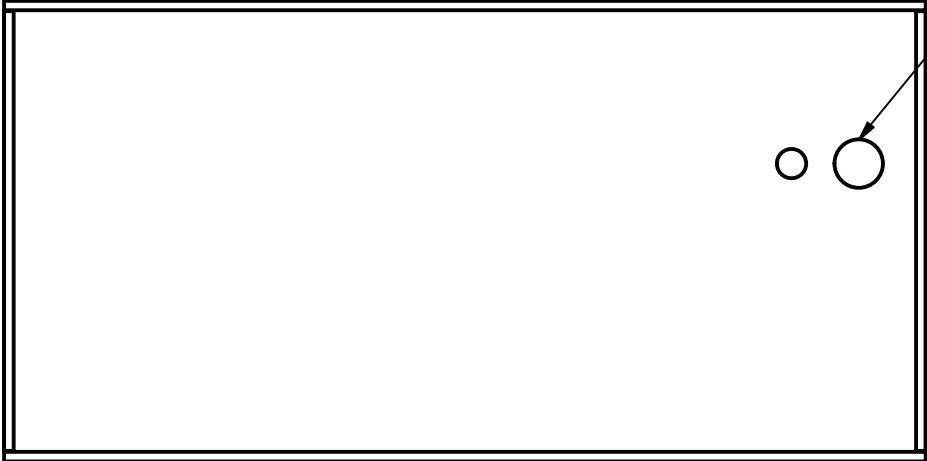
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BY: _____
DATE: _____

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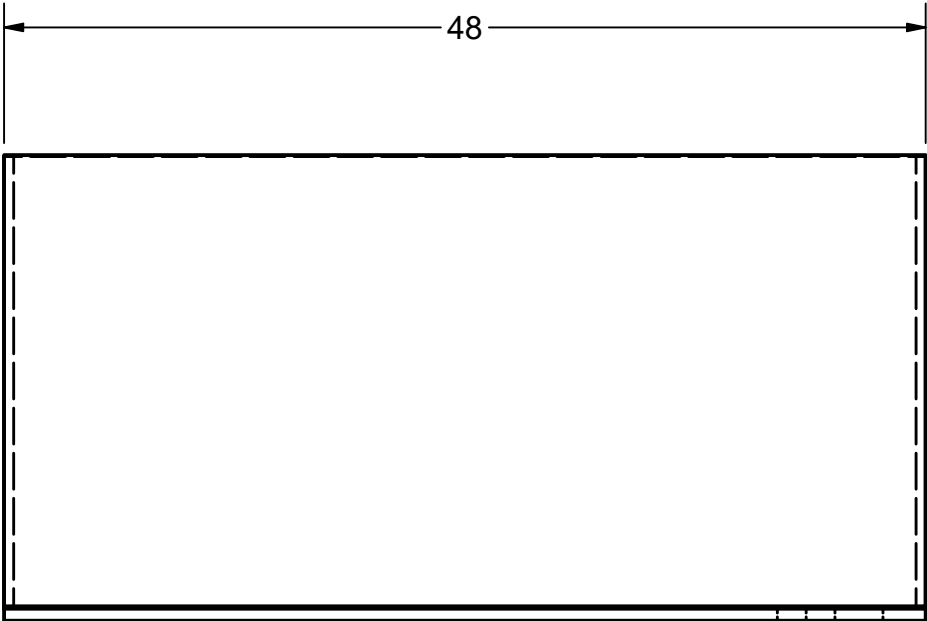
ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED
FINISH: AS NOTED
COLOR: AS NOTED

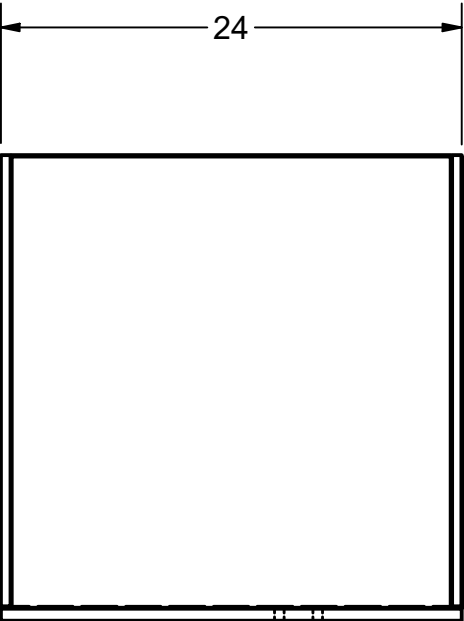
PLUMBING LOCATED IN BACK-RIGHT
ENTERS/EXITS FROM BOTTOM OF CABINET
TRAVELS TO UNDERNEATH TO SUMP



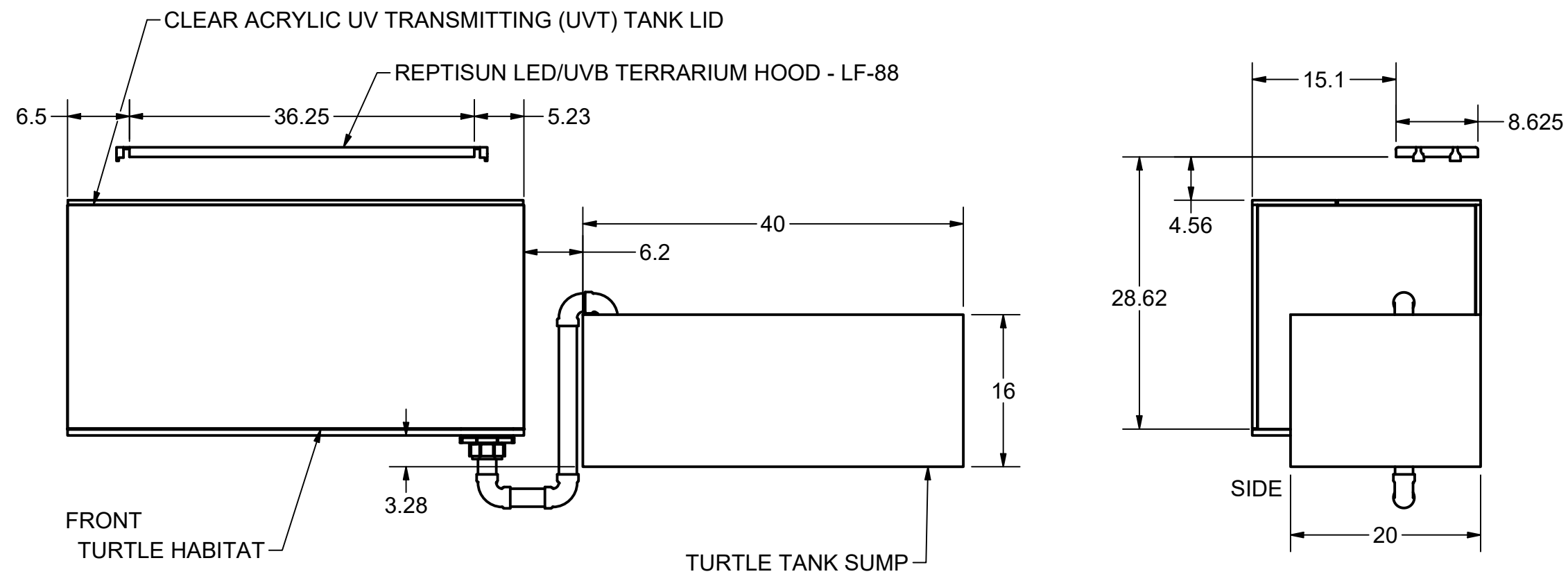
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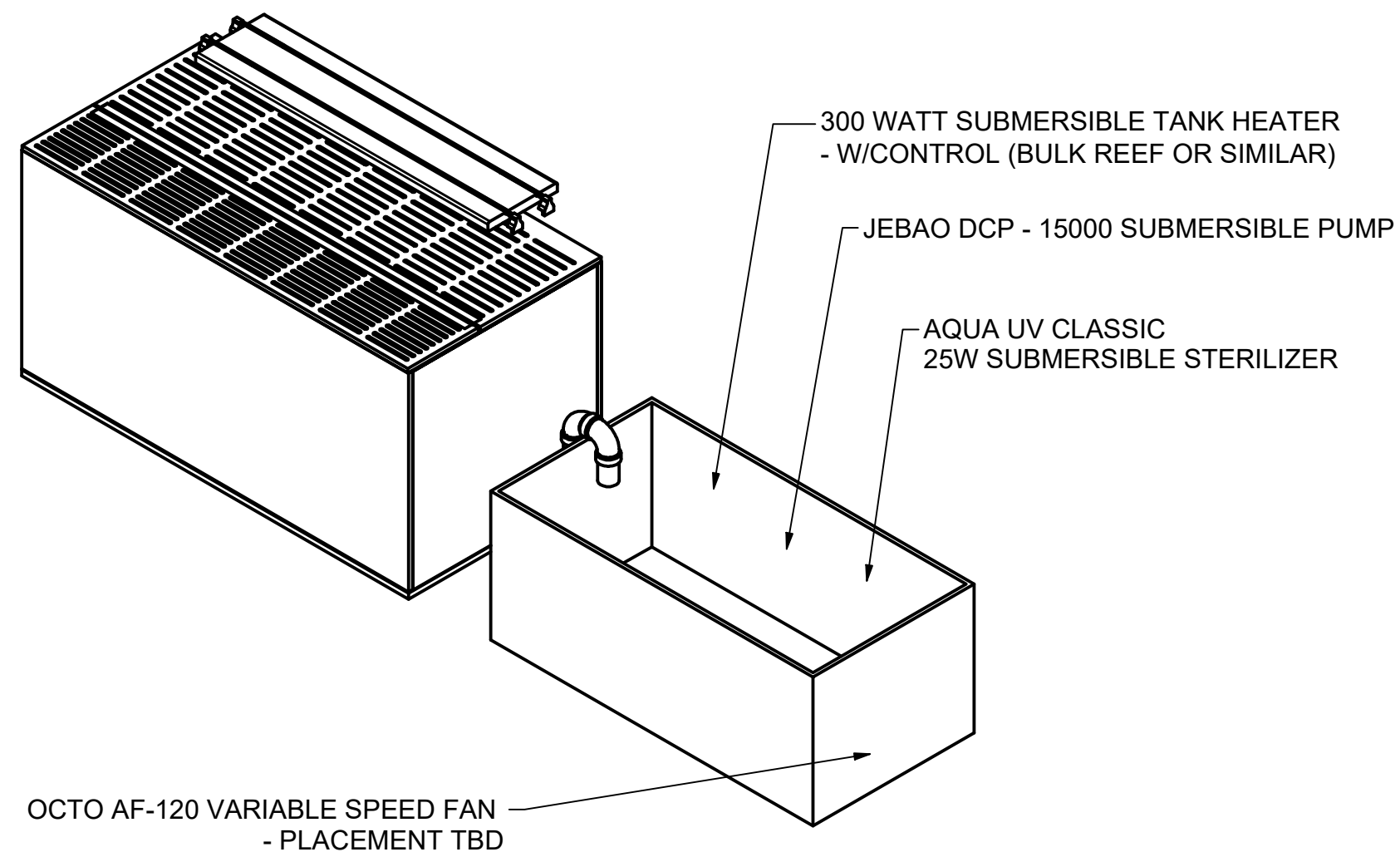
FRONT



SIDE



TERRAPIN TURTLE TANK & SUMP (MILLWORK HIDDEN FOR IMPROVED CLARITY)



PROJECT:
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SUMP EQUIP.

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PHASE

ESTIMATE	
DEVELOPMENT	
APPROVED	X
AS BUILT	
LIVE AND TRIM	

DO NOT SCALE DRAWING

SHEET SIZE: 12 x 18 (inches)

APPROVAL

BY: _

DATE: _

MILESTONE: PAGE:
3/17

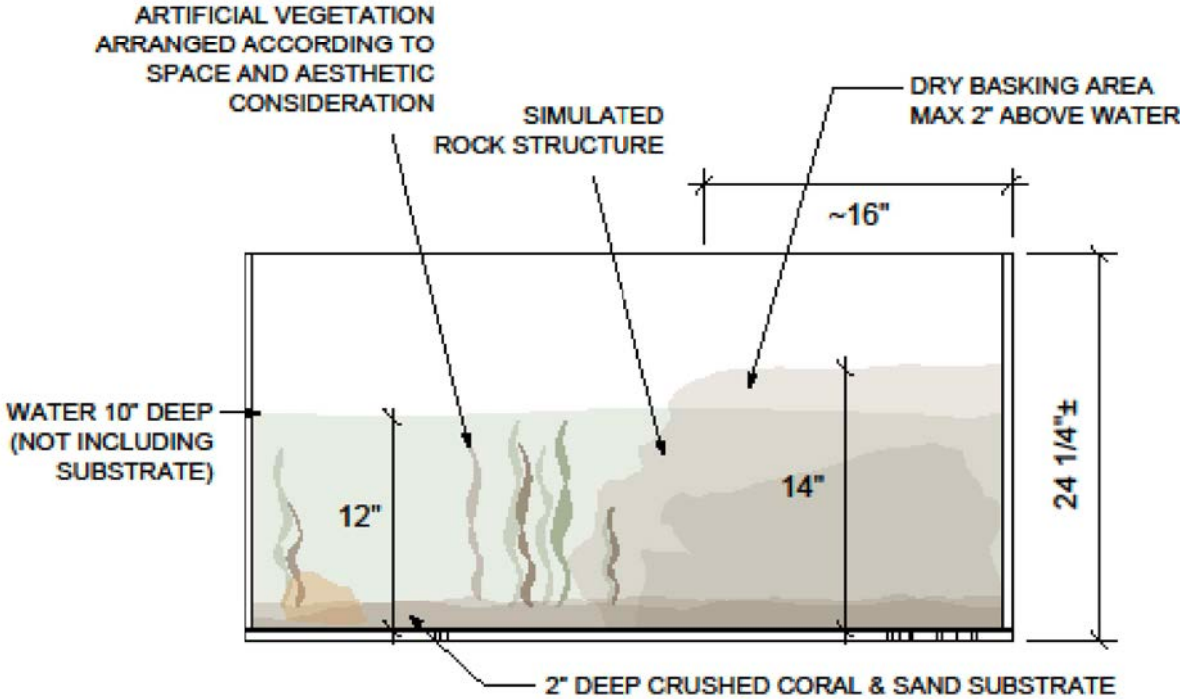
ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED

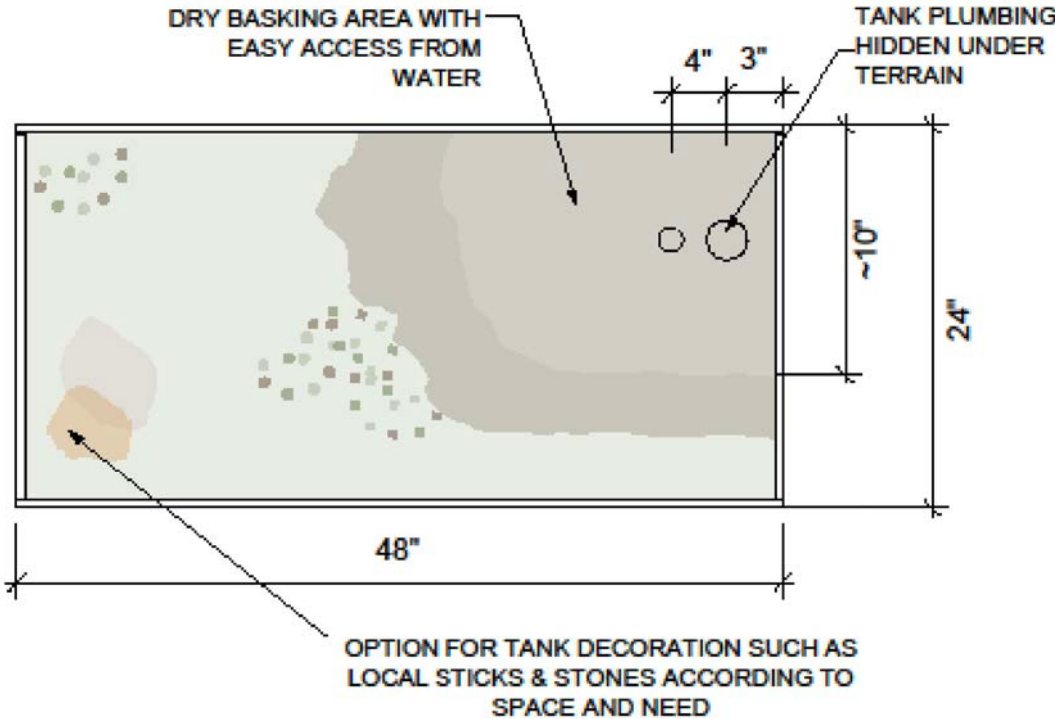
FINISH: AS NOTED

COLOR: AS NOTED

DIAMOND BACK TERRAPIN TURTLE TANK



VIEW - FRONT



VIEW - TOP

moeyinc

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PHASE

ESTIMATE

DEVELOPMENT

APPROVED

AS BUILT

LIVE AND TRIM

DO NOT SCALE DRAWING

SHEET SIZE: 12 x 18 (inches)

APPROVAL

BY:

DATE:

MILESTONE: PAGE:
4/17

ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED

FINISH: AS NOTED

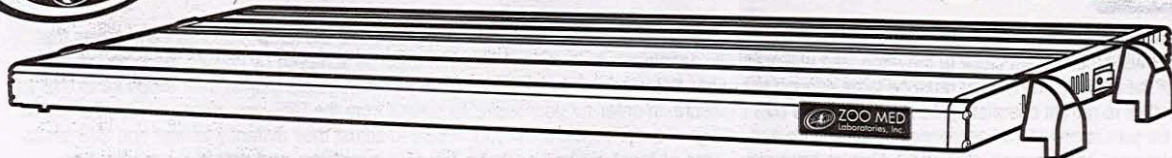
COLOR: AS NOTED



REPTISUN LED UVB

LED
UVB +

LED HO
HIGH OUTPUT MODULES
REPTISUN 5.0
T5HO UVB LAMP



INSTRUCTIONS

ITEMS COVERED:

LF-85, LF-86, LF-87, LF-88 and LF-89

Congratulations on your purchase of Zoo Med's REPTISUN LED UVB TERRARIUM HOOD! The following instructions will assist you with the proper set-up and operation of this unit. Please read the following instructions carefully. If you have any questions regarding these instructions or the proper use of this item, please contact our customer service department at zoomed@zoomed.com or by calling (888) 496-6633 (US and Canada only). Customers in other countries, please call (805) 542-9988.

FEATURES:

- **BRILLIANT LIGHT!** 6500K daylight high output LEDs for truly naturalistic lighting.
- **UVB:** ReptiSun 5.0 T5 HO (high-output) lamp included for safe & effective UVB, UVA and bright light for improved color rendering.
- **PLANT GROWTH:** 620 nm RED LEDs stimulate live plant growth.
- **MOON LITE®:** 465 nm BLUE LED simulates nighttime lighting "Lunar Effect".
- **MODULAR DESIGN:** Individual LED modules & quick disconnects allow for easy replacement of LED modules. Never throw another LED fixture away again!
- **DUAL SWITCHES FOR INDEPENDENT CONTROL OF THREE LIGHTING MODES.**
- **HANG OR SET ON TERRARIUM:** Adjustable legs and stainless steel suspension kit included.
- **LONG LIFE:** 20,000 hour life range!

SAFETY INSTRUCTIONS:

To reduce the risk of fire, injury, or electric shock, read and follow these instructions prior to operating this light fixture. Save these instructions for future reference.

- **CAUTION:** REPTISUN T5HO UVB lamp emits ultraviolet radiation. This light fixture is intended for reptile use only. Carefully follow instructions to achieve a safe distance from the lamp to your reptile(s). Always place lamp directly overhead of your animals. DO NOT place the lamp to the side, forcing animals to stare into the lamp.
- **REPTISUN T5HO UVB** lamp contains mercury. Manage in accordance with disposal laws.
- **DO NOT** exceed electrical rating. Only use the power supply included with this fixture.
- **DO NOT** splice, repair, or modify. Fully extend cords before using.
- **DO NOT** use in wet conditions. Use indoors only. Not for use with aquariums.
- Keep children and pets (other than your terrarium animals) away from fixture.
- Fully insert plugs. Unplug power cords before performing fixture maintenance (including replacing lamp or changing LED modules).
- **DO NOT** cover with blankets, rugs or any material.
- **DO NOT** use damaged cord sets – inspect periodically.
- **DO NOT** alter or modify this product. Contact an electrician if you are unsure about the electrical connection.
- This unit uses LED modules that are designed to be replaceable. Do not attempt to replace modules if you are unsure about the proper procedure. Return to Zoo Med for inspection and repair.

IMPORTANT:

This appliance has a GROUNDING plug for safety and must be plugged into a grounded receptacle. Do not modify the plug in any way.

SUSPENSION KIT WARNING:

Failure to securely suspend this fixture over a terrarium can result in damage, injury, or electric shock. When suspending this light fixture using the enclosed suspension kit, be sure that the cables are securely attached to hardware that is capable of supporting the weight of the light fixture. If you are unsure about safe hanging methods, contact a qualified licensed contractor to hang this fixture for you. Zoo Med Laboratories, Inc. accepts no liability for damage or injury resulting from improper or unsafe use of the suspension kit.

INSTALLATION INSTRUCTIONS:

Zoo Med's ReptiSun LED UVB Terrarium Hood can be installed over your terrarium using one of the following methods:

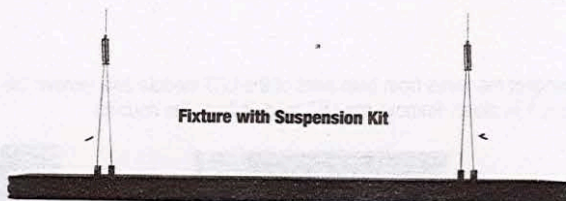
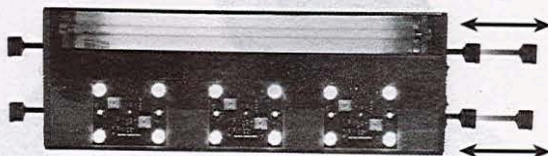
• DIRECTLY ON TERRARIUM USING SLIDING RAILS:

This fixture can be placed directly on top of your terrarium. To install using the adjustable sliding rails, adjust the width of the rails to match the width of the terrarium, and securely place the fixture on the upper terrarium frame. Each rail should be extended the same amount, and should not be pulled completely from the aluminum housing. Be sure to leave at least 1" of each plastic rail in the aluminum housing for adequate support.

• SUSPENDED OVER TERRARIUM USING SUSPENSION CABLES:

CAUTION: See suspension kit warning section for important safety information before hanging this light fixture over your terrarium. To hang your fixture above your terrarium using the enclosed stainless steel aircraft cable suspension kit, perform the following steps:

- If installed, remove the four plastic sliding rails from the aluminum frame.
- Insert two T-nuts into each slot on the top of the fixture, then insert the four plastic plugs into the slots on the plastic end covers to prevent the nuts from sliding out of the frame.
- Check to make sure that the cable lock nut on the center fitting is loose to allow the shorter cable to slide freely. This will be tightened later.
- Fully thread the cable fittings onto the T-nuts as shown. Each cable has two threaded fittings which must be installed on one end of the fixture. DO NOT thread both fittings from one cable onto T-nuts in the same slot.
- With the lamp fixture resting on a flat surface, gently pull up on each center cable and tighten the cable lock nuts on the center fittings.
- Secure the long center cables using appropriate hardware to suspend the fixture (see suspension kit warning above).



LED OPERATING INSTRUCTIONS:

This lamp fixture has three different lighting modes that are controlled by three switches:

WHITE LEDs ONLY: 6500K white daylight LEDs provide bright naturalistic light in your terrarium. Use this mode for terrariums without live plants, including desert habitats and terrariums with artificial plants.

WHITE & RED LEDs: 6500K white daylight LEDs with 620nm red LEDs provide bright naturalistic light in addition to red wavelengths that stimulate plant growth. Use this mode for all terrariums with live plants.

BLUE MOONLITE® LED: Low light 465nm blue LED simulates "Lunar Effect" and provides for nighttime viewing without disturbing your animals' sleeping patterns (photoperiod). Be sure to turn off white and red LEDs at night to provide your animals with a proper photoperiod.



REPTISUN T5HO UVB LAMP OPERATING INSTRUCTIONS:

The REPTISUN T5HO UVB lamp is controlled by a separate switch and power cord from the LEDs. This lamp fixture includes one REPTISUN 5.0 T5HO lamp. Please see the application chart below to determine the correct distance from the lamp to your reptile's basking site. **NOTE:** For taller/larger habitats, the REPTISUN 10.0 T5HO lamp is optional and may be used instead for deeper UVB penetration.

APPLICATION CHART:

LAMP USED	RECOMMENDED OPERATING RANGE
REPTISUN 5.0 T5HO UVB (included)	12" to 18" (30 - 45 cm)
REPTISUN 10.0 T5HO UVB (optional)	18" to 30" (30-76 cm)

(CONTINUED) →

THERMOSTAT PROTECTION:

This heater has a built-in thermostat to prevent overheating in the event that the surface temperature of the heater exceeds 119 °F (48 °C). This built-in thermostat is designed to prevent against overheating which can lead to fire or injury. It is not designed to maintain your animal's habitat at a specific temperature. Temperature requirements of reptiles vary according to species. For accurate temperature control inside the reptile's habitat, use an appropriate thermostat (such as Zoo Med's ReptiTemp® 500R Thermostat or Zoo Med's HygroTherm Humidity and Temperature Controller).

HEATER INSTALLATION:

Remove your ReptiTherm® Habitat Heater from the package and inspect for any damage. If damage is apparent, or if you have questions about the proper use of this heater, please call or email our customer service department at the information listed below.

TORTOISE HOUSE FLOOR INSTALLATION:

1. The ReptiTherm® Habitat Heater should lay flat on the bottom of your tortoise house and should not take up more than 50% of the floor space of the Tortoise House.
2. You will need to drill a hole in the rear wall of the Tortoise House for the power cord to exit the enclosure. The power cord must be plugged into a grounded GFCI (Ground Fault Interrupted Circuit) plug receptacle. Do not attempt to modify the plug or bypass the grounded feature. If you are unsure about the electrical connection, contact a qualified electrician.
3. Plug the heater in. The heater should take up to 45 minutes to reach the normal operating temperature and should feel warm (not overly hot) to the touch.
4. The surface temperature of this heater should range from 80 to 118 °F (26.7 to 47.8 °C) depending on the ambient temperature inside the tortoise house. You can easily monitor the surface temperature of your ReptiTherm® Habitat Heater quickly with a digital "Temp Gun" infrared thermometer available pet shops, reptile stores, or online pet dealers.
5. Keep the surface of your ReptiTherm® Habitat Heater clean and wipe down the surface weekly (use Zoo Med's Wipe Out 1 cleaner). Be sure to unplug the heater and allow it to cool completely before cleaning. **REMEMBER: DO NOT cover the ReptiTherm® Habitat Heater with ANYTHING, including but not limited to; substrates/animal bedding, blankets, wood, etc.**

"ZOO ENCLOSURE" FLOOR INSTALLATION:

1. Be sure that the ReptiTherm® Habitat Heater covers no more than 50% of the floor space of the enclosure.
2. The power cord must be plugged into a grounded GFCI (Ground Fault Interrupted Circuit) plug receptacle. Do not attempt to modify the plug or bypass the grounded feature. If you are unsure about the electrical connection, contact a qualified electrician. Plug the heater in. The heater should take up to 45 minutes to reach the normal operating temperature and should feel warm (not overly hot) to the touch.
3. The surface temperature of this heater should range from 80 to 118 °F (26.7 to 47.8 °C) depending on the ambient temperature inside the enclosure. You can easily monitor the surface temperature of your ReptiTherm® Habitat Heater quickly with a digital "Temp Gun" infrared thermometer available pet shops, reptile stores, or online pet dealers.
4. Keep the surface of your ReptiTherm® Habitat Heater clean and wipe down the surface weekly (use Zoo Med's Wipe Out 1 cleaner). Be sure to unplug the heater and allow it to cool completely before cleaning. **REMEMBER: DO NOT cover the ReptiTherm® Habitat Heater with ANYTHING, including but not limited to; substrates/animal bedding, blankets, wood, etc.**
5. When using this heater on the floor of an enclosure, use an appropriate thermostat for precise temperature control at the surface of the heater (such as Zoo Med's ReptiTemp® 500R Thermostat or Zoo Med's HygroTherm Humidity and Temperature Controller) is strongly recommended.

SIDE WALL INSTALLATION:

1. Mount the ReptiTherm® Habitat Heater to the lower inside side wall of your Tortoise House or large "Zoo Style" enclosure.
2. Mount the heater to the enclosure using one of the following methods:
 - Wood or metal: Screw the heater to the inside side wall using appropriate fasteners through the holes along the edge of the ReptiTherm® Habitat Heater.
 - Glass: Remove animals from the enclosure and attach the heater to the side wall using Zoo Med's Black Silicon Rubber. The silicon takes 48 hours to completely cure. Do not return animals to their enclosure until the silicon has cured for a complete 48 hour period. The time require for the silicon to cure can depend on temperature. If you can still smell the silicon after 48 hours, allow for more curing time before returning animals to their enclosure.

WARRANTY:

Zoo Med Laboratories, Inc. (Zoo Med) warrants each ReptiTherm® Habitat Heater to be free of defects in material and workmanship under normal use and service for one year from the date of purchase. The obligation under this warranty is limited to the repair or replacement, at Zoo Med's discretion, of the product or any part thereof, when the product is returned to Zoo Med, freight prepaid. No claim shall be allowed under this warranty if, in the opinion of Zoo Med, the ReptiTherm® Habitat Heater has been subject to accident or improper usage, including but not limited to: water damage, improper storage, accidental dropping, etc. This warranty is in lieu of all other warranties and representations express or implied. Please include your receipt, full name, address, phone number, and email address along with a note explaining failure when sending any product back to Zoo Med. Please allow 4 to 6 weeks for repair or replacement.

ZOO MED LABORATORIES, INC.

3650 Sacramento Dr. • San Luis Obispo, CA 93401 U.S.A. • Phone: 805-542-9988 • E-mail: zoomed@zoomed.com

www.zoomed.com



Aquarium Fan (2 models available)

“Quiet Operation. ”

Model No.: AF-80, AF-120

Categories: Aquarium Fan, Others



Features & Benefits	Overview	Technical Data
<div><h2>Technical Data</h2><div>AF-80<ul style="list-style-type: none">• Dimensions: 80 x 80 x 25mm (3.15 x 3.15 x 1 in)• Mounting Holes Spacing: 72mm / 2.83 in• Fan Speed: 25-55 CFMs• Voltage: DC5V• Thermistor Cable Length: 40cm / 16in• Power Cable Length: 2m / 78in</div><div>AF-120<ul style="list-style-type: none">• Dimensions: 120 x 120 x 25mm (4.25 x 4.25 x 1in)• Mounting Holes Spacing: 105mm / 4.13 in• Fan Speed: 65-100 CFMs• Voltage: DC5V• Thermistor Cable Length: 40cm / 16in• Power Cable Length: 2m / 78in</div></div>		

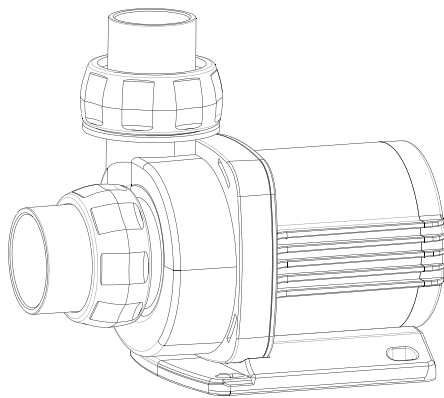


DC Pump OWNER'S MANUAL

DCP-2500, DCP-3000, DCP-4000, DCP-5000, DCP-6500, DCP-8000,
DCP-10000, DCP-18000, DCP-20000

Introduction

The DCP pumps are carefully inspected and tested to ensure both safety and operating performance. However, failure to follow the instructions and warnings in this manual may result in the pump's damage and/or serious injury. Be sure to read and save this manual for future reference.



Pump Features

- High performance with innovative motor and energy saving up to 65%
- super quiet operation.
- IC electronic detection, automatic power-off protection if no water.
- No-copper element.
- Suitable for both marine and fresh water
- Rust free. With anti-resistant ceramic shaft, Longer operation file.

Controller Features

- Adjustable flow rate.
- “Feed” Mode – pauses pump for 10 minutes and then restarts
- Memory function – after power off ensures that the pump retains parameter settings.

Control and Panel Function

1. LED display and controller key Instructions

The LED display indicates the power/speed setting/fault codes - the key panel is touch controlled.

2. Operating instructions

The pump must be connected with the controller and the 24V or 36V power adaptor correctly before use.

Lock / unlock function:

Press the "+" or "-" button for three seconds until the LED light flashes twice, the controller is locked; Similarly, press the "+" or "-" button for three seconds until the LED indicator light flashes twice, the controller is unlocked

Feed Function:

When the pump is running, press "II" button, pump stops working, the "10min" indicator lights up. The pump re starts automatically at previous settings after 10 minutes. Or you can press the “II” button at any time to make the pump re start.

Normal Operation:

After connecting the pump, the controller is set as per the last setting (memory function). Touch the “II” button and the pump will stop working, and Feed indicates in LED. Touch “II” button again, and the pump will resume working. Normal operating mode is with PXXX shown on LED (P is short for power). There are 71 settings for speed. When touching up/down buttons, the LED will indicate the current speed setting (FXX). You can set speed ranging from 30% to 100% in 1% increments. After more than 1 second with no press of the +/- button, the display will revert to Watts display (PXXX).

Power save mode

Turn on the power - after more than 25 seconds with no touch to the control buttons, the LED brightness will reduce; the led returns to normal brightness when any button is pressed.

Dry Running Automatic shut off:

If pump runs dry for 2 minutes, the pump will automatically shut off.
To restart, disconnect the power and re connect power.

3. Error code and description

The LED will display a flashing error code when a fault is detected. Error code explanation is as below:

Er01: Abnormal Working current - Check if the pump power adapter is functioning correctly or broken.

Er02: Controller overheating - Check if the controller exposed to the direct sunshine or is in a high temperature environment.

Er03: Pump idling – Check if the pump is working dry.

Er04: Impeller stops running - Check if the impellor is dirty or jammed.

Er05: Abnormal Working voltage. Check the input supply voltage.

●Note: for indoor use, the power socket must be installed with the leakage current protecting device, and the leakage current shall not exceed 30mA.

Performance Parameters Table

No:	Model No:	Voltage	Control box (W)	Consumption (W)	Flow rate (L/H)	Head Max (M)
1	DCP-2500	DC 24V	DCP-2500	23	2500	2.5
2	DCP-3000	DC 24V	DCP-3000	25	3000	3.0
3	DCP-4000	DC 24V	DCP-4000	32	4000	4.0
4	DCP-5000	DC 24V	DCP-5000	40	5000	4.0
5	DCP-6500	DC 24V	DCP-6500	55	6500	4.5
6	DCP-8000	DC 24V	DCP-8000	65	8000	5.2
7	DCP-10000	DC 24V	DCP-10000	80	10000	6.0
8	DCP-18000	DC 36V	DCP-18000	130	18000	9
9	DCP-20000	DC 36V	DCP-20000	165	20000	9.5

WARNING

- Do not connect to any power supply over the rated voltage
- Do not immerse the pump in the flammable liquid.
- Do not use the pump in the water temperature above 35°C
- Maximum water depth 1.5M
- Maximum head - please see the parameter table.
- Do not immerse the plug/connectors into water or any other liquid.
- This appliance is not allowed to use by persons (including children) with reduced physical, sensory or mental capabilities, or lack of experience and knowledge, unless they have been given supervision or instruction concerning use of the appliance by a person responsible for their safety.
- Children should be supervised to ensure that they do not play with the appliance.
- This appliance can be used by children aged from 8 years and above and persons with reduced physical, sensory or mental capabilities or lack of experience and knowledge if they have been given supervision or instruction concerning use of the appliance in a safe way and understand the hazards involved.

CAUTION

Always disconnect the pump from the power supply before cleaning, maintenance and handling.

Do not let the pump work dry.

Do not lift the pump by holding the power cord only

Do not use the pump in heated liquid.

The pump is suitable for both fresh water and sea water

The pump can used submersed or externally (non-submersed) – the pump housing must be primed with water.

The pump is not suitable for use in swimming pools.

General

A clogged or dirty intake screen will reduce the pump performance.

If the pump is used on a dirty surface, raise it slightly to reduce the amount of debris contacting the intake.

Do not let the pump run dry. Place pump into water before powering on. Initially the pump may not work due to air in the pipe work If this is the case, please power off and on several times and this will help prime the pump.

Used as submersible pumps (Figure 1)

IMPORTANT: Do not let the pump run dry – this could cause damage to the motor.

- Submerge the pumps completely in your aquarium so as to make the pump body fill with water.
- A water level of approx. 15 cm (6.5 in.) is required for submersible use in order to prevent the pump from taking in air.
- To prevent the filter becoming prematurely clogged, place the aquarium pump above any detritus in the aquarium!
- Install the enclosed intake screen to prevent the inlet from becoming clogged.

Used as non-submersible pumps (Figure 2)

- Position the pump lower than the water surface on the side of the pond so that the water can be drained to the pump because it is not self-priming.
- Remove the filter cover and connect suction hose (A: inlet) and pressure hose (B: outlet) from the pump. The connection should be waterproof.
- Fill the suction hose and pump with water before turning it on.
- To prevent the pump from becoming clogged, provide the suction hose with an adequate suction filter.
- Never let the pump run dry.

Installation diagram (Figure 3)

Figure 1

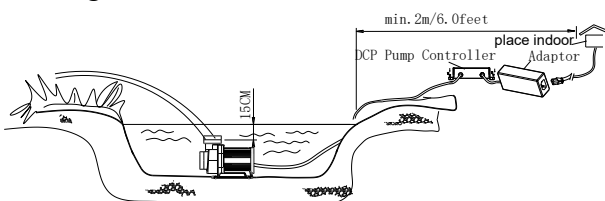


Figure 2

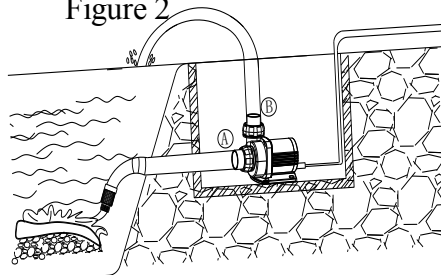
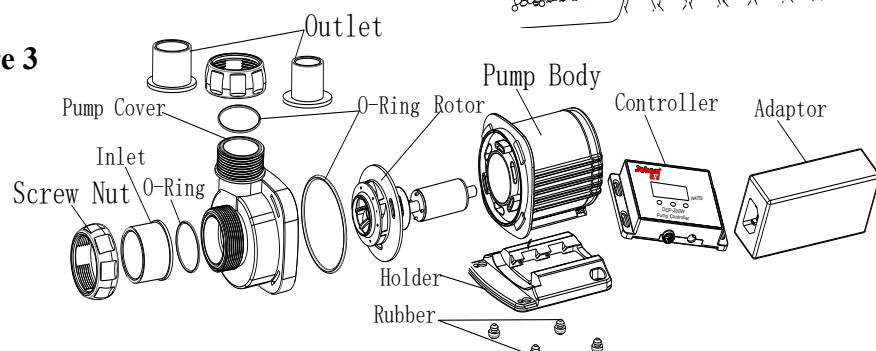


Figure 3



MAINTENANCE

To clean the pump, remove the back cover, sealing cover and the impeller. Use a small brush or stream of water to remove any debris.

If the pump does not work, check as following:

- Check the circuit. Please try to plug on another power socket, to ensure the pump switched on with power. Note, please do not plug on before operation.
- Check the pump impellor and outlet – they may be clogged/dirty.
- Check the inlet to ensure not clogged by debris.
- Remove the pump inlet to access the impeller. Turn around the rotor to check if broken or jammed.
- Monthly maintenance will prolong your pump's life. Clean the impellor, remove the dirt, etc

NOTE: Ensure the electrical cord loops below the power socket like a “Drip Loop”. It will prevent the water from running around the cable into the power socket



DISPOSAL:

Do not dispose this product as unsorted municipal waste. Collection of such waste separately for special treatment is necessary. This product must not be disposed together with the domestic waste. This product has to be disposed at an authorized place for recycling of electrical and electronic appliances. By collecting and recycling waste, you help save natural resources, and make sure the product is disposed in an environmental friendly and healthy way.

Jebao Co.,Ltd

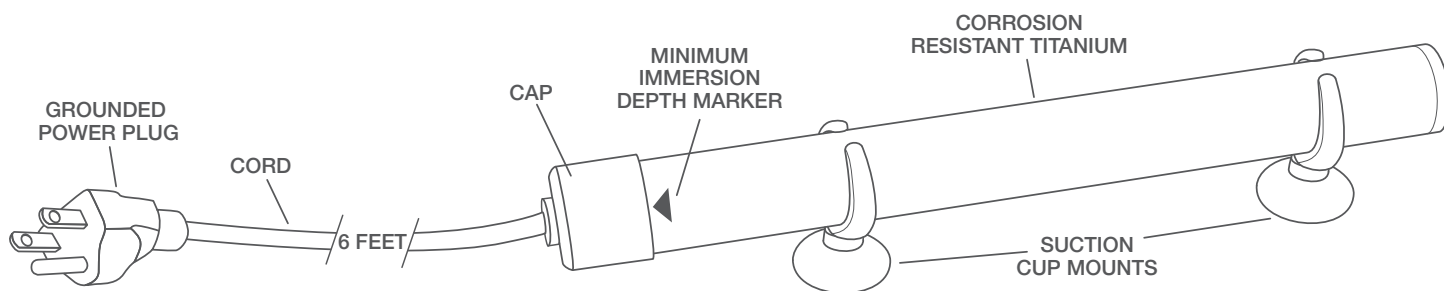
Tongmao Industrical Park, Dongsheng Town, Zhongshan, Guangdong, China.

Email: info@jebao.com

Website: www.jebao.com

Tel: +86-760-28136717/19/20

Fax: +86-760-28136725



MODEL	WATER VOLUME	ELEMENT LENGTH/DIAMETER
100W	UP TO 40G	10.25" / 1"
200W	UP TO 75G	10.25" / 1"
300W	UP TO 100G	10.25" / 1"
600W	UP TO 200G	14" / 1"

MAXIMUM WATER IMMERSION DEPTH: 4'**CABLE LENGTH: 6'****LINE VOLTAGE: 110 V/60 Hz****PROTECTION CLASS: IP 68**

Read this operating manual completely through before using the heating element. Keep this manual where it is safe and accessible. If you make the heating element available to a third party, provide this operating manual along with the heating element. Failure to comply with the instructions in this manual can result in personal injury and material damage. We assume no liability whatsoever for personal injury and material damage due to failure to comply with the instructions in this operating manual.

Note/Caution: this heater is for aquarium use only and requires a temperature controller

OPERATION

Unpack the entire contents and ensure that the heater and accessories are complete and undamaged. If any damage or defects are identified, please contact Bulk Reef Supply immediately.

- 1 Ensure that the power of the heating element is appropriate for the volume of water that will be heated.
- 2 Pay attention to the minimum immersion depth when installing. The element can be damaged if it is not completely surrounded by water. Note the minimum water level marker when installing vertically; this is the minimum point to which the heating element must be immersed in the water. For horizontal installation, ensure that the heating element is always fully immersed.
- 3 Slide the supplied suction cup holders onto the heating element.
- 4 It is possible to attach the heating element in any desired position below the surface of the water, using the supplied suction cup attachments. Press the heating element with the holders into the desired position on a clean surface of your sump or aquarium. Note: The suction cups do not adhere to uneven, dirty surfaces, and the heater may fall off. Surfaces and equipment can be damaged from prolonged direct contact with the heating element.
- 5 Plug the power plug of the heating element into a suitable temperature controller.

MAINTENANCE

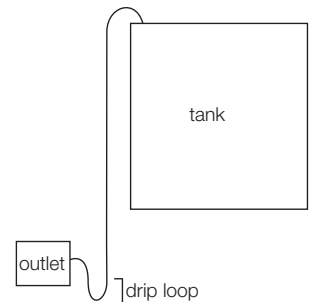
Safety Note: Prior to performing any work, disconnect the heating element from the power supply. To do this, unplug the power plug from the socket and allow the heating element to cool before reaching into the aquarium.

- The controller and heating element should be inspected during regular aquarium maintenance to ensure proper operation. Remove any deposits from the heating element with a suitable brush so there is no encrustation and damage to the heating element.
- A 20 to 30 minute soak in a dilute vinegar or citric acid solution can assist in removing stubborn mineral deposits. Do not use any harsh cleaning chemicals. Rinse the equipment thoroughly before returning to the aquarium. If the power cord is damaged replace the entire heating element, as the power cord cannot be replaced separately.

SAFETY INSTRUCTIONS

WARNING: The heating element is operated with electric power and generates high operating temperatures that can cause burn injuries and material damage if there is contact with the heating element. The connections of the heating element are not designed for outdoor use.

- Use a temperature controller to prevent uncontrolled heating of the element.
- Only use the heating element in enclosed, dry areas.
- Protect the power plug from moisture, and utilize a drip loop in the power cord to prevent water from entering the outlet.
- Only operate the heating element in conjunction with a ground fault circuit interrupter.
- Prior to performing any work, disconnect the heating element from the power supply. To do this, unplug the power plug from the socket and allow the heating element to cool before reaching into the aquarium.
- Allow the heating element to cool to ambient temperature before you touch it.
- Only grasp the heating element on the cap.
- Do not leave the heating element unattended if children or persons who cannot assess the hazards are in the vicinity.
- The heating element is not designed to be used by persons (including children) with limited physical, sensory, or mental capacities, or lack of experience and/or knowledge, unless such persons are supervised by a person responsible for their safety, and have received instructions on how to operate the device from the person responsible for their safety.



DISPOSAL

When the device has reached the end of its service life, dispose of the heating element and all accessories as specified by applicable environmental regulations. Electrical waste should not be disposed of together with household waste.

WARRANTY

We provide a guarantee of 36 months from the date of purchase. Within the guarantee period we will provide replacement at no charge for product failure due to material or manufacturing faults. Guarantee performances do not extend or renew the guarantee period. Defects in consumable accessories or parts subject to wear, as well as cleaning, maintenance or replacement of wear parts do not fall under the guarantee. The customer is fully responsible for proper installation and regular maintenance. Bulk Reef Supply cannot be held liable for damage to other equipment or household caused by product failure. There are no other warranties including warranties on particular uses which extend beyond what is described above. To receive warranty service the customer must contact us at support@bulkreefsupply.com and receive a RMA number and form. You may be required to ship the product back for proper inspection and replacement.



HEATER CONTROLLER



SETTINGS

Temperature Control Range Setting (TS1, DS1)

When the controller is working normally, the **PV** window displays current measured temperature, while the **SV** window displays set temperature.

When **PV** (measured temperature) \leq **TS1** (set temperature) - **DS1** (temperature differential value), system will enter heating status, the **Heater Indicator Lamp** will turn on, and heating relay will start working; when **PV** \geq **TS1**, the **Heater Indicator Lamp** will turn off, and heating relay will stop working.

For example, if **TS1** = 78.5°F, **DS1** = 0.5°F, when measured temperature is lower than or equal to 78.0°F (**TS1-DS1**), heater turns on; when the temperature reaches 78.5°F, heater turns off.

Temperature Calibration (CA)

When there is deviation between measured temperature and actual temperature, use temperature calibration function to align the measured temperature and actual temperature. The corrected temperature is equal to temperature before calibration plus corrected value (corrected value could be positive value, zero, or negative value).

Display in Fahrenheit or Celsius unit (CF)

Temperature can be set to display in Fahrenheit or Celsius according to preference. Default setting is to display in Celsius. To display in Fahrenheit, set **CF** value to F.

Attention: when **CF** value is changed, all other settings will be reset to factory settings.

MENU KEY

When TR=0 (default)

Code	Function	Setting	Default
TS1	Temperature Set Value	-50° to 37.7°C / -58° to 99.9°F	25°C / 77°F
DS1	Heating Differential Value	0.3° to 15°C / 0.3° to 15°F	2°C / 2°F
CA	Temperature Calibration	-15° to 15°C / -15° to 15°F	0°C / 0°F
CF	Display in °F or °C	°C / °F	°C

ERROR DESCRIPTION

Sensor fault alarm

If the controller detects a fault in the temperature sensor, either due to a short circuit or open loop, the controller will initiate sensor fault mode, and cancel all the actions. An alarm will sound, and LED will display "ER". Buzzer alarm can be dismissed by pressing any key. After fault is solved, the system will return to normal operation.

Over-temperature alarm

If the measured temperature exceeds the set point (TS) by more than 3°F, the controller will initiate over-temperature alarm mode, and cancel all actions. An alarm will sound and LED will display "HL". Buzzer alarm can be dismissed by pressing any key. When the measured temperature returns to within 3°F of the set point, the system will resume normal operation.



BULK REEF SUPPLY®

Questions?

bulkreefsupply.com

support@bulkreefsupply.com

OVERVIEW

The Bulk Reef Supply Heater controller is a pre-wired heating output temperature controller for use with a separate heating element. This heater controller offers some key advantages that ensure long-term accuracy and reliability.

MAIN FEATURES

- Dual display window; displays measured temperature (**PV**) and set temperature (**SV**) at the same time
- Fast and easy programming
- Temperature calibration
- Adjustable control precision; down to 0.3°F heating differential value
- Replaceable probe
- Large power output (Max load: 1,200W (110v))
- Sensor fault alarm
- Supports readings in Fahrenheit or Celsius
- Over-temperature alarm

SPECIFICATIONS

Control Range	-50° to 37.7°C / -58° to 99.9°F
Control Precision	0.3° to 15°C / 0.3° to 15°F
Display Resolution	0.1°C / 0.1°F
Accuracy	±1°C / ±1°F
Control Mode	On/Off Control, Heating
Input Power	100 to 265VAC, 50Hz/60Hz
Output	Max. 10A, 100V to 265VAC
Sensor Type	NTC sensor
Sensor Length	6.5'
Relay Contact Capacity	Heating (10A, 100 to 240VAC)
Cable Length	Input: 5' / Output:1'
Body Dimension	5.5x2.7x1.3"
Socket Dimension	3.3x1.7x1"
Ambient Temperature	-30° to 75°C / -22° to 167°F
Storage	-20° to 60°C / -4° to 140°F Humidity 20 to 85% (No Condensate)
Warranty	1 Year

OPERATING KEYS

- ① **PV: Process Value**
Displays current temperature
In setting mode: displays menu code
- ② **SV: Setting Value**
Displays set temperature
In setting mode: displays setting value
- ③ **Heater Indicator Lamp**
When lit, indicates outlets are on
- ④ **SET**
Press **SET** for 3 seconds to enter menu for parameter setting. When done, press **SET** for 3 seconds to quit and save setting changes
- ⑤ **Increase**
In setting mode: press ▲ to increase or change setting value
- ⑥ **Decrease**
In setting mode: press ▼ to decrease or change setting value
- ⑦ **Socket**
Both sockets are for heating output and are synchronized



PROGRAMMING

When the controller is working normally, press **SET** for 3 seconds to enter parameter setting mode. **PV** window displays the temperature setting code **TS1**, while **SV** window displays according setting value. Press **SET** to go to the next menu; press ▲ or ▼ key to set desired parameter value.

When finished, press **SET** for 3 seconds to save the settings and return to normal temperature display mode. While in setting mode, if there is no operation for 10 seconds, the system will automatically quit setting mode and return to normal temperature display mode without saving changes.

HOLD SET FOR 3 SECONDS FOR SET-UP MODE

TS1	Temperature Set Value 1
SET	
DS1	Heating Differential
.5°C / .5°F	
SET	
CA	Temperature Calibration
0°C / 0°F	
SET	
CF	Temperature Unit
F	
SET	



CLASSIC UV STERILIZER SERIES

PROVIDES A SAFE & HEALTHY ENVIRONMENT

Quality you can count on.

The Classic Series UVs are ideal for the control of water quality in an extensive array of applications such as greenhouse growing systems, water features, pools/spas, ponds, aquariums, etc. (not drinking water).

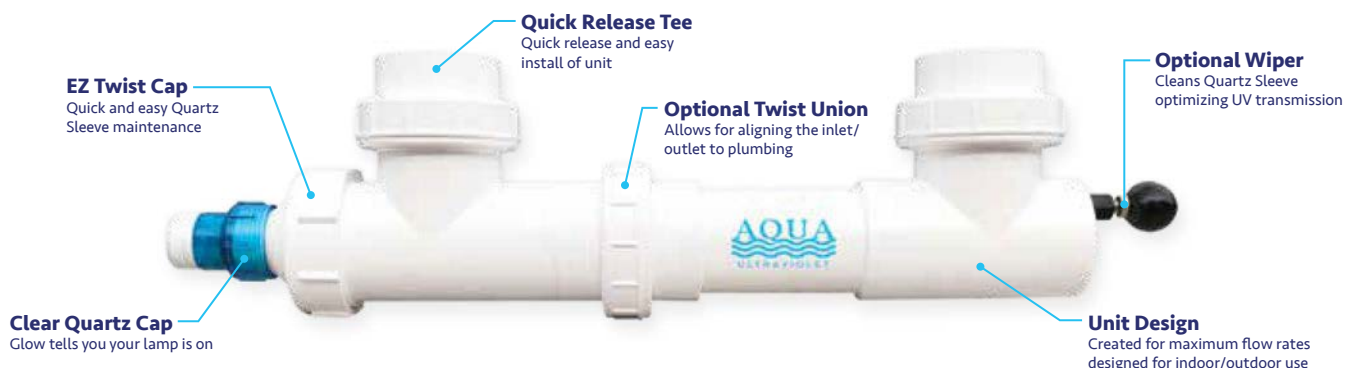
UV is a proven dependable method for controlling algae, bacteria and protozoa. The ultraviolet lamp emits a germicidal ray which alters or disrupts the DNA or RNA of single celled organisms. By properly implementing an Aqua Ultraviolet system in-line these organisms can be eradicated effectively without any harmful residuals. UV controls the spread of disease and keeps your water clear by destroying free floating algae.



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CLASSIC UV STERILIZER SERIES



CLASSIC UV SIZING CHART

MODEL	FRESH WATER TANK GALLONS	30,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	SALT WATER TANK GALLONS	45,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	60,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	75,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	90,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH
Classic 8 Watt	200	642	70	428	321	256	214
Classic 15 Watt	500	700	75	466	350	280	233
Classic 25 Watt	1,200	1,200	150	800	600	480	400
Classic 40 Watt	2,000	2,900	325	1,930	1,450	1,160	967
Classic 57 Watt	3,000	3,200	355	2,133	1,600	1,280	1,066
Classic 80 Watt	4,400	3,678	600	2,452	1,839	1,471	1,226
Classic 114 Watt	4,400	3,900	700	2,600	1,950	1,560	1,300
Classic 120 Watt	6,000	4,080	900	2,720	2,040	1,632	1,360



IMPORTANT FOR AQUARIUM APPLICATIONS

REEF TANKS

A UV rated in the 30,000 or 45,000 column is ideal for the reef environment. UV's used at higher kill rates will destroy the planktonic food supply for the reef.

MARINE FISH TANKS

(No reef or live rock) A UV rated in the 75,000 or 90,000 column will be the most effective at controlling fish disease. All UV dosages are calculated at the end of lamp life (14 month).

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@aquauv



AquaUltraviolet

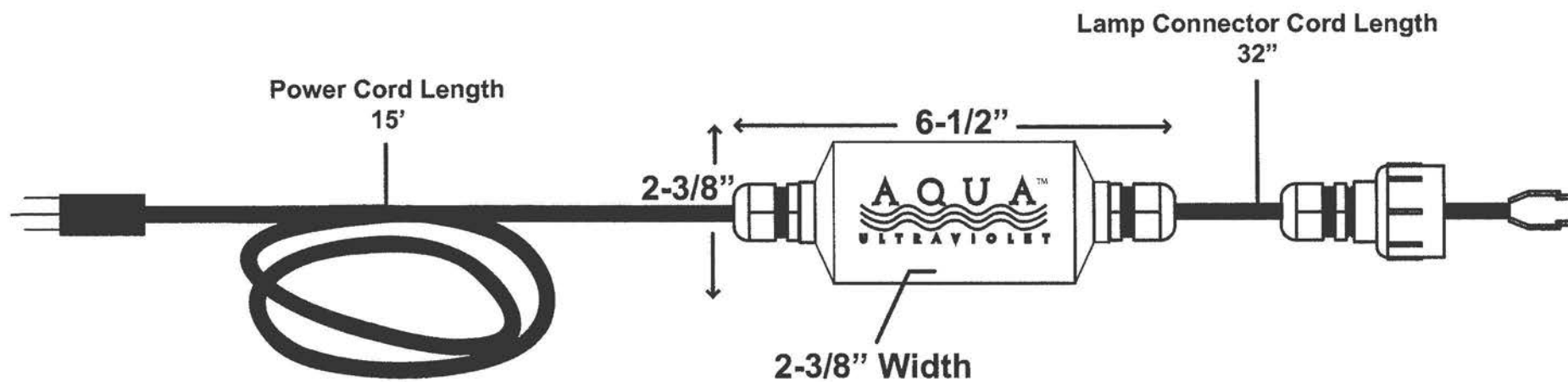
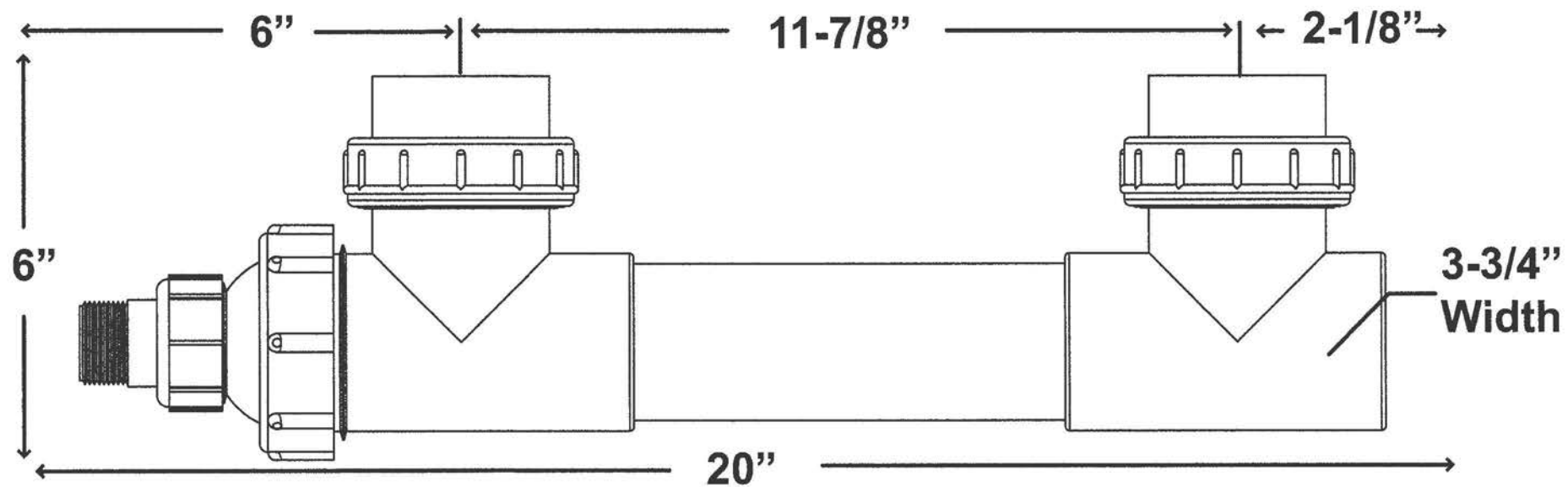


Exhibit C
Drawings of Ecosystems - Touch Tank Terrain

moeyinc

232 3rd Street, Suite E301
Brooklyn, NY 11215
T: 718-237-1496
F: 718-865-8212

PROJECT:

JBENC

JOB NUMBER:

19-143

EXHIBIT/COMPONENT:

EX 21.01
TOUCH TANK

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DRAWN BY:

ISF

DATE:

2/18/2021

PHASE

ESTIMATE	
DEVELOPMENT	X
CONSTRUCTION	
APPROVED	
AS BUILT	
LIVE AND TRIM	

DO NOT SCALE DRAWING

PAGE SIZE: 11 X 17

APPROVAL:

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DATE: _____

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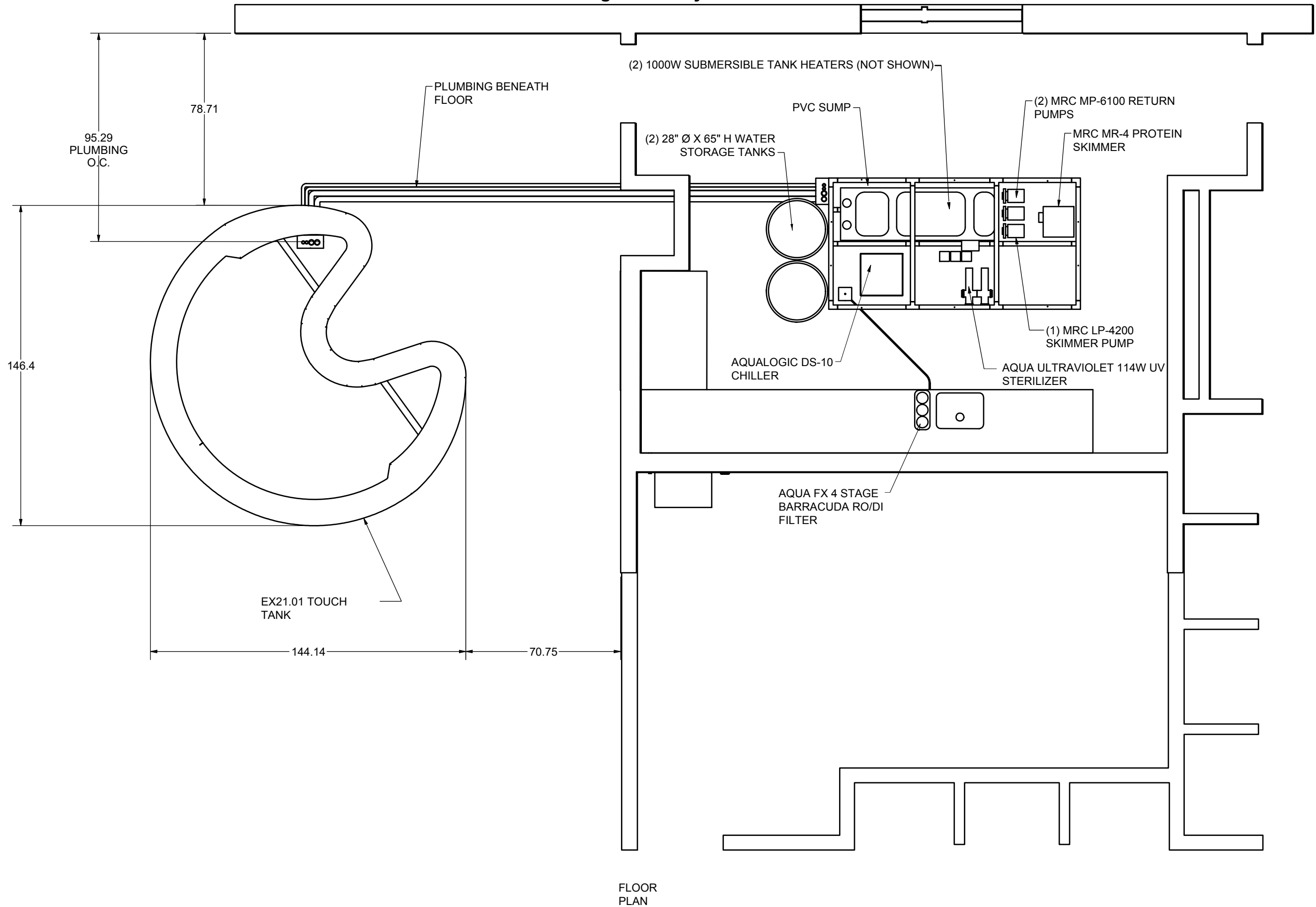
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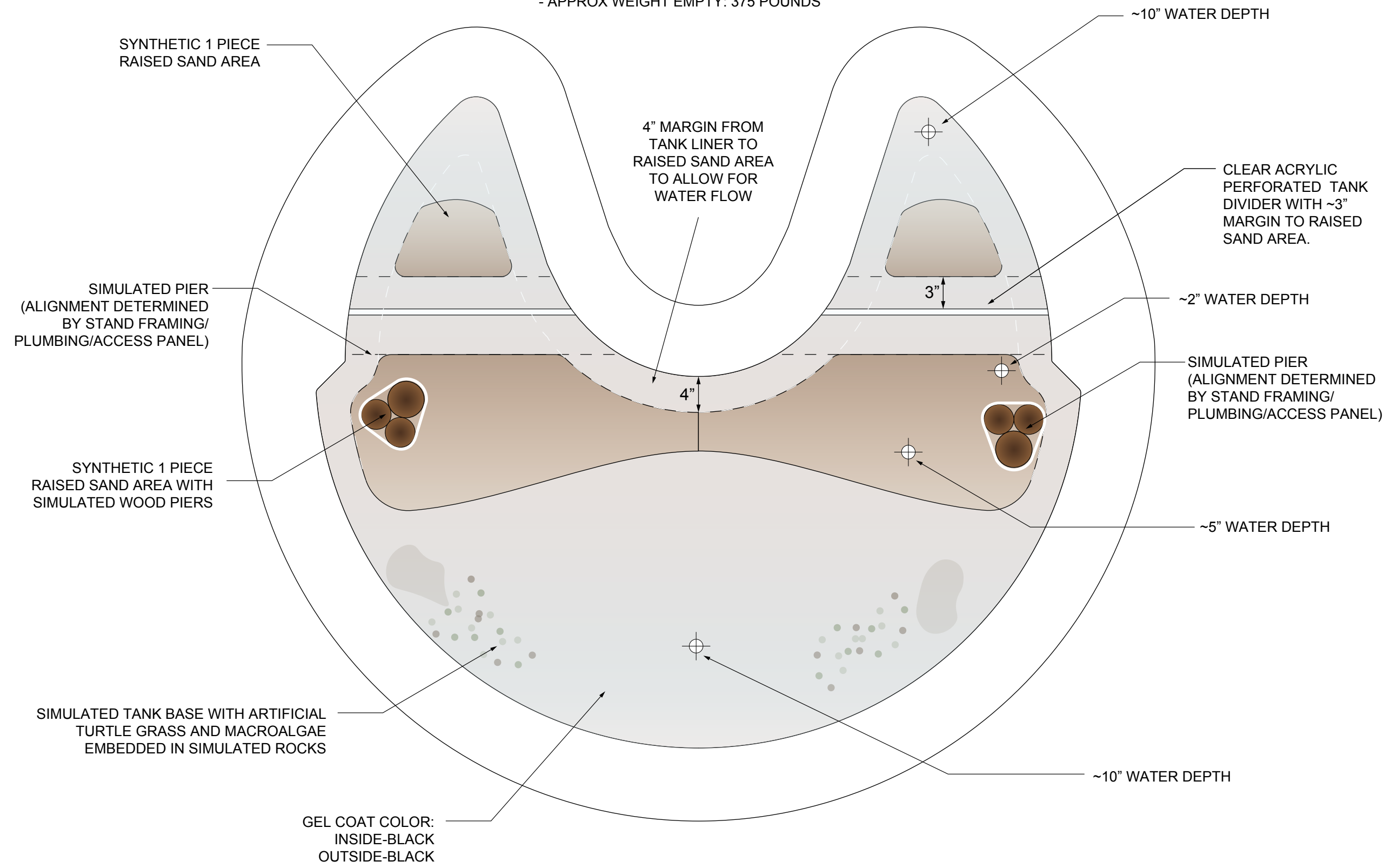
WOOD TOLERANCES WITHIN ± 0.0625
METAL TOLERANCES WITHIN ± 0.0156

MATERIAL: AS NOTED
FINISH: AS NOTED
COLOR: AS NOTED



TOUCH TANK ELEMENTS

- APPROX VOLUME: 300 GALLONS
- APPROX WEIGHT WITH WATER: 2,975 POUNDS
- APPROX WEIGHT EMPTY: 375 POUNDS



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WOOD TOLERANCES WITHIN ± 0.0625

METAL TOLERANCES WITHIN ± 0.0156

MATERIAL: AS NOTED

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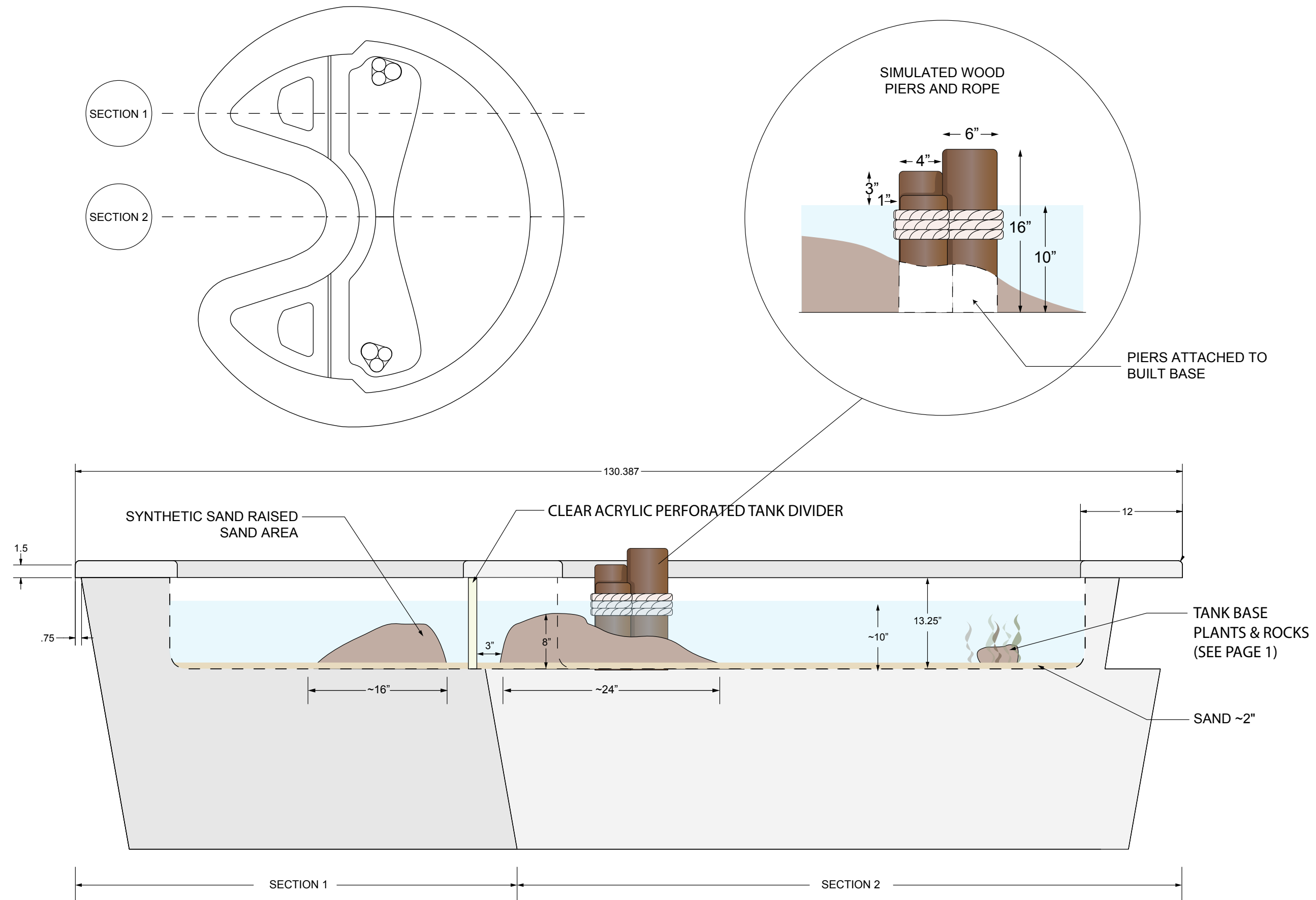
3/13

WOOD TOLERANCES WITHIN ± 0.0625 METAL TOLERANCES WITHIN ± 0.0156

MATERIAL: AS NOTED

FINISH: AS NOTED

COLOR: AS NOTED



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MRC® MR-4™ Protein Skimmer

Overview

Specs

- System capabilities: 900 gallons
- Total Height: 32.5"
- Foot Print: 12" x 12"
- Number of Injectors: 2
- Injector Input: 1" SOC
- Gate Valve (Standard): 1 1/2"
- Recommended Pump: BL-70 HD (PW-200PS), BL-100 HD (PW-250PS), MRC-LP4200
- [Instruction Manual](#)



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SHEET SIZE: 18 x 24 (inches)

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DATE: _____

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DV1	4/13

ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED
FINISH: AS NOTED
COLOR: AS NOTED



MRC® LP-4200

Overview

Specs

Dimensions: 13" x 8" x 8"

Max Flow: 4,200 GPH

Water inlet size: 2"

Water discharge size: 1.5"

Max Head: 12'

Max Power: 154 watts

Max Current: 1.39 Amps

Voltage: 115v/60Hz

Motor HP: 1/8 HP

Motor Enclosure: TEFC

Cordset: US 8'

Trees Planted: 1

Warranty: 60 months



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APPROVED	
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DV1	5/13

ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED
FINISH: AS NOTED
COLOR: AS NOTED

MRC® MP-6100

Overview

Specs

Dimensions: 14" x 9" x 9"

Max Flow: 6,100 GPH

Water inlet size: 1.5"

Water discharge size: 1.5"

Max Head: 23'

Max Power: 344 watts

Max Current: 3/1.5 Amps

Voltage: 115v/230v 60Hz

Motor HP: 1/3 HP

Motor Enclosure: TEFC

Cordset: US 8'

Trees Planted: 1

Warranty: 60 months



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PHASE

ESTIMATE

DEVELOPMENT

APPROVED

AS BUILT

LIVE AND TRIM

DO NOT SCALE DRAWING

SHEET SIZE: 18 x 24 (inches)

APPROVAL

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DATE:

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DV1

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ALL TOLERANCE WITHIN ±

MATERIAL: AS NOTED

FINISH: AS NOTED

COLOR: AS NOTED

DS-7 THRU DS-10 SPECIFICATION SHEET

FOR INDOOR FRESH AND SALT WATER APPLICATIONS

POWER CORD PLUG TYPE

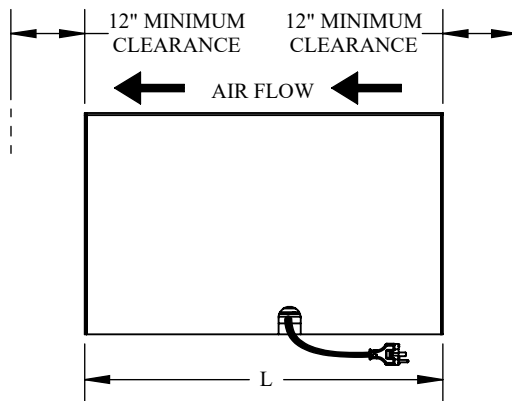
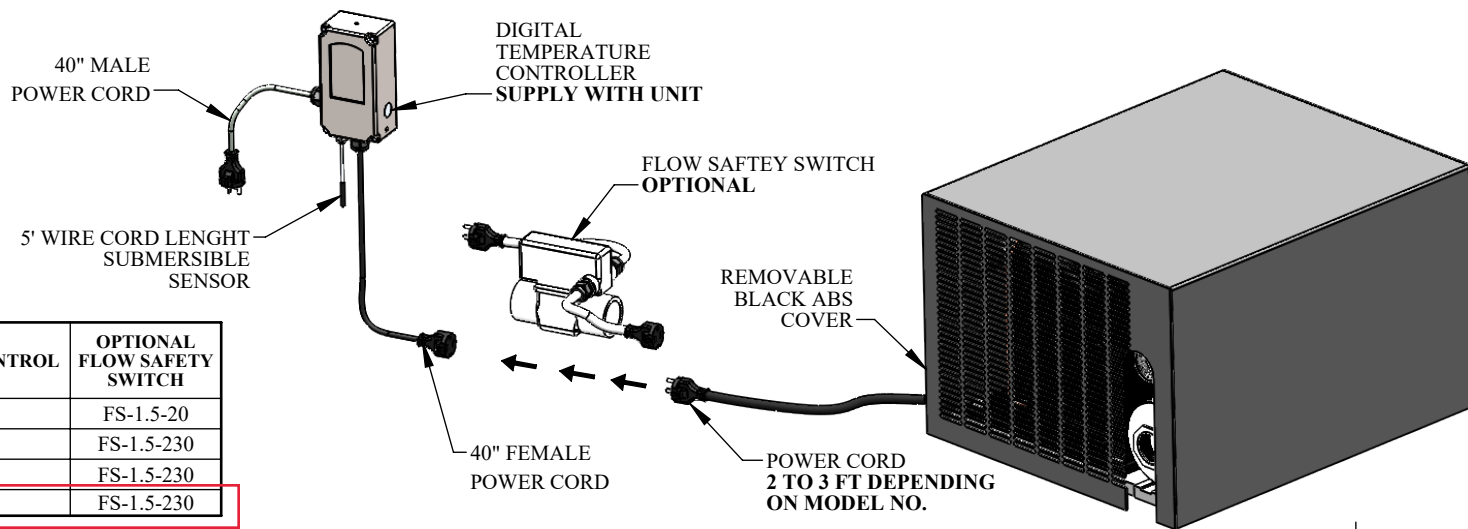


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DS-7

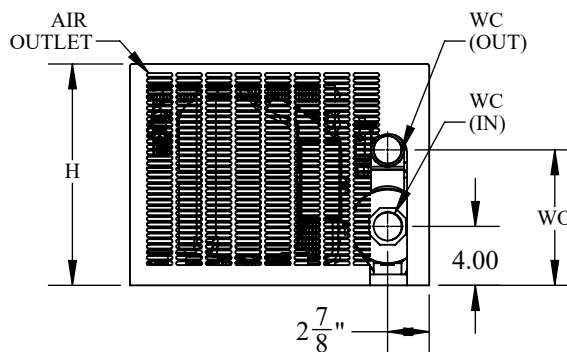


#6-15P
DS-8 THRU DS-10

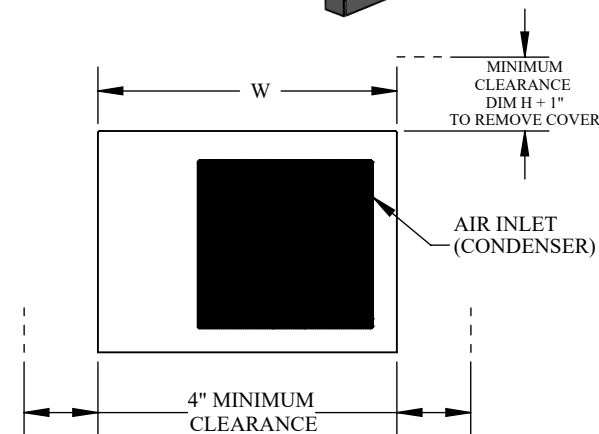
CHILLER	DIGITAL TEMP. CONTROL	OPTIONAL FLOW SAFETY SWITCH
DS-7	DC115-20	FS-1.5-20
DS-8	DC230S	FS-1.5-230
DS-9	DC230S	FS-1.5-230
DS-10	DC230S	FS-1.5-230



LEFT SIDE



FRONT



BACK

WO: WATER OUTLET WC: WATER CONNECTION SIZE

CHILLER SPECIFICATIONS

MODEL NO.	HP	NOMINAL BTUH	REFRIGERANT TYPE/ CHARGE (OZ.)	VOLTS / PHASE	RLA AMPS.	LRA AMPS.	MCA AMPS	MAX FUSE / BREAKER	WATTS	WATER FLOW RATE (GPM)	AIR OUTPUT (CFM)	L	W	H	WO	WC WATER IN / OUT (FPT)
DS-7	3/4	9500	R134A / 38	115	15.4	70	19.2	30	1771	15-30	590	24 3/8"	24"	15"	9 1/4"	1 1/2"
DS-8	3/4	9500	R134A / 38	230 / 1	8.4	42	10.5	15	1932	15-30	590	24 3/8"	24"	15"	9 1/4"	1 1/2"
DS-9	1	12,000	R134A / 48	230 / 1	9	43	11.2	15	2070	20-35	610	26 1/2"	27 3/8"	17 3/4"	9 1/4"	1 1/2"
DS-10	1 1/2	21,000	R422B / 54	230 / 1	10.5	52	13.4	20	2415	25-40	772	26 1/4"	26"	18"	12"	1 1/2"

NOTES:

- ALL CHILLERS ARE SUPPLIED STANDARD WITH TXV'S FOR WATER TEMPERATURES RANGING BETWEEN 40-80°F, MAXIMUM AIR TEMPERATURE IS 100°F, MINIMUM AIR TEMPERATURE IS 55°F. CONSULT AQUA LOGIC FOR AIR TEMPERATURES OUTSIDE THIS RANGE.
- ALL DIMENSIONS ARE APPROXIMATE AND CAN CHANGE WITHOUT NOTICE.

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DESCRIPTION
DELTA STAR AIR COOLED WATER CHILLERS

DRAWN BY
Arnaldo Guzman

DATE
3/30/2020

REVISION
DANFOSS

SCALE
1:13

SHEET #
1 OF 1

DRAWING #
PDF-0018

SHEET TITLE
DS-7 THRU DS-10
CHILLER
SPECIFICATION

9558 Camino Ruiz, San
Diego, CA 92126





CLASSIC UV STERILIZER SERIES

PROVIDES A SAFE & HEALTHY ENVIRONMENT

Quality you can count on.

The Classic Series UVs are ideal for the control of water quality in an extensive array of applications such as greenhouse growing systems, water features, pools/spas, ponds, aquariums, etc. (not drinking water).

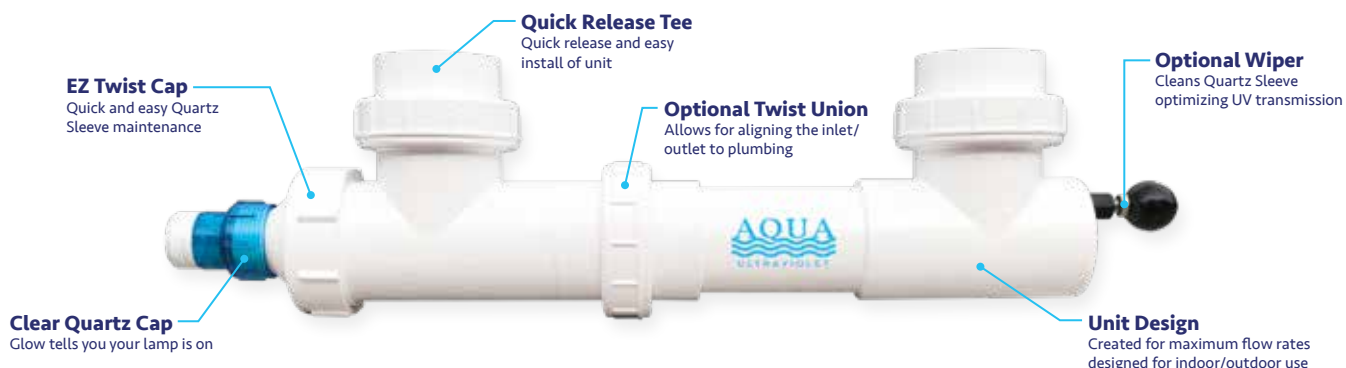
UV is a proven dependable method for controlling algae, bacteria and protozoa. The ultraviolet lamp emits a germicidal ray which alters or disrupts the DNA or RNA of single celled organisms. By properly implementing an Aqua Ultraviolet system in-line these organisms can be eradicated effectively without any harmful residuals. UV controls the spread of disease and keeps your water clear by destroying free floating algae.



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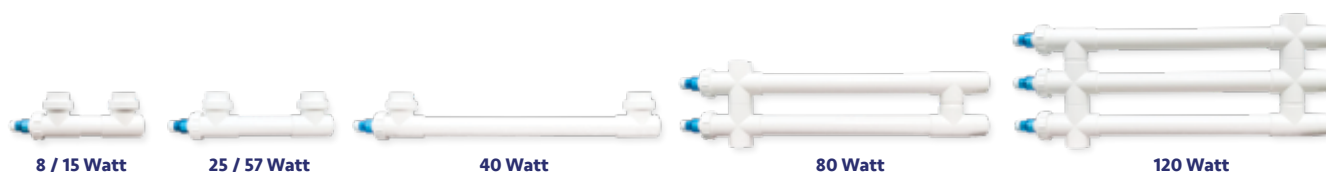


CLASSIC UV STERILIZER SERIES



CLASSIC UV SIZING CHART

MODEL	FRESH WATER TANK GALLONS	30,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	SALT WATER TANK GALLONS	45,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	60,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	75,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH	90,000 $\mu\text{w}/\text{cm}^2$ (EOL) GPH
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Classic 120 Watt	6,000	4,080	900	2,720	2,040	1,632	1,360



IMPORTANT FOR AQUARIUM APPLICATIONS

REEF TANKS

A UV rated in the 30,000 or 45,000 column is ideal for the reef environment. UV's used at higher kill rates will destroy the planktonic food supply for the reef.

MARINE FISH TANKS

(No reef or live rock) A UV rated in the 75,000 or 90,000 column will be the most effective at controlling fish disease. All UV dosages are calculated at the end of lamp life (14 month).

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Limited Warranty

This unit is of exceptional quality, hereby warrants equipment to its first purchaser at retail as follows;

This warranty covers filter cartridge housings, fittings and tubing and all components. Filter replacements including sediment cartridges, carbon block cartridges, DI cartridges and Reverse

Osmosis membranes are the responsibility of the consumer.

Exceptional water conditions are NOT covered. Potable water supplies ONLY.

Warranty begins at the time of product registration, and must be registered within 10 days of the date of purchase.

This warranty does not require replacement of the entire unit. The defective part (s) (or the entire unit) will either be repaired or replaced with new Parts

This warranty is void if the equipment is not installed and operated according to instructions. It does not apply to damage caused by abuse, accident, neglect, freezing or other abnormal conditions beyond the company's control. Clear Canisters are covered for a 3

year period and should be changed no later than 3 years from installation and each 3 year period following. Softened water will greatly extend the life of your system.



The Leaders in Reverse Osmosis



4 Stage Barracuda RO/DI Instruction & Owner's Manual

7206 Aloma Ave Suite 600
Winter Park, FL 32792
Phone 407-599-2123
Fax 407-599-2124
www.Aquariumwaterfilters.com
www.AquaFX.net



The Leaders in Reverse Osmosis

7208 Aloma Ave – Suite #600 – Winter Park, FL 32792

1-877-256-3467

www.AquaFX.net

RO/DI INSTALLATION INSTRUCTIONS

Congratulations on your new RO/DI water treatment system. There are a few basic steps about the installation and maintenance of your water treatment system. If you should have any difficulties or questions, please do not hesitate to contact us and we will be happy to help you any way we can.

It is recommended to hook your RO unit to a softened water supply.

Your system was custom built to order, and it is ready to hook up to a water supply with the appropriate adapters included. Aqua FX pressure tests all systems prior to shipping, so your RO membrane will not be installed, you simply remove the membrane

When using Chloramine Bleasters you must rinse before using them. Disconnect the feed to the membrane and run water until clear. This is a good idea for all carbons.



from the plastic bag and place it in the white housing of the unit. Insert the end with the double O-rings in first.

it is located across the top



Before you can hook the unit up to a supply.

- 1) Unpack your unit completely.
- 2) Inspect for any damage or broken parts as a result of shipping.
- 3) Locate and connect the supply side of the equipment. This will be the right side as you face the system. The supply side will consist of **Black** 1/2" tubing and has the connection for the type of water supply you specified.
- 4) Locate the **Yellow** drain line, and place in an appropriate area for drainage.
- 5) Locate the **blue** product water line that will provide treated water for use and slip the tubing into the left side of the system.
- 6) Once installed, allow the system to run for approximately 15 minutes to flush membrane completely. Please check systems for leaks, parts can come loose during shipping!
- 7) You will know when to replace the reusable color changing DI when the resin color has completely changed (the cartridge will change colors from the bottom up). The sediment and carbon block filters (stage 1 and 2) should be changed According to accompanying chart or sooner if, you notice your pressure gauge drop 5 PSI or more you should then replace the stage 1 and 2 filters. You need at least 35 PSI supply pressure to permeate the membrane.
- 8) The only way to check your membrane for proper rejection is with a TDS Meter (Total dissolved solids)
- 9) You are now ready to make clean, fresh, ultrapure water.

These instructions cover the most common set up configurations. If you ordered different colored tubing or filter cartridge housings, you may not be able to follow these instructions completely. All AquaFX systems come with a **3 year limited warranty**. All Clear Canisters **MUST** be re-placed after 3 years. Please contact us if you have problems with your unit. Customer is responsible for filter and membrane changes and associated costs. AquaFX carries a complete line of parts and accessories for all of our systems at www.aquariumwaterfilters.com. Thank you for your business!

The three major variables that control permeate are temperature, pressure and incoming water quality. We can control these to some extent; please do not hesitate to call us for assistance

Damaged Merchandise:

Aqua Engineering & Equipment, Inc. cannot be held liable for damage to or loss of a shipment by any carrier. Claims for damaged products, suspected damages, container shortages, or pilferage within the container on delivery must be noted on the delivery receipt. The carrier's claims representative should then be notified immediately.

Returned Goods:

Aqua Engineering & Equipment, Inc. cannot assume responsibility for the error of others. Merchandise ordered incorrectly cannot be returned without written authorization. Please contact the Shipping/Receiving department for a Return Materials Authorization (RMA) number. Special /Custom orders or items cannot be returned. Material must be new and in marketable condition. We reserve the right to levy a restocking fee on all goods. We will assume all responsibility for our own errors at no charge to the customer.

Shipping & Receiving
Phone: 407.599.2123
Fax: 407.599.2124

Cancellation or Order Changes:

Orders are processed as they are received. Internet and phone orders must cancel within 24 hours of order time. Any orders which require custom materials or components (i.e. custom tanks, brackets, electrical components) cannot be cancelled once special material has been ordered and/or production has begun.

Accessories

Drinking water kit: Turn your RO/DI system into a drinking and cooking water purifier for your home. Better then bottled water because you control the process.

Handheld TDS Meters: The only true way to check the performance of your system. Check the TDS to detect early membrane exhaustion. Checking the water after the DI cartridge will give you added peace of mind that your reef/salt water system is receiving the quality of water you need.

RO/DI Water Storage Tanks: These tanks are used by many of our customers to store water or to save up sufficient water to begin a new tank. They can be equipped with automatic shutoff valves to reduce waste water.

Membrane Flush Kits: Flush kits are used to extend the life of the membrane by rinsing debris that accumulate over time.

Piggy Bank Membrane system: Add a membrane to your existing system to approximately double your output! Conditions Permitting, call us for an assessment

Storage Tank(s): Many times storage of water is needed or just desired. 40 gallon or larger food grade tanks are available to automatically top off. We can design tanks to your needs!

Filter Change Sheet and Normal Operation

Note: Filters are referenced in the order in which they appear in the system

1. **Sediment Filter:** This filter is first in line; removes particles that can be physically filtered out. An example of a particle that would be removed is sand. This filter's life depends on the amount of particles in your water. The best gauge of this filter's life is pressure drop. When you see a 5PSIG drop, you should change your filter. Discoloration is also a sign that the filter is loaded and therefore time to replace with a new filter. Some silts may clog filter prematurely

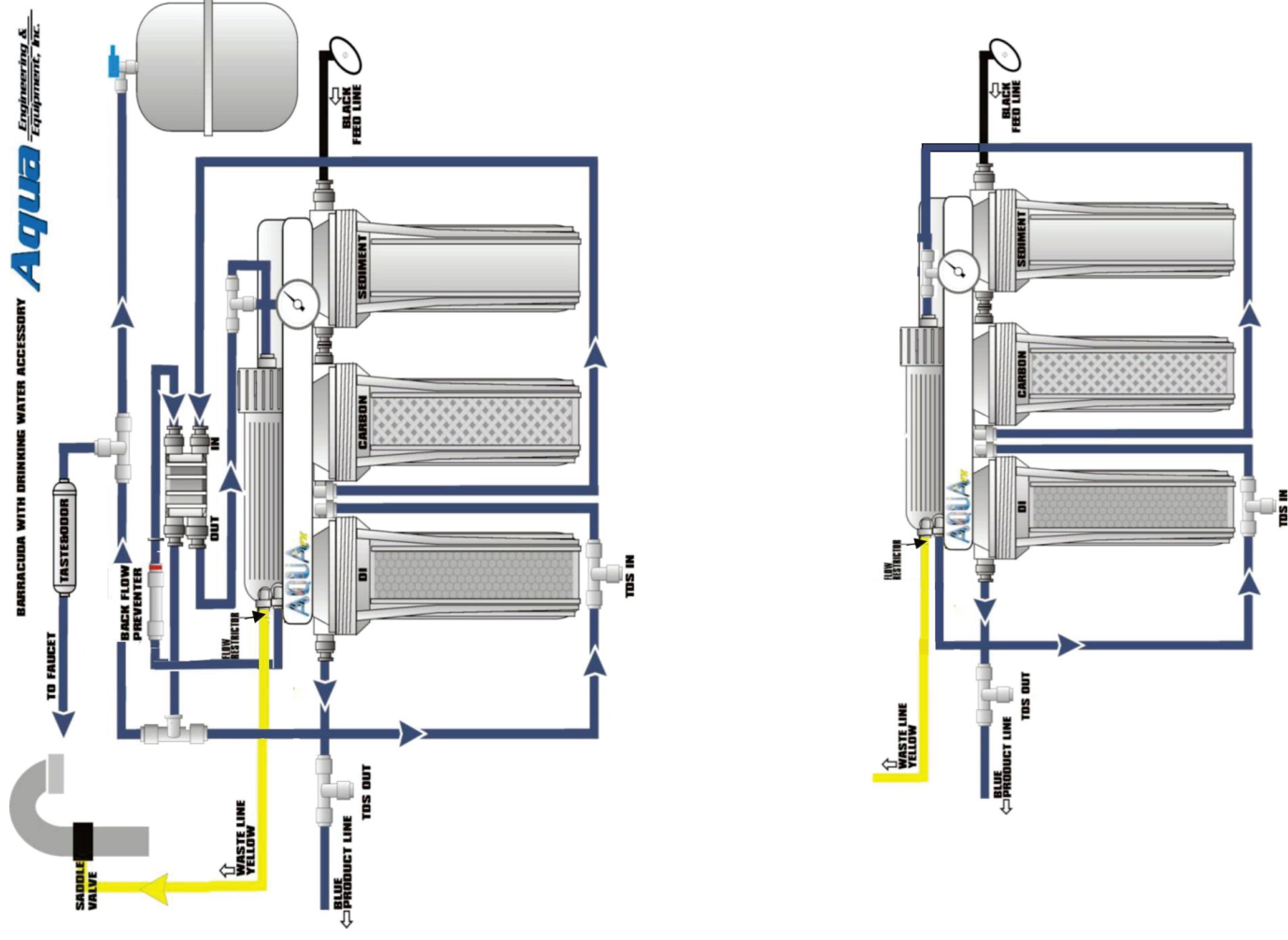
2. **Carbon Block, GAC or Chloramine Blaster Filter:** These filters effectively reduce VOC's (Volatile Organic Compounds) ONLY for water that is safe by the federal Safe Water Drinking Standards. If you have water with a known containment, you need to treat it accordingly. The only cost effective way to predict filter life is by estimating the gallons. (unless carbon is being used for a know containment, then testing is essential) The carbon block will filter 3,750 gal @ 1.0 GPM of 2ppm Chlorine (Cl_2). A GAC will yield 5000 gallons of treated water @ 1.0 GPM of 2ppm Chlorine (Cl_2). The Chloramine Blasters are run 2 in series and will yield approximately 8000 gallons of treated water

Do not exclude drain water from this capacity, as it is treated water.

3. **Reverse Osmosis Membrane:** This is the first component in the system that reduces Total Dissolved Solids (TDS); a common example of dissolved solids can be salts or calcium. A TDS meter is the best way to determine if your membrane is operating properly. A properly operating membrane will give you a TDS reduction of at least 90%. **EXAMPLE:** Raw water TDS is 100ppm, after the membrane it should be 10ppm or less. Membranes can fail by Clogging or Scaling, in which case very little or no water will be produced. Membranes will also fail from contact with chlorine. If this happens the water quality will be very poor. So changing the carbon filter on time is essential. Hot water will also ruin a membrane (>80 Deg. F). If your membrane produces significantly more than it is rated for, that is an indication that something is wrong.

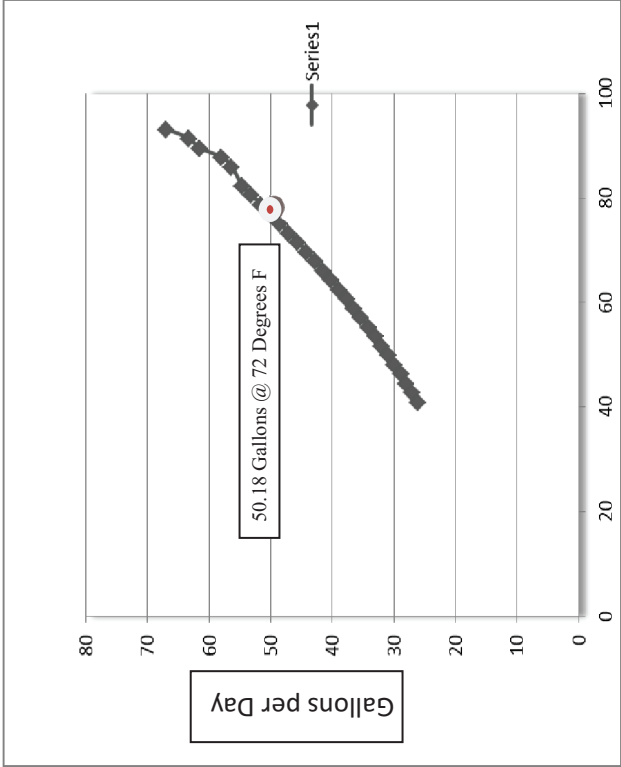
4. **Deionization Filter (DI): IF USED** The DI filter is the last filter inline. This filter consists of 2 resins. One is charged with Hydrogen (H^+) and the other a Hydroxide ion (OH^-). As water passes over these resins, the remaining "salts" (or ions) exchange out and only H^+ and OH^- are released into the stream. Due to the quality of resin we use, the water you get will be, literally as pure as possible. The resin is a color indicating resin; it will slowly change from a dark purple/blue/black to a rust red/orange color. As this filter nears the end of its useful life you may experience "break through". Keep this in mind, depending on the water quality needed. For applications demanding 18 Mega-

Ohm water, 2 DI's are **STRONGLY** recommended.



Trouble shooting guide

The Effect of Temperature on Permeate Production, using a 50 GDP TFC Membrane



Temperature in Degrees F

The Series 1 curve demonstrates the effect temperature has on the permeate flow of a 50 Gallon per Day (GPD) membrane.

The above curve was generated by varying the water temperature. 50 GPD is produced at approximately 72 degrees F (at a constant pressure of 50 PSIG, and constant TDS of 125PPM Sodium softened water)

Temp F	GPD	Factor
77	50	1
68	42.85	.875
59	36.5	.730
50	31	.620

Problem	Solution
●High TDS after membrane	poor TDS rejection from RO membranes. Change Pre-Filters. Average Membrane life is 2 to 3 years. Most common cause for membrane failure is insufficient pre-filter maintenance. AquaFX Carbons are rated for 3,750 gal @ 1.0 GPM of 2ppm Chlorine. Do not exclude drain water from this capacity, as it is treated water. Very high TDS (>550ppm) may also yield premature failure.
●Low incoming water pressure.	Incoming water pressure must be above 40 PSI, Add a booster pump if below 40psig. Make sure Pre-Filters are not clogged causing low pressure.
●No water to drain.	Flow Restrictor is clogged, Replace Drain Flow Restrictor. (rare) Check to see if water is turned on.
●All water is going out of the drain	With no back pressure, most of the water will exit out of the drain. Make sure a Flow restrictor is present.
●Very little/slow water production	Reference units flow rate vs. actual production. Slow flow from RO is normal. Cold water, low pressure and high contaminant levels will contribute to decreasing the rate of water production. Heating water (NO WARMER THEN 80 Degrees F), increasing pressure or additional pre-filtration will help to counteract these adverse affects.
●Drain Water Continues After Product line is full	The most common cause of a 'continuing drain' is a pressure leak on the product side of the RO. If the pressure cannot build, the automatic shut-off (ASO) will not close. Check ASO with a ball valve right after RO. Close Ball valve then wait 1-3 minutes. If drain continues, replace ASO Valve. If it stops, have the customer, find then stop pressure leak. If a float valve is being used, it is more than likely the culprit.
●The incoming feed water TDS has increased.	An increase in feed water TDS will also give an increase in Product Water TDS. R.O. (Dolphin) Users will see this rise in TDS, due to the membrane removes a percentage of TDS. RO/DI (Barracuda, Mako, Great White) Users will not see this rise, but the DI will exhaust faster than normal.
●DI is exhausting very fast	R.O. Membranes are manufactured with a preservative on them, if your initial startup allows the membrane to 'rinse' into the DI, there will be some immediate exhaustion, followed by normal exhaustion. Chloramines Vs Chlorine – If the customer's water is disinfected with Chloramines (NH ₂ CL) the ammonia portion will still be present post RO. For R.O. (Dolphin) users, they may wish to purchase DI to remove the ammonia.. RO/DI (Barracuda, Mako, and Great White) users will have the ammonia removed by the DI. This will tax the DI, Chloramines appears in several forms, so the decreased life would depend on the state of Chloramines. (mono, di or tri)