

**NORTH CAROLINA
DURHAM COUNTY**

SERVICE CONTRACT

THIS CONTRACT is made, and entered into this the **18th day of July, 2018**, by and between the **COUNTY of DURHAM**, a political subdivision of the State of North Carolina, (hereinafter referred to as "COUNTY"), and **ALFA LAVAL, INC.**, a corporation duly authorized to do business in the state of North Carolina, (hereinafter referred to as "CONTRACTOR").

For and in consideration of mutual promises to each as herein after set-forth, the parties hereto do mutually agree as follows:

1. **SCOPE OF SERVICES.** CONTRACTOR hereby agrees to provide the services and/or materials under this contract pursuant to the provisions and specifications identified in "Attachment 1" (hereinafter collectively referred to as "Services"). Attachment 1 is hereby incorporated herein and made a part of this contract. Time is of the essence with respect to all provisions of this contract that specify a time for performance.

The COUNTY will perform on-going contract monitoring to ensure that the terms of this contract are complied with. CONTRACTOR agrees to cooperate with the COUNTY in its monitoring process and provide documentation and/or information requested during the term of this Agreement for the purpose of monitoring the services provided by CONTRACTOR.

2. **TERM OF CONTRACT.** The Term of this contract for services is from **July 18, 2018 to June 30, 2019** unless sooner terminated as provided herein.
3. **PAYMENT TO CONTRACTOR.** CONTRACTOR shall receive from COUNTY an amount not to exceed **Thirty-five thousand eight hundred thirty-one and No/100 Dollars (\$35,831.00)** as full compensation for the provision of Services. COUNTY agrees to pay CONTRACTOR at the rates specified for Services performed to the satisfaction of the COUNTY, in accordance with this contract, and Attachment 1. Unless otherwise specified, CONTRACTOR shall submit an itemized invoice to COUNTY by the end of the month during which Services are performed. A Funds Reservation number may be assigned to encumber the funds associated with this contract and must appear on all invoices and correspondence mailed to Purchaser. Payment will be processed promptly upon receipt and approval of the invoice by COUNTY.
4. **INDEPENDENT CONTRACTOR.** COUNTY and CONTRACTOR agree that CONTRACTOR is an independent contractor and shall not represent itself as an agent or employee of COUNTY for any purpose in the performance of CONTRACTOR's duties under this Contract. Accordingly, CONTRACTOR shall be responsible for payment of all federal, state and local taxes as well as business license fees arising out of CONTRACTOR's activities in accordance with this Contract. For purposes of this contract taxes shall include, but not be limited to, Federal and State Income, Social Security and Unemployment Insurance taxes.

CONTRACTOR, as an independent contractor, shall perform the Services required hereunder in a professional manner and in accordance with the standards of applicable professional organizations and licensing agencies.

5. **INDEMNIFICATION.** To the fullest extent permitted by laws and regulations, CONTRACTOR shall indemnify and hold harmless the COUNTY and its officials, agents, and employees from and against all claims, damages, losses, and expenses, direct, indirect, or consequential (including but not limited to fees and charges of engineers or architects, attorneys, and other professionals and costs related to court action or mediation) arising out of or resulting from CONTRACTOR's performance of this Contract or the actions of the CONTRACTOR or its officials, employees, or subcontractors under this Contract or under contracts entered into by the CONTRACTOR in connection with this Contract. This indemnification shall survive the termination of this Contract.

In claims against any person or entity indemnified under this provision by an employee of the CONTRACTOR, a subcontractor, an employee of a subcontractor, or an agent of the CONTRACTOR or a subcontractor, the indemnification obligation under this provision shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

- 6. INSURANCE.** CONTRACTOR shall procure and maintain for the duration of the contract the following insurance coverage from an insurance company(s) possessing a rating of A-VII or higher from the A.M. Best Company and licensed to do business in North Carolina. All of the policies required of the CONTRACTOR shall contain a waiver of subrogation provision to waive all rights of recovery under subrogation or otherwise against the COUNTY. In the event CONTRACTOR'S Insurance Policy or Certificate of Insurance conflicts with the aforesaid language concerning "waiver of subrogation" this contract shall govern. CONTRACTOR shall advise the COUNTY of any cancellation, non-renewal, or material change in any policy within ten (10) days of notification of such action and provide updated certificates of insurance evidencing renewals within fifteen (15) days of expiration. CONTRACTOR'S insurance shall be primary and any insurance or self-funded liability programs maintained by the COUNTY shall not contribute with respect to the CONTRACTOR's insurance. COUNTY shall not be listed as an additional insured on any Insurance Policy or Certificate of Insurance of the CONTRACTOR. In the event CONTRACTOR'S Insurance Policy or Certificate of Insurance conflicts with the aforesaid language concerning "additional insured" this contract shall govern.

6.1 Commercial General Liability: Insurance Services Office (ISO) Form CG 00 01 on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than **\$1,000,000** per occurrence and **\$2,000,000** aggregate.

6.2 Commercial Automobile Liability: ISO Form CA 00 01 covering any auto with limit not less than **\$1,000,000** per accident for bodily injury and property damage.

6.3 Worker's Compensation and Employers Liability: as required by The State of North Carolina, with statutory limits, and Employers Liability Insurance with a limit of no less than **\$1,000,000** per occurrence.

By requiring insurance herein, the COUNTY does not represent that coverage and limits will necessarily be adequate to protect CONTRACTOR, and such coverage and limits shall not be deemed as a limitation on CONTRACTOR's liability under the indemnities granted to the COUNTY in this Contract. CONTRACTOR shall provide the COUNTY a valid certificate of insurance, in advance of the performance of any work, exhibiting coverage required. CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

The failure of the COUNTY at any time to enforce the insurance provisions, to demand such certificates of insurance, or to identify a deficiency shall not constitute a waiver of those provisions, nor reduce obligations of the CONTRACTOR to maintain such insurance or to meet its obligations under the indemnification provisions. Notwithstanding the foregoing, nothing contained in this section shall be deemed to constitute a waiver of the governmental immunity of the COUNTY, which immunity is hereby reserved to the COUNTY.

7. TERMINATION.

7.1. EVENT OF DEFAULT. Any one or more of the following acts or omissions of the Contractor shall constitute an Event of Default hereunder:

- a. Failure to perform the Services satisfactorily or on schedule,
- b. Failure to submit any report required hereunder; and/or
- c. Failure to perform any other covenant, term, or condition of this Agreement.

Upon the occurrence of an Event of Default, the County may take one or more or all of the following actions:

1. Give Contractor written Notice of the Event of Default, specifying the Event of Default and requiring it to be remedied within, in the absence of greater or lesser specification of time, seven (7) calendar days from the date of the notice; and if the Event of Default is not timely remedied, terminate the agreement, effective two (2) days after giving the Contractor written Notice of Termination; and/or
2. Deduct any and all expenses incurred by the County for damages caused by the Contractor's Event of Default; and/or
3. Treat the agreement as breached and pursue any of its remedies at law or in equity, or both, including damages and specific performance.

7.2 TERMINATION FOR CONVENIENCE. This Contract may be terminated, without cause, by either party upon thirty (30) days written notice to the other party. This termination notice period shall begin upon receipt of the Notice of Termination. Termination of this Contract, under either section 7.1 or 7.2, shall not form the basis of any claim for loss of anticipated profits by either party.

- 8. COUNTY NOT RESPONSIBLE FOR EXPENSES.** COUNTY shall not be liable to CONTRACTOR for any expenses paid or incurred by CONTRACTOR, unless otherwise agreed in writing.
- 9. EQUIPMENT.** CONTRACTOR shall supply, at its sole expense, all equipment, tools, materials, and/or supplies required to provide Services hereunder, unless otherwise agreed in writing.
- 10. COMPLIANCE WITH LAWS.** CONTRACTOR shall abide by all statutes, rules, regulations, laws, and executive orders Federal, State and Local as they relate to, but are not limited to, (i) services in general, (ii) payment of employees, subcontractors and agents, (iii) the Fair Labor Standards Act and (iv) the Wage and Hour Division. In the event CONTRACTOR is determined by the final order of a court or appropriate agency to be in violation of any Federal, State or Local statute, rule, regulation, law or executive order or this provision, this Contract may be canceled, terminated or suspended in whole or in part by COUNTY and CONTRACTOR may be declared ineligible for further COUNTY contracts.
- 11. HEALTH AND SAFETY.** CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs required by OSHA and all other regulatory agencies while providing Services under this Contract.
- 12. NON-DISCRIMINATION IN EMPLOYMENT.** CONTRACTOR shall not discriminate against any employee or applicant for employment because of age, sex, race, creed, national origin, or disability. CONTRACTOR shall take affirmative action to ensure that qualified applicants are employed and that employees are treated fairly and legally during employment with regard to their age, sex, race, creed, national origin, or disability. In the event CONTRACTOR is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Contract may be canceled, terminated or suspended in whole or in part by COUNTY, and CONTRACTOR may be declared ineligible for further COUNTY contracts.
- 13. EMPLOYMENT ADVERTISING REQUIREMENTS.** CONTRACTOR shall post local job openings, in connection with this contract, with the City of Durham's Office of Economic and Workforce Development, the North Carolina Department of Commerce-Division of Employment Services (formerly ESC, Employment Security Commission) and with the Durham County Department of Social Services throughout the term of this Agreement; provided that the foregoing requirement does not limit CONTRACTOR'S ability to advertise and/or otherwise post job openings with other organizations or media outlets.

14. E-VERIFY. As a condition of payment for services rendered under this agreement, CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if CONTRACTOR provides the services to the County utilizing a subcontractor, CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes as well. CONTRACTOR shall verify, by affidavit, compliance of the terms of this section upon request by the COUNTY.

15. AFFORDABLE CARE ACT REQUIREMENTS (Applicable Only to Staffing Agencies). Beginning in 2015, employers with 100 or more full-time equivalent employees (50 or more beginning in 2016) must offer health insurance coverage that is affordable and provides "minimum value" to full-time employees and dependents as defined by the Patient Protection and Affordable Care Act or face penalties. Staffing companies under contract with Durham County are required to provide affordable minimum essential coverage as defined by the Patient Protection and Affordable Care Act and to indemnify Durham County against any 4980H penalties that result from their failure to provide the appropriate coverage. By signing this contract as a Staffing Company, CONTRACTOR shall comply with the aforementioned health insurance coverage requirements of the Affordable Care Act and to indemnify the County against any associated 4980H penalties. **Please complete Exhibit A and return with this contract.**

16. SECURITY BACKGROUND CHECKS. The Contractor is responsible for requesting and paying for criminal history checks on all individuals providing services under this contract who will be obtaining County identification badges and allowed unescorted access to County facilities. Background checks can be provided by any vendor, or from a North Carolina State agency, providing that the criminal history check is done nationwide. The Sheriff's Office will conduct background investigations for those Contractor employees who will be working at the Courthouse or Detention Center. A criminal history will not automatically disqualify a Contractor employee from employment on a County contract unless explicitly mandated by law.

The Contractor will send the results of the background checks to their County point of contact who will provide them to the Durham County Security Manager. The Security Manager will individually assess and determine the degree to which the nature of a person's criminal conduct has a direct and/or specific negative bearing on a person's fitness or ability to perform contract services in Durham County buildings. The Security Manager will consult the Legal Office on any negative determinations. The Security Manager will notify the Contractor's County point of contact of the results of the review. A Contractor can appeal a negative determination by the Security Manager to the County Manager for final disposition. Appeals need to be submitted in writing to the contract point of contact within 30 days of notice of a decision to remove or deny an individual from working the County contract due to adverse information in the background check.

This information will be updated annually by the Contractor, 90 days prior to the renewal or extension of the contract, and submitted to their County point of contact who will provide them to the Durham County Security Manager. Personnel without a currently approved background check will have their access to those buildings restricted.

Additional background screening may be necessary at specific county buildings. The Contractor shall provide names of all individuals in the Contractor communications log and to the County Representative. This information will be reviewed annually.

For those Contractor employees who will be working at the Courthouse or Detention Center, the Sheriff's Office will make the security determination. The Contractor will provide the results of their background check to the Major for Support Services who will conduct an additional investigation and then individually assess and determine the degree to which the nature of a person's criminal conduct has a direct and/or specific negative bearing on a person's fitness or ability to perform contract services in the Courthouse or Detention Facility. A Contractor can appeal a negative determination to the Chief Deputy for final disposition. Appeals need to be submitted in writing to the Chief Deputy within 30 days of notice of a decision to remove or deny an individual

from working the contract due to adverse information in the background check. While an appeal is pending, the employee will not be allowed access to the Courthouse or Detention Facility.

This information will be updated by the Contractor and submitted to the Sheriff's Office annually, 90 days prior to the renewal or extension of the contract. Personnel without a currently approved background check will have their access to those buildings restricted.

17. AUDIT RIGHTS. For all Services being provided hereunder, COUNTY shall have the right to inspect, examine, and make copies of any and all books, accounts, invoices, records and other writings relating to the performance of the Services. Audits shall take place at times and locations mutually agreed upon by both parties. Notwithstanding the foregoing, CONTRACTOR must make the materials to be audited available within one (1) week of the request for them.

18. DISPUTE RESOLUTION PROCEDURE. To prevent disputes and litigation, it is agreed by the parties that any claim or dispute between COUNTY and the CONTRACTOR, arising from this Agreement or the services and/or materials being provided by the CONTRACTOR, shall be sent to the Durham County Manager who shall appoint a qualified mediator to address the issue. Such request shall be submitted to the County Manager in writing within ten (10) days of the claim or dispute. Upon receipt of a timely written claim, the Manager, or his designee, shall notify the Mediator who will conduct a mediation and notify the CONTRACTOR in writing of the decision within forty-five (45) calendar days from the date of the submission of the claim or dispute, unless the Mediator requires additional time to gather information or allow the parties to provide additional information. The Mediator's orders, decisions and decrees shall be non-binding. Mediation, pursuant to this provision, shall be a pre-condition to initiating litigation concerning the dispute. During the pendency of any dispute and after a determination thereof, parties to the dispute shall act in good faith to mitigate any potential damages including utilization of schedule changes and alternate means of providing services and/or materials. The costs of mediation shall be divided equally between parties to the dispute.

The mediation session shall be private and shall be held in Durham County, North Carolina. Mediation under this provision shall not be the cause for a delay of services and/or materials being provided which is the focus of the dispute.

If the disputed issue cannot be resolved in mediation or either party disagrees with the results of the mediation, the parties may seek resolution in the General Court of Justice in the County of Durham and the State of North Carolina. If a party fails to comply in strict accordance with the requirements of this provision, the non-complying party specifically waives all of its rights provided hereunder, including its rights and remedies under State law.

19. EXISTENCE. CONTRACTOR warrants that it is a corporation or otherwise legal entity duly organized, validly existing, and in good standing under the laws of the State of North Carolina and is duly qualified to do business in the State of North Carolina and has full power and authority to enter into and fulfill all the terms and conditions of this contract.

20. CORPORATE AUTHORITY. By execution hereof, the person signing for CONTRACTOR below certifies that he/she has read this contract and that he/she is duly authorized to execute this contract on behalf of the CONTRACTOR.

21. SUCCESSORS AND ASSIGNS. CONTRACTOR shall not assign its interest in this Contract without the written consent of COUNTY. CONTRACTOR has no authority to enter into contracts on behalf of COUNTY.

22. NOTICES. All notices which may be required by this contract or any rule of law shall be effective when received by certified mail sent to the following addresses:

**COUNTY OF DURHAM
ATTN: PURCHASING DEPARTMENT
4TH FLOOR, 200 EAST MAIN STREET
DURHAM, NORTH CAROLINA 27701**

**CONTRACTOR
ALFA LAVAL, INC.
955 MEARNES ROAD
WARMINSTER, PENNSYLVANIA 18974**

23. HEADINGS. The subject headings of the sections are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This contract shall be deemed to have been drafted by both parties and no interpretation shall be made to the contrary.

24. GOVERNING LAW. This Contract shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Contract shall be brought in the General Court of Justice in the County of Durham and the State of North Carolina.

25. REQUIRED PROVISIONS FOR CONTRACTS/AGREEMENTS/GRANTS UTILIZING FEDERAL FUNDS. Pursuant to the Federal Uniform Guidance Appendix II to 2 CFR Part 200, if Federal Funds are involved in this Contract/Agreement/Grant Agreement, by executing this Contract/Agreement/Grant Agreement, the Contractor/Vendor/Grantee, certifies that it agrees to and is in compliance with the provisions specified in **Exhibit B – Federal Uniform Guidance Contract Provisions Certification.**

26. ENTIRE CONTRACT. This contract, including Attachment 1, shall constitute the entire understanding between COUNTY and CONTRACTOR and shall supersede all prior understandings and agreements relating to the subject matter hereof and may be amended only by written mutual agreement of the parties.

IN TESTIMONY WHEREOF, the parties have expressed their agreement to these terms by causing this Service Contract to be executed by their duly authorized officer or agent.

COUNTY OF DURHAM

DocuSigned by:
By: Wendell M. Davis
Wendell Davis, County Manager

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Budget Control Act.

DocuSigned by:
Susan Tezai
Susan Tezai, Durham County Chief Financial Officer

ALFA LAVAL, INC.

DocuSigned by:
By: Sam Sanom
Sam Sanom, Regional Account Manager

“ATTACHMENT 1” to follow

ATTACHMENT 1 SCOPE OF SERVICES

This Scope of Services is an integral part of this contract between the **COUNTY OF DURHAM** (hereinafter referred to as "County"), and **ALFA LAVAL, INC.** (hereinafter referred to as "Contractor"), which contract is dated **July 18, 2018**.

CONTRACTOR hereby agrees to provide services and/or materials to the County pursuant to the provisions set forth below.

I. **Background/Purpose:** The purpose and intent of this request is to establish a contract with Alfa Laval, Inc. to provide general inspection and rebuild services to the TWWTP's Centrifuge #3 Rotating Assembly and Gearbox (S/N's: 5123636, 5123637 and 5123638).

II. **References:** The following documents are incorporated herein by reference to them:

- Alfa Laval's Quote Dated June 28, 2018, Reference: Rebuild of G2-70 Rotation Assembly

For engineering, architectural and surveying contracts, and contracts not bid through Purchasing, please reference MWBE subcontractor utilization below, if any:

Contractor is expected to expend a minimum of 0% of the \$0 total dollar amount of this contract with minority business enterprise(s), and subcontracted to the following firms listed below.

Name & Telephone Number	Minority Category*	Work Description	Dollar Value
NOT APPLICABLE TO THIS SERVICE CONTRACT			

*Minority categories: Black/African American (B), Female (F), Hispanic (H), Asian American (A), American Indian (I)

Durham County Goals for M/WBE Participation in the Procurement of Goods, Services and Construction

Categories	Construction	Architect/ Engineer	Services	Goods	MWBE Availability % (Median Availability)
Black American	14.6	9.8	10.9	2.8	10.4%
Asian American	1.3	3.0	1.1	.43	1.3%
Hispanic American	4.2	1.8	1.1	.43	1.5%
American Indian	.65	.75	1.0	.5	.70%
White Female	13.8	11.0	9.5	7.1	10.3%
Overall MWBE Participation Goal =					25.0%

III. **Work/Requirements:** Alfa Laval will pick-up the rotation assembly and gearbox from the TWWTP upon contract execution. General rebuild services include disassembly, clean, inspect, all bearings seals, balancing, assembly and test run. The rotating assembly labor services are quoted for 120 hours and the gearbox at 25 hours. Any additional items found to be needed during the inspection, photos and quotes will be provided for approval before any further work is conducted.

IV. **Schedules/Timelines:** The Contractor shall provide service to the County upon contract execution and completed in a timely manner.

V. **Transmittal/Delivery/Accessibility:** Contractor will be escorted by County staff at all times while on County property and at off-site locations. Our primary contact at Alfa Laval is San Sanom, Cell: (864) 395-5444, E-mail: sam.sanom@alfalaval.com. Greg Johnson, Utilities Superintendent Desk: (919) 560-9038, Cell: (919) 730-1780, E-mail: gwjohnson@dconc.gov, will be the primary Durham County contact with Stephen Phillips, Utility Supervisor, Desk: (919) 560-9048, Cell: (919) 697-0356, E-mail: sphillips@dconc.gov, as the secondary contact.

ATTACHMENT 1
SCOPE OF SERVICES
Page 2

VI. **Payment:** Invoices and/or additional submittals shall be forwarded to County Primary Contact for review. Upon payment authorization, invoices will be paid net 30. Invoices and forms submitted **MUST** reference Durham County Funds Reservation Number assigned to this contract. Authorization of payments will be forwarded to the Finance Department dependent on receipt of all forms. The County may withhold payment if required reports or submittals are not received. For this work the contractor will be paid per submitted invoices, based on quoted rates, up to an annual total not to exceed of \$35,831.00, in accordance with Durham County Policies and Terms of Agreement following work completion. Invoices should be mailed to Durham County Utility Division – TWWTP, ATTN: Accounts Payable, 5926 Highway 55 East, Durham, NC 27713.



June 28, 2018

Mr. Stephen Phillips
Durham County
5926 NC Hwy. 55E
Durham, NC 27713

Service Division

Alfa Laval Inc.
955 Mearns Road
Warminster, PA 18974
Tel: +1 215 443 4179
Fax: +1 804 545 2186
www.alfalaval.com

Reference: Rebuild of G2-70 Rotation Assembly

Dear Mr. Phillips,

Please find attached the quote for the rebuild of your RA listed above. This quote is for the serial numbers 5123636, 5123637, and 5123638. The quoted price is for a general rebuild that includes disassembly, clean, inspect, all bearings seals, balancing, assembly and test run. The pricing consist of the following:

Rotation Assembly

DCI – We disassemble the unit send it out to be cleaned, inspect and provide a report:

Price: \$4,800.00

Parts: \$5,406.00

Labor: 120 hours X \$125.00 = \$15,000.00

Total for RA: \$25,206.00

Gearbox

DCI - \$2,150.00

Parts - \$3,650.00

Labor: 25 hours X 125 = \$3,125.00

Total for Gearbox: \$8,925.00

Total for both RA and Gearbox: \$34,131.00

Estimated shipping cost \$850 each direction. Total \$1,700.00.

If any additional items are found during the inspection that need repair photos will be provided as well of the cost before any work is performed. The customer has to approve any additional cost.

Please feel free to contact Heyward Incorporated at 704-583-2305 if you have any questions or need additional assistance.

Best regards,

Sam Sanom
Regional Manager Parts and Service
864-395-5444

Best regards,

Sam Sanom
Regional Manager Parts and Service
864-395-5444

Terms & Conditions (rev 032204)

These Terms and Conditions Apply to All Quotations, Orders, and Contracts for Alfa Laval Inc. Products (hereafter "Equipment"). As used in these Terms and Conditions of Sale, the word "Equipment" includes all hardware, parts, components, software and options.

- 1. ACCEPTANCE:** Our sale to you is limited to and expressly made conditional on your assent to the terms and conditions of sale herein and, if applicable, on the attendant quotation, both of which form a part of this order and which supersede and reject all prior agreements, representations, discussions or negotiations, whether written or oral, with respect hereto and any conflicting terms and conditions of yours, or any statement therein, whether or not signed by you. We will furnish only the quantities and Equipment specifically listed on the face hereof or the pages attached hereto. We assume no responsibility for terms or conditions of, or for furnishing other equipment or material shown in, any plans and/or specifications for a project to which the Equipment quoted or ordered herein pertain or refer.
- 2. PRICES:** Unless otherwise specified in writing, all quoted prices are firm for thirty (30) days from the date of offer. Stenographic, clerical and mathematical errors are subject to correction.
- 3. DELIVERY:** Dates for the furnishing of services and/or delivery or shipment of Equipment are approximate only and are subject to change. Quoted lead times are figured from the date of receipt of complete technical data and approved drawings as such may be necessary. We shall not be liable, directly or indirectly, for any delay in or failure to deliver caused by carriers or delays from labor difficulties, shortages, strikes or stoppages of any sort, failure or delay in obtaining materials from ordinary sources, fires, floods, storms, accidents, or other acts of God or *force majeure*, by any statute, regulation, administrative order or decree or order or judgment of a court of law or other causes beyond our reasonable control. Unless otherwise specifically agreed in writing by us, in no event shall we be liable for any damages or penalties whatsoever, or however designated, resulting from our failure to perform or delay in performing due to any of the causes specified in this paragraph.
- 4. SHIPMENT, RISK OF LOSS, TAXES:** Prices are in U.S. Dollars, F.O.B. Alfa Laval shipping point, unless otherwise noted. Duty, brokerage fees, insurance, packing and handling as applicable are not included unless otherwise noted. Our prices do not include federal, state, municipal or other government excise, sales, use, occupational, processing, transportation or like taxes now in force or enacted in the future. You shall pay any taxes we may be required to collect or pay now or at any time in the future (including interest and penalties imposed by any governmental authority), or any taxes you may be required to pay, that are imposed upon the sale, delivery or support of Equipment purchased or licensed as a part of this order, or you shall provide us with a tax exemption certificate acceptable to the appropriate taxing authorities.
- 5. CREDIT AND PAYMENT:** Unless otherwise noted on the face hereof payment for Equipment shall be (30) days net. *Pro rata* payments shall become due with partial shipments. Any discount period which may be granted by us begins on the invoice date and all payments are due 30 days after the invoice date. All payments shall be made without deduction, deferment, set-off, lien or counterclaim of any nature. All amounts due not paid within 30 days after the date such amounts are due and payable shall bear interest at the lesser of 1.5 percent per month or the maximum rate of interest allowed by law. We reserve the right at any time to suspend credit or to change credit terms provided herein, when, in our sole opinion, your financial condition so warrants. Failure to pay invoices when such invoices are due and payable, at our election, shall make all subsequent invoices immediately due and payable irrespective of terms, and we may withhold all subsequent deliveries until the full account is settled. We shall not, in such event, be liable for delay of performance or nonperformance of contract in whole or in part subsequent to such event.
- 6. CANCELLATIONS AND CHANGES:** Orders which have been accepted by us are not subject to cancellation or changes in specification except upon prior written agreement by us and upon terms that will indemnify us against all losses resulting from or arising out of such cancellation or change in specifications. In the absence of such indemnification, we shall be entitled to recover all damages and costs of whatever nature permitted by the Uniform Commercial Code.
- 7. DEFERRED SHIPMENT:** If shipment is deferred at your request, payment of the contract price shall become due when you are notified that the Equipment is ready for shipment. If you fail to make payment or furnish shipping instructions we may either extend the time for so doing or cancel the contract. In case of deferred shipment at your request, storage and other reasonable expenses attributable to such delay shall be payable by you.
- 8. EQUIPMENT WARRANTY AND REMEDY:** (a) For new Equipment only, we warrant to you that the Equipment that is the subject of this sale is free from defects in design (provided that we have design responsibility), material and workmanship. The duration of this warranty is twelve (12) months from delivery to you (the "Warranty Period"). If you discover within the Warranty Period a defect in design, material or workmanship, you must promptly notify us in writing. Within a reasonable time after such notification, we will correct any such defect with either new or used replacement parts, at our option. Such repair, including both parts and labor, is at our expense. (b) For repairs, parts and service provided by us, we warrant to you that the repairs parts and service we provide to you will be free from defects in material and workmanship. The duration of this warranty is ninety (90) days from as applicable (i) the date the machine which required the repairs, parts or service is returned to you by us, (ii) the date of your receipt of the part, or (iii) the date of repair, if performed at your facility. If during this ninety day period you discover a defect in the repairs, parts or service you must promptly notify us in writing. (c) All warranty service is subject to our prior examination and approval and will be performed by us at your facility or at service centers designated by us. All transportation to and from the designated service center will be at our expense. If we are unable to repair the Equipment to conform to the warranty after a reasonable number of attempts, we will provide, at our option, one of the following: (i) a replacement for such Equipment, or (ii) full refund of the purchase price. These remedies are your exclusive remedies for breach of warranty. Unless otherwise agreed in writing by us, our warranty extends only to you and is not assignable to or assumable by any subsequent purchaser, in whole or in part, and any such attempted transfer shall render all warranties provided hereunder null and void and of no further force or effect. (d) We will use all reasonable efforts to obtain for you any manufacturer's guarantees or warranties for any sub-assemblies included in the Equipment. To the extent such warranties are assignable, we hereby assign to you all warranties that are granted to us by our suppliers of any sub-assemblies contained in the Equipment. (e) The warranties set forth above are inapplicable to and exclude (i) any product, components or parts not manufactured by us or covered by the warranty of another manufacturer, (ii) damage caused by accident or the negligence of you or any third party, normal wear and tear, erosion, corrosion or by disasters such as fire, flood, wind and lightning, (iii) damage caused by your failure to follow all installation and operation instructions or manuals or to provide normal maintenance, (iv) damage caused by unauthorized or improper installation of attachments, repairs or modifications, (v) damage caused by a product or component part which we did not design, manufacture, supply or repair, or (vi) any other abuse or misuse by you or any third party.
- 9. LIMITATION OF LIABILITY:** Except for gross negligence and willful misconduct, in no event shall we be liable, and you hereby waive any claims against us and release us from liability to you, for any indirect, special, punitive, incidental, or consequential damages whatsoever based upon breach of warranty, breach of contract, negligence, strict tort, or any other legal theory. Excluded damages include, but are not limited to, loss of profits, loss of savings or revenue, loss of use of the Equipment or any associated equipment, cost of capital cost of any substitute Equipment, facilities or services, downtime, the claims of third parties including customers, and injury to property. This limitation does not apply to claims for personal injury. Some states do not allow limits on warranties, or on remedies for breach in certain transactions. In such states, certain of the limitations in this paragraph and in subparagraph 8(c) may not apply.

10. OWNERSHIP: All drawings, designs and specifications supplied by us have been prepared or assembled by us and are solely our property. Such drawings, designs and specifications have been furnished in order to provide full documentation and on the condition that they shall not be reproduced or copied in any manner whatsoever, in whole or in part, except for your internal use as necessary, and upon the further condition that, as our sole property, they shall not be used, in whole or in part, for furnishing information to others or for any purpose not specifically authorized in a writing signed by one of our corporate officers. These ownership provisions shall not be superseded by any printed form used in connection with or arising out of a sale induced by a proposal or otherwise.

11. PATENT INFRINGEMENT (a) We warrant that the Equipment in the condition sold to you is free of the rightful claim of infringement of any apparatus claims of any third-party U.S. patent issued as of the date of our acknowledgment and acceptance of your order, and we will defend, indemnify and hold you harmless from such claims; provided, however, we make no express or implied warranties of non-infringement and undertake no indemnification in respect of third-party rights where the alleged patent infringement is based upon or related to (i) any method, process or product claims in third-party U.S. patents; (ii) any combination of the Equipment with other equipment not supplied by us; or (iii) any modifications of the Equipment made by you and not approved by us.

(b) You shall notify us within 30 days of your receipt of notice of an alleged third-party patent infringement claim that would entitle you to patent infringement indemnification pursuant to paragraph 11(a), and we shall thereupon assume defense of the claim at our expense. We shall have the sole right to settle or otherwise compromise such a third-party claim, including but not limited to the right to either (i) modify the Equipment to avoid infringement if you are agreeable to the modification, (ii) repurchase the Equipment from you at a price equal to the then-current fair market value of the Equipment, or (iii) secure rights by assignment or license to permit continued use of the Equipment.

(c) If a third party charges us with patent infringement relating to Equipment sold by us to you, we shall have the right to either (i) modify the Equipment to avoid infringement if you are agreeable to the modification, (ii) repurchase the Equipment from you at a price equal to the then-current fair market value of the Equipment, or (iii) secure rights by assignment or license to permit continued use of the Equipment. If a third party charges us with patent infringement on the bases set forth in paragraph 11(a)(i), (ii) or (iii), you shall hold us harmless for all expenses and awards of damage assessed against us, and we shall also have the right to modify or repurchase the Equipment or to secure rights for continued use by way of assignment or license as set forth in this paragraph.

(d) Our total, cumulative liability under paragraphs 11(a), (b) and/or (c) is limited to 100% of the price paid to us by you for the Equipment.

12. SAFETY AND HEALTH STANDARDS: The Equipment described herein (or on the specifications provided herewith) complies with applicable safety and health standards issued pursuant to the Occupational Safety and Health Act of 1970 (the Act) and in effect on this date as such standards are interpreted and understood by us. These standards may be amended and/or their meaning may be clarified prior to shipment or performance, and if such change or clarification requires changes in the Equipment described herein, we shall make the necessary changes available to you. You shall pay for any and all such changes at our prices therefore in effect at time of shipment or performance, as the case may be. Because actual compliance by employers with the Act is beyond our control, we cannot and do not represent that the use of the Equipment described herein, nor the location, installation or maintenance thereof, will comply with the Act or regulations and standards issued pursuant thereto. We make no representation of compliance with safety and health standards contained in any statute, regulations or ordinance of any state or political subdivision thereof applicable to the Equipment described herein unless you have notified us of the existence and contents of such standards and we have agreed in writing to the incorporation of such standards in the specifications relating to such Equipment. Nothing in this provision shall operate to modify or affect in any manner whatsoever our disclaimer of any liability for consequential damages contained elsewhere in these terms and conditions of sale.

13. INSPECTION: Upon prior written notice, you may make reasonable inspections of Equipment at our facility. We reserve the right to determine the reasonableness of the request and to select an appropriate time and location for such inspection. You agree to execute appropriate confidentiality provisions upon our request prior to visiting our facility. All costs of inspection shall be solely determined by us and shall be payable by you. No inspection or expediting by you at the facilities of our suppliers is authorized.

14. SOFTWARE PROVISIONS: If software is provided hereunder, you are granted a nonexclusive, royalty free license only for your use of the software provided with our Equipment. Under this license you may: (i) use our software in machine readable object code only and only with the Equipment provided; (ii) copy our software into any machine readable object code form for back up purposes in support of your use of our software on the Equipment provided; and (iii) create one additional copy of the software for archival purposes only. This license may not be assigned, sublicensed or otherwise transferred by you without our prior written consent. You hereby recognize and acknowledge that the software provided to you hereunder comprises valuable trade secret and/or copyright property of Alfa Laval [or its licensor] and you covenant that you will take adequate precautions against access to the software by, or disclosure of the software to, anyone not authorized hereunder to use or have access to the software.

15. TIME LIMIT FOR BRINGING SUIT: Any action you file against us, whether for breach of contract, including but not limited to breach of warranty, or for negligence or strict tort, must be commenced within ~~90 days~~ within 3 years following the expiration of the Warranty Period.

16. MODIFICATION OF TERMS: The terms and conditions of sale set forth herein are an integral part of our proposal and/or confirmation of order. These terms shall not be deemed altered or modified by printed or other "standard" terms in a purchase order, acceptance or similar document. Our confirmation or acknowledgment of any order is with the express understanding that all printed or other "standard" language on any such documents submitted by you will be entirely disregarded to the extent that it varies from the terms and conditions of this proposal/order which may be modified only by typed or handwritten language in the body of your order, acceptance or similar document, together with a written acknowledgment and acceptance of such modification by us.

17. LIMITATION ON WARRANTIES: THE WARRANTIES SET FORTH HEREIN ARE IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING AN IMPLIED WARRANTY OF MERCHANTABILITY, AN IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND AN IMPLIED WARRANTY OF NONINFRINGEMENT. WE HEREBY EXPRESSLY EXCLUDE FROM THIS CONTRACT THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND THE IMPLIED WARRANTY OF NONINFRINGEMENT. OUR WARRANTIES AND LIABILITIES HEREUNDER ARE LIMITED AS STATED HEREIN.

18. APPLICABLE LAW: Any controversy or claim arising out of the contract or the breach thereof shall be finally decided with binding effect on both parties by the courts of ~~Virginia~~ North Carolina and in accordance with the laws of the ~~Commonwealth of Virginia~~ State of North Carolina without giving effect to the provisions thereof relating to conflict of laws.

THE EQUIPMENT AND PARTS DESCRIBED IN THESE TERMS AND CONDITIONS OF SALE MAY CAUSE INJURY IF NOT OPERATED PROPERLY AND FOR THIS REASON ALL OPERATORS SHOULD BECOME THOROUGHLY FAMILIAR WITH THE OPERATING INSTRUCTIONS BEFORE OPERATING THE EQUIPMENT.



June 28, 2018

Mr. Stephen Phillips
Durham County
5926 NC Hwy. 55E
Durham, NC 27713

Reference: Original Equipment Manufacturer
(OEM) for the G2-70 Decanter Centrifuge

Service Division

Alfa Laval Inc.
955 Mearns Road
Warminster, PA 18974
Tel: +1 215 443 4179
Fax: +1 804 545 2186
www.alfalaval.com

Dear, Mr. Phillips,

Alfa Laval is the Original Equipment Manufacturer (OEM) for the G2-70 Decanter Centrifuge installed at Durham County WWTP and is the sole source authorized provider all OEM parts and service. Only Alfa Laval certified personnel are allowed to install parts and service the equipment to preserve the equipment warranty. Anyone who is not authorized to install parts and service the equipment will subject the G2-70 to be out of warranty.

Alfa Laval continues to develop and bring technology to our industry. Due to the sensitive nature of our technology, our equipment and most replacement parts are either proprietary or patented, as each are designed specifically for your equipment, the application, and expected use, therefore others cannot legally manufacture our equipment or offer Alfa Laval parts and service.

Constant investment in research and development, a commitment to quality and improving our new equipment and our current equipment in operation around the world allows Alfa Laval to bring the latest development in technology to our industry and clients. This includes patent and proprietary parts. An illustration of this commitment is illustration in our quality assurance program.

Thank you for requesting this information and the opportunity to fully explain our commitment. Please feel free to contact me anytime if you have any further questions.

Best regards,

Sam Sanom
Regional Manager Parts and Service
864-395-5444