

NEWPORT-MESA UNIFIED SCHOOL DISTRICT PURCHASE AGREEMENT

This **Purchase Agreement** ("Agreement") is made and entered into this 16th day of June, 2021 by and between **Newport-Mesa Unified District**, a public agency ("District") and Waterline Technologies, Inc. ("Seller"). District and Seller may be collectively referred to as the "Parties" and individually as a "Party."

RECITALS

A. District is a California school district and is in need of certain materials, equipment or personal property as more particularly described herein.

B. Seller is authorized to sell to District the materials, equipment or personal property as more particularly described herein.

C. The Parties desire to enter this Agreement for the purpose of setting forth the terms and conditions upon which the equipment and personal property shall be sold to District.

NOW, THEREFORE, the Parties hereto hereby agree as follows:

ARTICLE 1

Purchase and Sale of Goods

1.1 **Goods.** Seller agrees to sell to District and District agrees to purchase the materials and/or equipment per the specifications attached hereto and incorporated herein as Exhibit "A" ("Goods"). Unless specifically stated otherwise, the Goods shall be new and unused and of the current production year.

1.2 **Delivery.** Time is of the essence of this Agreement. Seller shall deliver the Goods at District's High School Pool Sites as described in the bid documents as requested by the District's Maintenance and Operations Staff.

1.3 **Acceptance.** The Goods shall be received subject to District's inspection and right of rejection. The Goods shall not be considered accepted until inspection, testing and/or use of the Goods is found to be in accordance with District specifications. Final inspection of the Goods shall be at the location specified herein, unless otherwise agreed in writing. If the Goods are found at any time to be defective in material or workmanship, or otherwise not in conformance with specifications, District shall have the right, in addition to any other rights which it may have under warranties or otherwise, to reject such Goods in whole or in part. Rejected Goods shall be held at Seller's risk for a reasonable time thereafter and shall be returned or disposed of at Seller's expense. No rejected Goods shall be replaced by Seller without written instruction or authorization from District.

1.4 **Term.** This Agreement shall be effective until June 30, 2024, unless earlier terminated in accordance with Article 6. Yearly renewal of this agreement during the term is required by the District's Board of Trustees.

1.5 **Changes.** District shall have the right to make changes as to testing, destinations, specifications, designs, and delivery schedules. In the event of such a change,

District will issue a Change Order to Seller. Seller shall immediately notify District of any increases or decreases in cost or delivery time caused by such changes. No adjustment in prices, schedule, or other terms shall be effective unless and until a Change Order to this Agreement is executed by the Parties.

1.6 Incorporation. The following documents are incorporated into and made part of this Agreement by this reference:

Notice Inviting Bids
Instructions to and Information for Bidders
Bid Forms
Purchase Agreement and all exhibits thereto
Change Orders, if any
Addenda, if any

These documents shall be referred to collectively as the "Contract Documents." The Contract Documents are intended to be complementary, and a requirement in one document is as effective as if it appeared in all of the Contract Documents. In the event of a conflict between any of the Contract Documents, the documents shall be given effect in the following order: Change Orders (most recent first), Addenda (most recent first), Purchase Agreement, Information for Bidders, Notice Inviting Bids, Bid Forms.

ARTICLE 2

Shipment and Delivery

2.1 All Goods shall be packed, marked and shipped in suitable containers and in accordance with all regulatory requirements, the requirements of the carrier. In addition to the foregoing, the Goods shall be packed in accordance with good commercial practice to insure against damage from weather and/or transportation. On the date of shipment, Seller shall mail to District all shipping lists and the original of any bill of lading regarding the Goods placed in the possession of any consignee. Any Goods not shipped by Seller or received by District in accordance with those terms may be rejected by District without liability. District assumes no obligation for Goods shipped in excess of the quantities specified in this Agreement. District may, from time to time, change shipping schedules or direct that Seller temporarily suspend any shipments.

2.2 No charge shall be made for packing, crating, drayage or other similar costs.

2.3 All sales are F.O.B. to the location specified in Section 1.2 of this Agreement. Seller shall be fully responsible for the Goods and bear all risk of loss or damage until such Goods are delivered. Seller shall bear all risk of loss or damage to the Goods after written notice from District of its rejection or the cancellation of the Agreement.

ARTICLE 3

Compensation

3.1 Purchase Price. District shall compensate Seller for the purchase of the Goods pursuant to this Agreement in the amounts set forth on the schedule attached hereto as Exhibit "B" and by this reference incorporated herein ("Purchase Price").

3.2 Payment. The Purchase Price shall be paid by District at such times set forth in Exhibit "B". District may withhold payment or a portion thereof because of defective Goods not remedied or unsatisfactory performance by the Seller. District will release any withheld funds upon Seller satisfactorily remedying the issue that resulted in the withholding. District will not pay late fees to the Seller on the compensation due Seller under the terms of this Agreement.

3.3 Federal, State and Local Taxes. All prices stated herein include, unless otherwise specified, all Federal, State or local taxes that may be levied or assessed as a result of this Agreement, or are otherwise applicable to this Agreement.

3.4 Renewal Option. District shall have the unilateral option, at its sole discretion, to renew this Agreement and negotiate a revised price, if any, for no more than (2) two additional one-year terms. If the parties are unable to reach an agreement, District, at its sole discretion, will not move forward with the renewal option and will re-bid the work.

ARTICLE 4

Warranty

4.1 Warranty. In addition to all warranties which may be provided by law, Seller warrants that the Goods delivered hereunder shall, (a) be free from defect of material or workmanship and conform strictly to the specifications, drawings, or sample specified or furnished; (b) conform to drawings, plans, specifications, samples or other descriptions furnished, specified, accepted or approved by District; and (c) be merchantable and fit for the purposes intended. The warranty shall be for a period of one (1) year, or such longer period as provided by a manufacturer's warranty or as agreed to by Seller and District, from the date of final written acceptance of the Goods by District. This warranty shall survive any inspection, delivery, acceptance, or payment by District of the Goods. Seller, at its own expense, shall repair or replace, at the option of District, any defective Goods within two (2) business days after receipt of notice from District or within four (4) hours in case of emergency, as determined by District. Seller also warrants that the Goods are free and clear of all liens and encumbrances whatsoever, that Seller is conveying good and marketable title to same, and that Seller owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Goods. Seller agrees to indemnify, defend and hold District harmless against any and all third party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

ARTICLE 5

Accounting, Inspection and Audit

5.1 Records. Seller shall keep and shall preserve for four (4) years after acceptance of the Goods, accurate and detailed records of all ledgers, books of account, invoices, vouchers, cancelled checks, and other documents or records evidencing or relating to the scope of this Agreement and disbursements charged to District under this Agreement (collectively, "Books and Records"). Any and all Books and Records must be maintained in accordance with generally accepted accounting principles and must be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Seller under this Agreement. During such four (4) year period, Seller shall give District and its agents, during normal business hours, access to such Books and Records. District and its agents shall have the right to make copies of any of the said Books and Records.

5.2 Custody. Where District has reason to believe that any of the Books and Records required to be maintained by this Article may be lost or discarded due to dissolution or termination of Seller's business, District may, by written request, require that custody of such Books and Records be given to a person or entity mutually agreed upon and such Books and Records thereafter shall be maintained by such person or entity at Seller's expense. Access to the Books and Records shall be granted to District and its Representatives.

ARTICLE 6

Termination

6.1 Termination. District may terminate the Agreement, in whole or in part, with or without cause, upon ten (10) days written notice to Seller. Upon receipt of the termination notice, Seller shall promptly stop work unless the notice directs to the contrary. In the event District renders such written notice to Seller, Seller shall be entitled to compensation for all services properly rendered prior to the effective date of the notice and all further services set forth in the notice. District shall be entitled to reimbursement for any compensation paid in excess of services rendered and shall be entitled to withhold compensation for defective work or other damages caused by Seller. Seller acknowledges District's right to terminate this Agreement as provided in this Article, and hereby waives any and all claims for damages that might arise from District's termination of this Agreement. Seller shall deliver to District and transfer title (if necessary) to all completed work, and work in progress including drafts, documents, plans, forms, maps, products, graphics, computer programs and reports. District shall not be liable for any costs other than the charges or portions thereof which are specified herein. Seller shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

ARTICLE 7

California Labor Code Provisions

(If Applicable)

7.1 Prevailing Wage Rates. Seller is aware of the requirements of California Labor Code sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Seller agrees to fully comply with such Prevailing Wage Laws, if applicable. Seller shall defend, indemnify and hold District, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Seller and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors.

7.2 Registration. If the services are being performed as part of an applicable "public works" or "maintenance" project, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Seller and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Seller shall maintain registration for the duration of the project and require the same of any subconsultants. This project may also be subject to

compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Seller's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

7.3 Labor Certification. By its signature hereunder, Seller certifies that it is aware of the provisions of section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

ARTICLE 8

Project Management

8.1 Representative of Seller. Thomas Berry, General Manager ("Seller's Representative") is hereby designated as the principal and representative of Seller authorized to act on its behalf with respect to the work and services specified herein and to make all decisions in connection herewith. Seller shall not substitute Seller's Representative without first notifying District in writing of Seller's intent. District shall have the right to review the qualifications of said substitute. If District determines said substitute Seller's Representative is unacceptable, Seller shall submit alternate candidates until District determines that substitute Seller's Representative is acceptable.

8.2 Representative of District. Patrick Bullock is hereby designated as the representative of District and except as otherwise provided herein authorized to act on its behalf with respect to the work and services specified herein and make all decisions in connection therewith.

ARTICLE 9

Title to Work Product

9.1 Title to Work Product. As applicable, District shall at all times retain title to all technical information, trade secrets, samples, blueprints, patterns, drawings and specifications and other materials (collectively, "Work Product") furnished or paid for by District and intended for use in connection with this Agreement. Seller shall use such Work Product only in connection with this Agreement, and shall not disclose such Work Product to any person, firm, or corporation other than District's or Seller's employees, subcontractors, or government inspectors without the prior written consent of District, which consent may be withheld in District's sole and absolute discretion. Seller will take such steps as are necessary to perfect the ownership interest of District in the Work Product. Upon District's request or upon completion of this Agreement, Seller shall promptly return all Work Product to District.

ARTICLE 10

Insurance

10.1 Insurance. Seller agrees to procure and maintain, at Seller's expense all insurance specified in Exhibit "C" attached hereto and by this reference incorporated herein. Seller shall require all subconsultants to carry the same policies and limits of insurance that the

Seller is required to maintain pursuant to this Article, unless otherwise approved in writing by District, and shall furnish separate certificates and endorsements for each subcontractor.

10.2 Failure to Procure and Maintain Insurance. If Seller fails or refuses to procure or to maintain the insurance as required by this Agreement or fails or refuses to furnish District with required proof that the insurance has been procured and is in force and paid for, District shall have the right, at District's election and upon ten (10) days' notice to Seller, to terminate this Agreement or procure and maintain such insurance. The premiums paid by District shall be treated as an amount due from Seller with interest at the rate of ten percent (10%), to be paid on the first (1st) day of the month following the date on which the premiums were paid. District shall have the right to offset any amounts District pays hereunder with amounts due Seller for services rendered pursuant to this Agreement. District shall give prompt notice of the payment of such premiums, stating the amounts paid and the names of the insurer or insurers, and interest shall run from the date of the notice.

ARTICLE 11

Indemnification

11.1 Seller's Duty to Indemnify. To the fullest extent permitted by law, Seller shall indemnify, defend with legal counsel approved by District, and hold harmless District, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including, without limitation, reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or related to the services rendered pursuant to this Agreement, except such loss or damage which is caused by the sole or active negligence or willful misconduct of District. Should conflict of interest principles preclude a single attorney from representing both District and Seller, or should District otherwise find Seller's legal counsel unacceptable, then Seller shall reimburse District its costs of defense, including without limitation reasonable attorneys' fees, expert fees and all other cost and fees of litigation. The Seller shall promptly pay any final judgment rendered against District (and its officers, officials, employees and volunteers) except for claims determined by a trier of fact to have been the result of District's sole or active negligence or willful misconduct. The foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

ARTICLE 12

General Provisions

12.1 Notices. All notices permitted or required under this Contract shall be given at the following address, or at such other address as the parties may provide in writing for this purpose:

Newport-Mesa Unified School District:

2985 Bear Street
Costa Mesa, CA 92626
Attn: Jonathan Geiszler

Seller: Waterline Technologies, Inc.

620 North Santiago Street
Santa Ana, CA 92701
Attn: Thomas Berry, General Manager

The parties may designate, in writing, other individuals to whom notice is to be given. Notices shall be deemed to be received upon personal delivery to the addresses above; if sent by overnight delivery, upon delivery as shown by delivery service records; if sent by facsimile, upon receipt as confirmed by the sending facsimile equipment; if by United States Postal Service, five days after deposit in the mail.

12.2 Notification. In the event of a problem or potential problem that could impact the quality or quantity of work, services or the level of performance under this Agreement, the Seller shall, within one (1) business day of actual knowledge of the problem or potential problem, notify District in writing and by telephone.

12.3 Separate Contracts. Seller understands that this is not an exclusive Agreement and that District shall have the right to negotiate with and enter into separate contracts with others providing the same or similar services as those provided by Seller as District desires.

12.4 Compliance with Applicable Laws. Seller shall, in the performance of this Agreement, comply with all federal, state and local laws and regulations and orders issued under any applicable law.

12.5 Disputes. If any dispute should arise between the Parties concerning the performance of this Agreement, the payments to be made, or the manner of accomplishment of the work, Seller shall nevertheless proceed to perform the work as directed by District pending settlement of the dispute.

12.6 Setoffs and Counterclaims. All claims for moneys due or to become due to Seller shall be subject to deduction by District for any setoff or counterclaim arising out of this or any other of District's agreements with Seller.

12.7 No Waiver. The fact that District has made payment under this Agreement shall not be interpreted so as to imply District has inspected, approved or accepted the work which has been performed by Seller. No delay or omission in the exercise of any right or remedy by the non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of the Agreement.

12.8 Assignment and Subcontractors. Seller shall not assign or subcontract any portion of the work to be performed under this Agreement or any of the rights or obligations under this Agreement, without the prior written consent of District, which consent may be withheld in District's sole and absolute discretion. Any attempted assignment in violation of the provisions of this paragraph shall be void. Subject to the foregoing, this Agreement shall be binding upon the heirs, administrators, successors and assigns of District and Seller.

12.9 Independent Contractor. Seller shall act as an independent contractor in the performance of this Agreement and in no respect shall Seller be considered an agent or employee of District. No provisions of this Agreement shall be intended to create a partnership or joint venture between Seller and District and neither Party shall have the power to bind or obligate the other Party, except as expressly set forth in this Agreement.

12.10 Non-Liability of District Officials and Employees. No official or employee of District shall be personally liable to the Seller in the event of any default or breach by District or for any amount which may become due to the Seller or for any breach of the terms of this Agreement.

12.11 Conflict of Interest. The Seller warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

12.12 Confidential Information. All information gained or Work Product produced by Seller in the performance of this Agreement will be considered confidential, unless such information is in the public domain. Seller shall not release or disclose any such information or Work Product to persons or entities other than District without the prior written consent of the General Manager of District, except as otherwise required by law. Seller shall promptly notify District should Seller, or its Representatives be served summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions or other discovery request or court order from any third party regarding this Agreement and the services performed under this Agreement.

12.13 Amendment. This Agreement may not be amended except by a subsequent writing which is signed by the Parties.

12.14 Cooperation. Seller shall cooperate in the performance of work with District and all other agents.

12.15 Incorporation of Recitals. The Recitals and section titles set forth herein are incorporated herein and are an operative part of this Agreement.

12.16 Governing Law, Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The Parties agree that any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the federal or state courts located in Orange County, California, and the Parties hereto consent to the exercise of personal jurisdiction over them by any such courts for purposes of any such action or proceeding

12.17 Attorneys' Fees and Costs. If any action in law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, each Party shall pay its own attorneys' fees.

12.18 Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, then the Parties agree that such invalidity or unenforceability shall have no effect whatsoever on the balance of this Agreement.

12.19 Counterparts. This Agreement may be signed and delivered in any number of counterparts, each of which, when signed and delivered, shall be an original, but all of which shall together constitute one and the same Agreement.

12.20 Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter of this Agreement and any agreement or representation with respect to the same or the obligations of either Party with respect to the same which is not expressly provided in this Agreement or in a written document which is signed by the Party to be charged, shall be null and void.

12.21 Time is of the Essence. Time shall be of the essence as to all dates and times of performance contained in this Agreement. If deliveries are not made at the time agreed upon, District reserves the right to cancel or to purchase elsewhere and hold Seller accountable therefor. Seller shall be liable to District for any loss or damage caused by Seller's failure to make timely delivery and/or installation of the Goods, including, without limitation, consequential and incidental damages and costs of obtaining replacement Goods.

12.22 Authority to Execute. Each Party represents and warrants to the other Party that all necessary action has been taken by such Party to authorize the undersigned to execute this Agreement and to bind it to the performance of its obligations hereunder.

12.23 Binding on Successors. All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the Parties hereto, shall be binding upon and inure to the benefit of such Party, its successors and assigns.

12.24 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification obligations, shall survive any such expiration or termination.

12.25 Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than District and the Seller.

[SIGNATURES ON FOLLOWING PAGE]

**PURCHASE AGREEMENT
SIGNATURE PAGE**

IN WITNESS WHEREOF, the Parties have hereunto set their hands on the first day date above written.

**NEWPORT-MESA UNIFIED SCHOOL
DISTRICT**

By: _____

Printed Name: _____

Title: _____

Dated: _____

Waterline Technologies, Inc.

By: _____

Printed Name: _____

Title: _____

Dated: _____

PURCHASE AGREEMENT

EXHIBIT LIST

EXHIBIT "A" – GOODS SPECIFICATION & DELIVERY SCHEDULE

EXHIBIT "B" – COMPENSATION (BID SUBMITTAL)

EXHIBIT "C" – INSURANCE REQUIREMENTS

EXHIBIT "A"
TO
PURCHASE AGREEMENT
GOODS SPECIFICATION & DELIVERY SCHEDULE

Various pool chemicals as provided in Exhibit B

EXHIBIT "B"
TO
PURCHASE AGREEMENT
COMPENSATION (BID SUBMITTAL)

Pool Supplies Bid # 128-21
Pricing Spreadsheet

Bidder Name: Waterline Technologies Inc

Line	Description	Item Number	Container Size/Weight	Unit of Measure	Estimated Annual Usage	Unit Price	Extended Cost
1	Calcium Chloride		50 lb.	Bag	90	\$17.00	\$1530.00
2	Muriatic Acid		4 x 1 gallon jug	Case	100	\$19.80	\$1980.00
3	Muriatic Acid		55 gallons	Drum	120	\$133.00	\$15960.00
4	Liquid Chorine		4 x 1 gallon jug	Case	100	\$14.80	\$1480.00
5	Hypochlorite solution		Bulk	Gallon	85,000	\$1.08	\$91800.00
6	Soda Ash		50 lb.	Bag	20	\$15.50	\$310.00
7	Sodium Bicarbonate		50 lb.	Bag	486	\$15.10	\$7338.60
8	Hydrochloric Acid (pre-diluted 4 to 1)		Bulk	Gallon	500	\$1.80	\$900.00
9	Hydrochloric Acid, Bulk, sold per gallon		Bulk	Gallon	5,000	\$2.05	\$10250.00
10	Co2		Bulk	Lbs	130,000	\$0.42	\$54600.00

Total Cost:	\$186148.60
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Operational Criteria:

- 1 One invoice per week, separated by location
- 2 No sales tax on freight
- 3 No drum deposits on items #3 and #4. District and Supplier will maintain an accounting of delivery cases and drums to avoid loss of containers
- 4 Contractor to field verify connection type, location and access to safely supply chemicals from designated filling locations as shown on bid exhibit A photos.

EXHIBIT "C"
TO
PURCHASE AGREEMENT
INSURANCE REQUIREMENTS

1. Time for Compliance. Contractor shall not commence Work under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under this Section. Contractor shall require and verify that all subcontractors maintain insurance meeting all of the requirements stated herein. Contractor shall not allow any subcontractor to commence work on any subcontract until each subcontractor has provided evidence to Contractor that all insurance required under this Section has been secured.
2. Minimum Insurance Requirements. Prior to the beginning, and throughout the duration of services to be performed, Contractor shall, at its expense, procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement and shall verify subcontractors' compliance as specifically set forth in the Section entitled "Subcontractor Insurance Requirements" below. Contractor's and subcontractors' insurance shall meet at least the following minimum levels of coverage:
 - (A) **Commercial General Liability Insurance** which shall be written on an occurrence basis and be at least as broad as the latest version of ISO form CG 00 01 with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Such policy shall include Broad Form Contractual Liability coverage.
 - (B) **Business Automobile Liability insurance** which shall be as broad as ISO form CA 00 01 covering bodily injury and property damage with a combined single limit of not less than \$1,000,000 per accident for all owned, non-owned, and hired automobiles used in connection with the services or operations to be performed under this Agreement.
 - (C) **Workers' Compensation Insurance** with statutory limits, and **Employer's Liability insurance** with limits of not less than \$1,000,000 per accident or disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of District, its directors, officials, officers, employees, agents, and volunteers.
3. Provisions Applicable to All Insurance Requirements.

(a) **Additional Insured Coverage.** Except for the Workers' Compensation insurance policy, all liability policies shall be endorsed to include District, its directors, officials, officers, employees, agents, and volunteers as additional insureds on all primary, umbrella or excess policies for ongoing and completed operations performed by, or on behalf of Contractor. Coverage for the additional insured under the Commercial General Liability policy shall be as broad as that provided by ISO CG 20 10 (ongoing operations) and 20 37 (completed operations).

(b) **Acceptability of Insurers.** Unless otherwise reviewed and accepted by District, all required insurance must be placed with insurers with a current A.M. Best rating of not less than A- VII and be admitted to do business in California, or approved by the Surplus Lines Association.

(c) **Verification of Coverage.** Contractor shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to District. The certificates of insurance shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by District before work commences. District reserves the right to require complete, certified copies of all required insurance policies, at any time. Acceptance of Contractor's Certificates of Insurance does not relieve Contractor of the insurance requirements, nor decrease the liability of Contractor under this Agreement. It is Contractor's responsibility to ensure its compliance with these insurance requirements. Any actual or alleged failure on the part of District to obtain proof of insurance required under this Agreement shall not in any way be construed as a waiver of any right or remedy of District, in this or any regard.

(d) **Primary and Noncontributory.** The insurance required to be maintained by Contractor shall primary and any insurance or self-insurance maintained by District shall be excess only, and not be required to contribute with it.

(e) **Umbrella or Excess Insurance.** Any Umbrella or Excess insurance shall also apply on a primary and noncontributory basis for the benefit of District, before District's own primary insurance or self-insurance shall be called upon to protect it as a Named Insured.

(f) **Waiver of Subrogation.** Contractor shall obtain waiver of subrogation endorsements stating that Contractor and its insurers waive any and all rights of recovery against District, its directors, officials, officers, employees, agents, and volunteers. Contractor shall pay all damages and costs arising out of Contractor's failure to provide a waiver of subrogation from its insurers.

(g) **Broader Coverage and Limits.** The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

(h) **Severability of Interest (Cross Liability).** A severability of interest provision must apply for the additional insureds, ensuring that Contractor's insurance shall apply

separately to each insured against whom a claim is made or suit is brought, except with respect to the policies' limits.

(i) **Notices: Cancellation or Reduction of Coverage.** At least fifteen (15) days prior to the expiration of any such policy, evidence showing that such insurance coverage has been renewed or extended shall be filed with District. If such coverage is cancelled or materially reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with District evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. In the event any policy of insurance required under this Contract does not comply with these specifications or is canceled and not replaced, District has the right but not the duty to obtain the insurance it deems necessary and any premium paid by District will be promptly reimbursed by Contractor or District may withhold amounts sufficient to pay premium from Contractor payments. In the alternative, District may suspend or terminate this Agreement. No policy required to be maintained by Contractor shall be canceled and not replaced with equivalent coverage without thirty (30) days prior written notice to District, unless cancellation is due to the non-payment of premium, in which case, ten (10) days prior written notice shall be provided.

(j) **Claims-Made Coverage.** For any coverage provided on a claims-made form (which type of form is only permitted at District's sole discretion) the following shall apply:

- i. The retroactive date must be shown, and must be before the date of this Agreement and before the commencement of services or operations related to this Agreement;
- ii. Insurance must be maintained and Certificates of Insurance must be provided to District for at least three (3) years after the expiration or earlier termination of this Agreement;
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement or commencement of any services or operations related to this Agreement, Contractor must purchase an extended reporting period for a minimum of three (3) years after the expiration or earlier termination of this Agreement.

(k) **Deductibles, Self-Insurance, Self-Insured Retentions.** Any deductibles, self-insurance, or self-insured retentions (SIRs) applicable to the required insurance coverage shall be declared to, and accepted by, District. At the option and request of District, Contractor shall provide documentation of its financial ability to pay the deductible(s), self-insurance, or SIR.

4. **Subcontractor Insurance Requirements.** Contractor shall not allow any subcontractors to commence work on any subcontract relating to the work under the Agreement until Contractor has verified that all subcontractors have procured insurance meeting all requirements under this Agreement and provided evidence to Contractor of such insurance. If requested by Contractor, District may approve different scopes or minimum limits of insurance for particular subcontractors. The Contractor and District shall be named as additional insureds on all subcontractors' policies of liability insurance.

5. **Reservation of Rights.** District reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

END OF INSURANCE REQUIREMENTS



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/20/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER FEDERATED MUTUAL INSURANCE COMPANY HOME OFFICE: P.O. BOX 328 OWATONNA, MN 55060		CONTACT NAME: CLIENT CONTACT CENTER PHONE (A/C, No, Ext): 888-333-4949 FAX (A/C, No): 507-446-4664 E-MAIL ADDRESS: CLIENTCONTACTCENTER@FEDINS.COM	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: FEDERATED MUTUAL INSURANCE COMPANY	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

INSURED
WATERLINE TECHNOLOGIES INC
620 N SANTIAGO ST
SANTA ANA, CA 92701-3942

308-577-6

COVERAGES

CERTIFICATE NUMBER: 88

REVISION NUMBER: 4

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY	N	N	0623485	08/15/2020	08/15/2021	EACH OCCURRENCE
	☐ CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)
							MED EXP (Any one person)
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY
	☒ POLICY ☐ PRO-JECT ☐ LOC						GENERAL AGGREGATE
	OTHER:						PRODUCTS - COMP/OP AGG
A	AUTOMOBILE LIABILITY	N	N	0623485	08/15/2020	08/15/2021	COMBINED SINGLE LIMIT (Ea accident)
	☒ ANY AUTO						BODILY INJURY (Per person)
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)
A	☒ UMBRELLA LIAB ☒ OCCUR	N	N	0623486	08/15/2020	08/15/2021	EACH OCCURRENCE
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE
	☐ DED ☐ RETENTION						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N / A					PER STATUTE
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						OTH-ER
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT
							E.L. DISEASE - EA EMPLOYEE
							E.L. DISEASE - POLICY LIMIT

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATEHOLDER IS AN ADDITIONAL INSURED FOR GENERAL LIABILITY.
PROJECT: DELIVERY OF POOL CHEMICALS TO VARIOUS SCHOOLS IN THE DISTRICT.

CERTIFICATE HOLDER

308-577-6
NEWPORT MESA UNIFIED SCHOOL DISTRICT
2985 BEAR ST STE E
COSTA MESA, CA 92626-4300

88 4

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Michael G Ken

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organizations:	Location(s) Of Covered Operations
NEW PORT MESA UNIFIED SCHOOL DISTRICT 2985 A BEAR STREET COSTA MESA CA 92626	ANY COVERAGE PROVIDED BY THIS ENDORSEMENT APPLIES ONLY TO THE DELIVERY OF POOL CHEMICALS TO VARIOUS SCHOOLS IN THE DISTRICT.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

WATERLINE TECHNOLOGIES INC
620 N SANTIAGO ST
SANTA ANA CA 92701

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/17/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Newfront Insurance Services, LLC 55 2nd Street Floor 18 San Francisco CA 94105	CONTACT NAME: Nicole Chow PHONE (A/C, No, Ext): (415) 754-3635 FAX (A/C, No): E-MAIL ADDRESS: nicole.chow@newfront.com														
INSURED Waterline Technologies Inc. 620 N Santiago St Santa Ana CA 92701	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Service American Indemnity Co</td> <td>39152</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Service American Indemnity Co	39152	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐	N/A ☒	SAMTWC0031500	07/01/2020	07/01/2021	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Waiver of Subrogation applies in favor of Newport Mesa Unified School District, its directors, officials, officers, employees, agents, and volunteers.

CERTIFICATE HOLDER

CANCELLATION

Newport Mesa Unified School District 2985 Bear St Ste E Costa Mesa CA 92626	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT— CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 0.020% of the California workers' compensation premium otherwise due on such remuneration.

Schedule**Person or Organization**

Blanket Waiver of Subrogation as required by written contract

Job Description

Contract

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date: 07/01/2020 Policy No. SAMTWC0031500

Endorsement No.

Policy Effective Date: 07/01/2020 to 07/01/2021

Premium \$

Insured: Waterline Technologies, Inc

DBA:

Carrier Name / Code: Service American Indemnity Company (Method)

Countersigned by





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/17/2021

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PRODUCER Newfront Insurance Services, LLC 55 2nd Street Floor 18 San Francisco CA 94105	CONTACT NAME: Nicole Chow PHONE (A/C, No, Ext): (415) 754-3635 FAX (A/C, No): E-MAIL ADDRESS: nicole.chow@newfront.com														
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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
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A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐	N/A ☒	SAMTWC0031501	07/01/2021	07/01/2022	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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CERTIFICATE HOLDER

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WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT— CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

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Schedule**Person or Organization**

Blanket Waiver of Subrogation as required by written contract

Job Description

Contract

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date: 07/01/2021 Policy No. SAMTWC0031501 Endorsement No.

Policy Effective Date: 07/01/2021 to 07/01/2022 Premium \$

Insured: Waterline Technologies, Inc

DBA:

Carrier Name / Code: Service American Indemnity Company (Method)

Countersigned by

Chi Shy