

BID ABSTRACT

DEPT/PROJECT NO: PUR20-016

BID OPENING DATE: JULY 9, 2020

Instrumentation Services

ESTIMATE: \_\_\_\_\_

**For information regarding this project, please contact Danny Trejo @ (209) 937-8782 or Justin Depee @ (209) 937- 7643.**

No.	Bidder	Affirm Action	Bond	Check			
1.	HACH						
2.	80-240-02-6 TRC						
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							

Account Number (Publication): 42142105722052

Contract Awarded To: \_\_\_\_\_ Council Meeting Date: \_\_\_\_\_

Motion/Reso #: \_\_\_\_\_ Unsuccessful Bonds Returnd: \_\_\_\_\_

Contract #: \_\_\_\_\_ OB Doc #: \_\_\_\_\_ Successful Bond Returnd: \_\_\_\_\_

Note: Affirmative Action required for federally funded projects only



**Monica Grijalva**

**From:** Katherine Roland  
**Sent:** Wednesday, June 10, 2020 7:31 PM  
**To:** Monica Grijalva  
**Subject:** FW: Publication Request Form Submission

**From:** Connie.Cochran@stocktonca.gov  
**Sent:** Wednesday, June 10, 2020 7:30:37 PM (UTC-08:00) Pacific Time (US & Canada)  
**To:** Katherine Roland  
**Subject:** Publication Request Form Submission

[View PDF Version](#)

**Publication Request**

Notices to the Record for publication require 5 days lead time.

Department *	[MUD V]	RFP/PUR/PRJ/PH/PN *	[PUR V] 20-016
PUR/PRJ/RFP Number		Subject/Title for Publication *	NOTICE INVITING SEALED BIDS Not your job title...
Contact Person *	Danny Trejo	Contact Number *	2099378782
Additional Contact *	Justin Dupee	Contact Number *	(209) 937-7643
Account Number for Publication Cost *	421-4210-572.20-52 please provide full account number	Account Number for Staff Time (Bids Only)	please provide full account number.

**Publication Information / Account: 2099378863**

Requested Publication Date(s) *	June 20, 2020
Bid Opening OR Meeting Date *	July 9, 2020
Text for Publication in the Record *	<p>NOTICE IS HEREBY GIVEN that sealed bids are invited by the City of Stockton, CA for specifications for instrumentation services (PUR 20-016) in strict accordance with the specifications. Vendor to perform all manufacturer recommended services for the instrumentation used at the Delta Water Treatment Plant and respective well sites. The bid specifications and forms can be obtained from the City's website at <a href="http://www.stocktonca.gov/MUDBID">www.stocktonca.gov/MUDBID</a> and must be delivered to the Office of the City Clerk, City Hall, 425 N El Dorado St, Stockton, CA, up to but not later than 2:00 pm, on Thursday, July 09, 2020. The City reserves the right to reject any and/or all bids received. Information on Technical Data: Danny Trejo, Municipal Utilities Department, (209) 937- 8782, e-mail: <a href="mailto:Danny.Trejo@stocktonca.gov">Danny.Trejo@stocktonca.gov</a>. Information on Bid Process/ Clarification: Justin Dupee, Procurement Division, (209) 937-7673, e-mail: <a href="mailto:Justin.Dupee@stocktonca.gov">Justin.Dupee@stocktonca.gov</a>. DISCLAIMER: The City does not assume any liability or responsibility for errors/omissions in any document transmitted electronically. Dated: June 18, 2020 ELIZA R. GARZA, CMC STOCKTON CITY CLERK</p>

**For Clerk Use**

Date sent to Record	yyyy/mm/dd	Date Affidavit Received	yyyy/mm/dd
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AFP Number	
Publication Proof	No file uploaded
<b>Bid Award Follow Up</b>	
Unsuccessful Security Returned	Insert date bonds or checks returned.
Successful Security Returned	Insert date successful bidder security returned
Bid Award Resolution/Motion	

# BID DOCUMENTS

- A) BID – INSTRUMENT SERVICES
- B) PUR 20-016
- C) JULY 9, 2020

COMPANY NAME: HACH COMPANY

CONTACT NAME: STEPHANIE HERMAN

ADDRESS: 5600 LINDBERGH DRIVE

LOVELAND CO 80538

TELEPHONE NUMBER: 800-227-4224 EXT 6481

EMAIL: STHERMAN@HACH.COM

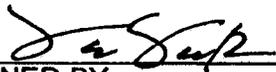
**BIDDER'S AGREEMENT**

In submitting this bid, as herein described, the bidder agrees that:

1. They have carefully examined the specifications and all other provisions of this form and understand the meaning, intent, and requirements of same.
2. They have reviewed and understand all clarifications/questions/answers on the City's website at [www.stocktonca.gov/mudbid](http://www.stocktonca.gov/mudbid)
3. They will enter into written contract and furnish the item(s)/service(s) in the time specified in strict conformity with the specifications and conditions contained therein for the price quoted by the bidder on this bid.
4. The proposed price is inclusive of all freight and handling charges and includes delivery to the City of Stockton, Municipal Service Center, or if specified, to the alternate point of delivery shown in the specifications.
5. They have signed and notarized the attached Non-Collusion Affidavit form whether individual, corporate or partnership. Must be "A Jurat" notarization.

HACH COMPANY  
FIRM

5600 LINDBERGH DRIVE, LOVELAND CO 80538  
ADDRESS

  
SIGNED BY

Service Director  
TITLE OR AGENCY

rruth@hach.com  
E-MAIL ADDRESS

\*\*SUBJECT TO CONTRACT ADDENDUM ATTACHED HERETO

**NOTE:** If erasures or interlineations appear on your bid form, they must be initialed by the person preparing the bid. Bids shall be mailed or delivered to:

**OFFICE OF THE CITY CLERK  
FIRST FLOOR, CITY HALL  
425 NORTH EL DORADO STREET  
STOCKTON, CALIFORNIA 95202-1997**

On or before **2:00 p.m. Thursday JULY 9, 2020**, and publicly opened immediately thereafter in the City Council Chambers.

**SPECIAL NOTE: U.P.S. OR OTHER SPECIAL HANDLING SERVICES DO NOT DELIVER DIRECTLY TO THE CITY CLERK'S OFFICE. BIDDERS ARE ADVISED THAT IF A SPECIAL HANDLING SERVICE IS USED, BIDS MAY NOT REACH THE CITY CLERK'S OFFICE IN TIME FOR BID OPENING AND WILL BE REJECTED AND RETURNED TO BIDDER.**

use such intellectual property and information only to the extent provided by implied license under applicable law. No Customer information technology requirements apply, except the extent such requirements specifically apply to equipment being sold to Customer. To help ensure mutual compliance with applicable privacy laws, Customer will not provide to or share with Company any personal data or personally identifiable information.

6. **Performance Guarantees.** All product warranties and guarantees shall only be enforceable if (a) all equipment is properly installed, inspected regularly and is in good working order, (b) all operations are consistent with Supplier recommendations, (c) operating conditions at the Customer site have not materially changed and remain within anticipated specifications, and (d) no reasonably unforeseeable circumstances exist or arise.

7. **Acceptance and Set-off.** Except to the extent agreed upon in writing by Supplier's CFO, all Goods and Services are deemed accepted upon delivery and early payment discounts do not apply. Any set-off rights in the Agreement notwithstanding, Customer bears the customary burden of proof with respect to any amounts invoiced by Supplier but not paid by the invoice due date. This revision does not adversely impact any of Customer's rights under Supplier's warranties.

8. **Wire Fraud Prevention.** Supplier and Customer both recognize that there is a risk of wire fraud when individuals impersonating a business demand immediate payment under new wire transfer instructions. To avoid this risk, both Supplier and Customer have provided wire transfer instructions, at Appendix A, for remittance of any undisputed payments due under the Agreement or any associated Statement of Work. In the event that there is a change in the wire transfer instructions, both Parties must agree to an updated wire transfer - Appendix A, in writing, using the Business Contact listed in the contract at Section \_\_\_\_ [Notice Provision] before any monies will be transmitted using the new wire instructions. Both Parties further agree that they will never change wire transfer instructions by email. Further, both Parties agree that they will never require an immediate payment under the new instructions. The Parties will provide for a ten (10) business day grace period to verify any wire transfer instruction changes before any outstanding payments would be due using the new instructions.

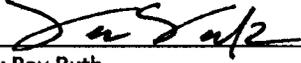
9. **Miscellaneous.** Except to the extent signed by a duly authorized representative of an affiliate of Supplier, the Agreement does not bind any affiliates of Supplier. Supplier is not subject to any audit rights in favor of the Customer, except for audit rights (under reasonable conditions) directly related to Supplier's compliance with laws and regulations (e.g., safety) which are directly applicable to Supplier's Goods and/or Services purchased under this Agreement. Supplier is not obligated to purchase or carry Professional Liability or E&O Insurance coverage, provide copies of Supplier's policies, or provide waivers of subrogation. Supplier may include Customer and their Affiliates as an Additional Insured party. Nothing in the Agreement supersedes or nullifies this Addendum. Supplier's obligations under the Agreement will only be modified by written agreement of Supplier through the same duly authorized representative who signed this Addendum, or such person's duly authorized successor. Except as provided herein, neither party agrees to any contractual clause or provision, that waives such party's ordinary and standard rights, including, but not limited to, the right to retain party's own counsel and each party's right to determine facts and circumstances in the event of a dispute.

IN WITNESS WHEREOF, the Parties have caused this Addendum to be executed by their duly authorized representatives, intending thereby to be legally bound.

[City of Stockton]

Hach Company:

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By:  \_\_\_\_\_  
 Name: Ray Ruth  
 Title: Director Global Service  
 Date: 7/2/2020

	<b>HACH SERVICE PARTNERSHIP QUOTATION</b>	Page : 1 of 8 Partnership Number : HACH447895
	<i>Headquarters</i> P.O. Box 389 5600 Lindbergh Drive Loveland, CO 80539-0389  <i>Purchase Orders</i>	WebSite: <a href="http://www.hach.com">www.hach.com</a>



**Partnership Number :** HACH447895      **Version :** 0.126      **Quotation Date :** 02-JUL-20  
**Hach Company Contact :** Herman, Stephanie A      **Service Partnership Phone :**      **Expiration Date :** 30-SEP-20  
**Customer Ref :** 3 YEAR QUOTE      **Customer Contact :** HOUSTON, ERIC  
**Customer Phone :** 209-937-5633      **Customer Fax :**      **Customer Email :** eric.houston@stocktonca.gov

**Bill-To Account # 40202443**

**Ship-To Account # 40220182**

Customer Name	DELTA WATER SUPPLY PROJECT	Customer Name	CITY OF STOCKTON	Payment Terms:	Net 30
Address4	CITY OF STOCKTON	Address4		Billing Method:	Annual-Invoices on START Date
Address1	11373 N LOWER SACRAMENTO RD	Address1	11373 N LOWER SACRAMENTO RD	Currency:	USD
Address2		Address2			
Address3		Address3			
City,State,PostalCode	LODI-CA-95242-9545	City,State,Postalcode	LODI-CA-95242-9545		
Province/Country	US	Province/Country	US		

Line	Service Name	Start Date	End Date	Description/Serial Number	Line Total
1	FSP1720E	11-OCT-20	10-OCT-23	Fld Svc-4V 1720E Turb Sensor:11-OCT-2020:10-OCT-2023 Field Service includes: All parts, labor, and travel for on-site repairs, 4 on-site calibrations per year, factory recommended maintenance (including required parts), unlimited technical support calls, and free firmware updates. Please see service terms and conditions for additional details on our service plans, and to ensure you have an opportunity to review our environmental and safety requirements.  1720E LR TURBIDITY SENSOR, HACH ; 110420038624	25,401.60
1.1	LPV417.99.00002				

	<b>HACH SERVICE PARTNERSHIP QUOTATION</b>	Page : 3 of 8 Partnership Number : HACH447895
	<i>Headquarters</i> P.O. Box 389 5600 Lindbergh Drive Loveland, CO 80539-0389  <i>Purchase Orders</i>	<i>WebSite:</i> <a href="http://www.hach.com">www.hach.com</a>

4.1	LXV400.99.1B572			db ee MODULE, PROBE (4-SNSR), SC1000, 4mA ; 1387069	
5	PMP-GLPHORP-1V	11-OCT-20	10-OCT-23	PMP-GLI pH ORP PROBE-1V (FRV 1):11-OCT-2020:10-OCT-2023	16,386.30
5.1	DPD1P1			Digital pH Sensor, PEEK, Convertible ; 1012431341	
5.2	DPD1P1			Digital pH Sensor, PEEK, Convertible ; 1012431330	
5.3	D3422B3			Digital Conductivity Sensor, 0.50 K ; 1012460151	
5.4	DPD1P1			Digital pH Sensor, PEEK, Convertible ; 1012431329	
5.5	DPD1R1-WDMP			pH Sensor, Ryton, WDMP Mounting, Dig ; 1106430872	
5.6	PD2P1			PHD, PEEK, pH-Wide Range ; 1204431974	
5.7	DPD1P1			Digital pH Sensor, PEEK, Convertible ; 1012431303	
5.8	PD2P1			PHD, PEEK, pH-Wide Range ; 1104430982	
5.9	PD2P1			PHD, PEEK, pH-Wide Range ; 1104430983	
5.10	PD2P1			PHD, PEEK, pH-Wide Range ; 1404437048	
5.11	D3422B3			Digital Conductivity Sensor, 0.50 K ; 1505460159	
5.12	DPD1P1			Digital pH Sensor, PEEK, Convertible ; 1412443193	
5.13	D3422B3			Digital Conductivity Sensor, 0.50 K ; 15054601590	
5.14	RD2P5			PHD, PEEK, ORP-Platinum ; 1202430067	
5.15	RD2P5			PHD, PEEK, ORP-Platinum ; 1104430932	

	<b>HACH SERVICE PARTNERSHIP QUOTATION</b>	Page : 5 of 8 Partnership Number : HACH447895
	<i>Headquarters</i> P.O. Box 389 5600 Lindbergh Drive Loveland, CO 80539-0389  <i>Purchase Orders</i>	<i>WebSite:</i> <a href="http://www.hach.com">www.hach.com</a>

9.1	5440000			oo CL17 FINAL ASSEMBLY W/KITS ; 150400524128	
9.2	5440000			oo CL17 FINAL ASSEMBLY W/KITS ; 150400524720	
9.3	5440005			oo CL17 FINAL ASSY W/PRESS REG INSTALL ; 140800504355	
9.4	5440005			oo CL17 FINAL ASSY W/PRESS REG INSTALL ; 140800504359	
9.5	5440005			oo CL17 FINAL ASSY W/PRESS REG INSTALL ; 140900505113	
9.6	5440000			oo CL17 FINAL ASSEMBLY W/KITS ; 131200489686	
10	ADMIN HANDLING QTR 10.1	11-OCT-20	10-OCT-23	QUARTERLY BILLING FEE  CONTRACT SPECIAL ITEM	1,176.00
11	ADMIN_HANDLING_MYA 11.1	11-OCT-20	10-OCT-23	YEAR 2 PRICE INCREASE OF 3%  CONTRACT SPECIAL ITEM	797.30
12	ADMIN_HANDLING_MYA 12.1	11-OCT-20	10-OCT-23	YEAR 3 PRICE INCREASE OF 3% (COMPOUNDED)  CONTRACT SPECIAL ITEM	1,618.51
					<b>Sub Total :</b> 82,145.61 <b>Tax:</b> 0.00 <b>Total :</b> 82,145.61

**Partnership Notes :**

ANNUAL COST BREAKDOWN NOTED BELOW:

YEAR 1 SERVICE @ \$26,576.60

YEAR 2 SERVICE @ \$27,373.90

YEAR 3 SERVICE @ \$28,195.11

TOTAL \$82,145.61 \*

\* PRICING SUBJECT TO CHANGE WITH EQUIPMENT CHANGES

All purchases of Hach Company products and/or services are expressly and without limitation subject to Hach Company's Terms & Conditions of Sale ("Hach TCS"), incorporated herein by reference and published on Hach Company's website at [www.hach.com/terms](http://www.hach.com/terms). Hach TCS are incorporated by reference into each of Hach's offers or quotations, order acknowledgments, and invoice and shipping documents. The first of the following acts shall constitute an acceptance of Hach's offer and not a counteroffer and shall create a contract of sale ("Contract") in accordance with the Hach TCS, subject to Hach's final credit approval: (i) Buyer's issuance of a purchase order document against Hach's offer or quotation; (ii) Hach's acknowledgement of Buyer's order; or (iii) commencement of any performance by Hach in response to Buyer's order. Provisions contained in Buyer's purchase documents that materially alter, add to or subtract from the provisions of these Terms and Conditions of Sale shall be null and void and not considered part of the Contract

Customer Name : DELTA WATER SUPPLY PROJECT

	<b>HACH SERVICE PARTNERSHIP QUOTATION</b> <b>Headquarters</b> P.O. Box 389 5600 Lindbergh Drive Loveland, CO 80539-0389  <b>Purchase Orders</b>	Page : 7 of 8 Partnership Number : HACH447895	<b>Remittance</b> 2207 Collections Center Dr Chicago, IL 60693  <b>Wire Transfers</b> Bank of America 231 S. LaSalle St. Chicago, IL 60604 Account: 8765602385 Routing (ABA): 026009593
	<b>WebSite:</b> <a href="http://www.hach.com">www.hach.com</a>		

indemnify and hold harmless Hach for patent infringement related to (x) any goods manufactured to the Buyer's design, (y) services provided in accordance with the Buyer's instructions, or (z) Hach's Products when used in combination with any other devices, parts or software not provided by Hach hereunder.

#### 10. TRADEMARKS AND OTHER LABELS:

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

#### 11. SOFTWARE:

All licenses to Hach's separately-provided software products are subject to the separate software license agreement(s) accompanying the software media. In the absence of such terms and for all other software, Hach grants Buyer only a personal, non-exclusive license to access and use the software provided by Hach with Products purchased hereunder solely as necessary for Buyer to enjoy the benefit of the Products. A portion of the software may contain or consist of open source software, which Buyer may use under the terms and conditions of the specific license under which the open source software is distributed. Buyer agrees that it will be bound by any and all such license agreements. Title to software remains with the applicable licensor(s).

#### 12. PROPRIETARY INFORMATION; PRIVACY:

"Proprietary Information" means any information, technical data or know-how in whatever form, whether documented, contained in machine readable or physical components, mask works or artwork, or otherwise, which Hach considers proprietary, including but not limited to service and maintenance manuals. Buyer and its customers, employees and agents will keep confidential all such Proprietary Information obtained directly or indirectly from Hach and will not transfer or disclose it without Hach's prior written consent, or use it for the manufacture, procurement, servicing or calibration of Products or any similar products, or cause such products to be manufactured, serviced or calibrated by or procured from any other source, or reproduce or otherwise appropriate it. All such Proprietary Information remains Hach's property. No right or license is granted to Buyer or its customers, employees or agents, expressly or by implication, with respect to the Proprietary Information or any patent right or other proprietary right of Hach, except for the limited use licenses implied by law. Hach will manage Customer's information and personal data in accordance with its Privacy Policy, located at <http://www.hach.com/privacypolicy>.

#### 13. CHANGES AND ADDITIONAL CHARGES:

Hach reserves the right to make design changes or improvements to any products of the same general class as Products being delivered hereunder without liability or obligation to incorporate such changes or improvements to Products ordered by Buyer unless agreed upon in writing before the Products' delivery date. Services which must be performed as a result of any of the following conditions are subject to additional charges for labor, travel and parts: (a) equipment alterations not authorized in writing by Hach; (b) damage resulting from improper use or handling, accident, neglect, power surge, or operation in an environment or manner in which the instrument is not designed to operate or is not in accordance with Hach's operating manuals; (c) the use of parts or accessories not provided by Hach; (d) damage resulting from acts of war, terrorism or nature; (e) services outside standard business hours; (f) site prework not complete per proposal; or (g) any repairs required to ensure equipment meets manufacturer's specifications upon activation of a service agreement.

#### 14. SITE ACCESS / PREPARATION / WORKER SAFETY / ENVIRONMENTAL COMPLIANCE:

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

#### 15. LIMITATIONS ON USE:

Buyer will not use any Products for any purpose other than those identified in Hach's catalogs and literature as intended uses. Unless Hach has advised the Buyer in writing, in no event will Buyer use any Products in drugs, food additives, food or cosmetics, or medical applications for humans or animals. In no event will Buyer use in any application any Product that requires FDA 510(k) clearance unless and only to the extent the Product has such clearance. Any warranty granted by Hach is void if any goods covered by such warranty are used for any purpose not permitted hereunder.

#### 16. EXPORT AND IMPORT LICENSES AND COMPLIANCE WITH LAWS:

Unless otherwise specified in this Contract, Buyer is responsible for obtaining any required export or import licenses. Hach represents that all Products delivered hereunder will be produced and supplied in compliance with all applicable laws and regulations. Buyer will comply with all laws and regulations applicable to the installation or use of all Products, including applicable import and export control laws and regulations of the U.S., E.U. and any other country having proper jurisdiction, and will obtain all necessary export licenses in connection with any subsequent export, re-export, transfer and use of all Products and technology delivered hereunder. Buyer will not sell, transfer, export or re-export any Hach Products or technology for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use Hach Products or technology in any facility which engages in activities relating to such weapons. Buyer will comply with all local, national, and other laws of all jurisdictions globally relating to anti-corruption, bribery, extortion, kickbacks, or similar matters which are applicable to Buyer's business activities in connection with this Contract, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"). Buyer agrees that no payment of money or provision of anything of value will be offered, promised, paid or transferred, directly or indirectly, by any person or entity, to any government official, government employee, or employee of any company owned in part by a government, political party, political party official, or candidate for any government office or political party office to induce such organizations or persons to use their authority or influence to obtain or retain an improper business advantage for Buyer or for Hach, or which otherwise constitute or have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business or any improper advantage, with respect to any of Buyer's activities related to this Contract. Hach asks Buyer to "Speak Up!" if aware of any violation of law, regulation or our Standards of Conduct ("SOC") in relation to this Contract. See <http://danaher.com/integrity-and-compliance> and [www.danaherintegrity.com](http://www.danaherintegrity.com) for a copy of the SOC and for access to our Helpline portal.

#### 17. FORCE MAJEURE:

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

#### 18. NON ASSIGNMENT AND WAIVER:

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

#### 19. LIMITATION OF LIABILITY:

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

#### 20. APPLICABLE LAW AND DISPUTE RESOLUTION:

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