



Memo

To: Board of Directors
From: Robert McLeod, Board Director Public Services
Date: July 20, 2022
Re: Discussion - Authorize Purchase (1) Trailer mounted Generator

Discussion

To purchase trailer mounted 100KW Generator from Global Power for a cost of \$81,375.00. Bids were sent out to four different vendors only two returned bids. We would like to award the bid to Global Power. Budget for the generator is \$85,000.00 and planned for this year.

Background

Staff relies on the power company and good timing during power outages for water tanks to be filled. With a new generator, staff will be able to fill water tanks, pump down lift stations, and run other facilities during power outages as needed.

<u>VENDOR W/ FULL SPECIFICATIONS</u>	<u>NOTES</u>	<u>BID DATE</u>	<u>BID DUE</u>	<u>TAX</u>	<u>TOTAL</u>
Global Power Supply LLC		4/18/2022	6/21/2022		\$81,375.00
Cummins Sales and Services		4/18/2022	6/21/2021		\$92,634.00
Cummins Mid-South	NO BID	4/18/2022	6/21/2022		\$0.00
Electric Generators Direct	NO BID	4/18/2022	6/21/2022		\$0.00

WIP# 18302-000-PU30 BUDGET: \$85,000.00



BOARD AGENDA FACT SHEET
AUTHORIZATION FOR MAJOR EXPENDITURES

PROJECT NAME: Trailer Mounted 100KW Generator

DEPARTMENT: Public Utilities (PU30) **REQUESTED BOARD DATE:** 7/20/2022

REQUESTED ACTION

Board Approval Discussion/Presentation Other (Specify)

PROJECT/CAPITAL SUMMARY

Project to include long line striping and marking along Hot Springs Village roadways. See attached scope of work for listing of projects to be completed on each roadway.

JUSTIFICATION

Purchase of 100KW Generator with trailer mounting capability.

BID INFORMATION

<i>BID (recommended bid in bold)</i>	Base Price	Freight	Sales Tax	Grand Total
Global Power Supply LLC	74,458.13		6,916.88	81,375.00
Cummins Sales and Services	84,760.11		7,873.89	92,634.00
Cummins Mid-South	No Bid			-
Electric Generators Direct	No Bid			-

BUDGET DETAILS

ITEM	COST	BUDGETED	UNBUDGETED	NOTES
18302-000-PU30	\$ 81,375	\$ 85,000	\$ -	- Proposed bid under budget.

NOTES

Responsible Director Ken Unger, Public Services Director

Project Manager Chris Boutzale, Water & Wastewater Plants Superintendent

MODEL

HRIW-125 T4F

60Hz MOBILE/PRIME/STANDBY POWER



100kW/60Hz/MOBILE/1800RPM



VOLTAGE VAC	120/240V		120/208V		139/240V		277/480V		347/600V**	
RATING	Prime	Standby	Prime	Standby	Prime	Standby	Prime	Standby	Prime	Standby
PHASE	1		3		3		3		3	
PF	1.0		0.8		0.8		0.8		0.8	
HZ	60		60		60		60		60	
KW	72.2	79.4	100.0	110.0	100.0	110.0	100.0	110.0	N/A	N/A
KVA	72.2	79.4	125.0	137.7	125.0	137.7	125.0	137.7	N/A	N/A
AMPS	301	331	347	381	301	331	150	165	N/A	N/A
SKVA@30% VOLTAGE DIP	304		530		530		530		N/A	

Description

HIPOWER® Mobile generators are an efficient, reliable and versatile source of mobile electrical power. Designed to operate in the most extreme working conditions. All HIPOWER® Mobile Generators combine an innovative design and the use of high quality materials that provide the user with the most dependable power that you can rely on for non-stop power with easy to operate controls.

Powered by a radiator-cooled, industrial ISUZU Diesel engine, which meets current Environmental Protection Agency (EPA) TIER 4 Final non-road exhaust emission regulations, driving a single bearing, four-pole, three-phase alternator, with IP23 protection. The Prime Power kVA rating for generator set is given with a 105 degree °C alternator winding temperature rise.

HIPOWER® Features and Benefits

ISUZU Diesel Engine: Long-life, heavy-duty, 4-cycle, direct injection engine for economy of operation and maximum reliability and durability. Capable of full rated load acceptance in one step.

Cooling: Radiator with belt driven pusher fan.

Air Filter: Heavy-duty replaceable element air-cleaner.

Alternator: Single bearing, rotating field, self-excited, self-ventilated, 12-wire re-connectable, 60Hz brushless alternator with permanent magnetic generator (EBS), with Class F insulation. Automatic voltage regulator (AVR) providing close voltage regulation and skVA starting capability for electric motor loads.

Certification: ISO 8528-5.

HIPOWER® Features and Benefits

Fuel Tank: Environmentally friendly steel base welded sub-base fuel tank with internal filling system and 110% containment capability for any diesel fuel, coolant or engine oil spills. Easy access for maintenance activities.

Enclosure: Fully sound attenuated enclosure, fabricated in 11-gauge steel, powder coated with finish that exceeds 1000-hr salt spray test, curved edges, minimum outside fasteners and single point lift. Ample layer of durable Rockwool sound insulating material placed all around the inside of the container, doors and ducting with metal retaining frames. It can be cleaned with high-pressure water and is oil and fire resistant. Vertical air discharge for quiet operation. Wide steel lockable access doors with rubber seals, easy access for maintenance and service activities, lift off stainless steel hinges, corrosion resistant hardware and fasteners.

Exhaust: Low noise, steel residential-type exhaust silencer with rain cap.

Fuel Filtration: Standard and secondary water separator with visible level on fuel filters.

Voltage Selector Switch: Three-position, manual voltage selector switch. Lockable in three positions for switching set between 120/240V single phase and 120/208 and 277/480V 3-phase.

Controls: Digital control panel with manual and automatic start and stop features. Many programmable automatic functions for local and remote controls with LED lights, tamper proof engine hour recorder. Load Connections: Covered distribution panel for easy access to cable power outlets, receptacles, lugs and Camlocks.

HIMOINSA POWER SYSTEMS, INC.

16600 S. Theden Street, Olathe, KS 66062

Tel: 913 495 5557 | Fax: 913 495 5575 www.hipowersystems.com

Codes and Standards Compliances used where applicable



APPLICATION DATA

ENGINE SPECIFICATION

Manufacturer	ISUZU
Model	4HK1X
EPA certified	Tier 4 FINAL
Crankshaft speed	1,800 rpm
Type	Diesel, 4-stroke
Injection	Direct
Aspiration	Turbocharged
Number of Cylinders	4
Cylinder arrangement	In-line
Displacement CID (liters)	317.3 (5.2)
Bore and Stroke ins (mm)	3.74 x 4.12 (95.4 x 104.9)
Nominal power	169 hp
Cooling	Liquid
Governor	Electronic
Governor Regulation Class	ISO 8528 Part 1 Class G3
Frequency Regulation	Isochronous
Starting motor & alternator	12 volt
Compression ratio	16.5:1
Air cleaner type	Heavy duty - single cartridge
Exhaust gas flow cu. ft./minute (cu.m. /minute)	169 (4.8)
Max. Exhaust temp at full load degrees °F (°C)	470 (243)
Max. permissible back pressure - ins H2O (kPA)	53.2 (13.3)

COOLING SYSTEM

Engine cooling air flow - cu. ft./min (cu. m/min)	2944 (83.0)
Alternator cooling flow - cu. ft./min (cu. m/min)	1308 (36.7)
Total cooling air flow (engine + alternator + combustion) - cu. ft./min (cu. m/min)	4549 (126.7)
Total cooling capacity - US gallons (liters)	19.7 (5.2)
Max. Operating Temperature °F (°C)	122 (50)

LUBRICATION SYSTEM

Oil pan capacity - US gallons (liters)	5.8 (21.8)
Oil pan capacity with filter - US gallons (liters)	6.33 (23.78)
Oil cooler	Liquid
Recommended lubricating oil grade	SAE 10W-40 conventional DH4 (refer to owners manual)
Oil consumption at full load	< 0.1% of fuel consumption
Oil pressure – psi (kPA)	65 (450)

ENGINE ELECTRICAL SYSTEM

Starting motor voltage	12 volt
Cold Cranking Amps - minimum	150 Amp
Battery charging Alternator	110 Amp
Battery capacity	950 Amps

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APPLICATION DATA

FUEL SYSTEM

Recommended fuel	# 2 - ULSD
Fuel supply line, min. ID mm(in.)	-
Fuel return line, min. ID, mm (in.)	-
Max. lift, fuel pump, type, m (ft)	TBD
Fuel filter	Secondary 8 Microns @ 98% Efficiency
DEF Tank capacity - US Gal.	74

FUEL and DEF COMPSUMTION	FUEL (Prime Power Rating)	DEF (% of fuel consumption)
100% load – US gallons/hour (L/hr)	8.4(31.6)	3 %
75% load - US gallons/hour (L/hr)	6.4 (24.0)	TBD
50% load - US gallons/hour (L/hr)	4.4 (16.5)	TBD
25% load - US gallons/hour (L/hr)	2.5 (9.4)	TBD

ALTERNATOR SPECIFICATION

Manufacturer	STAMFORD
Model	UCI 274 E with PMG
Voltages	120/208v.; 277/480v.; 120/240V
Alternator Type	Four pole, rotating field
Excitation System	Brushless. PMG-excited
Power factor	0.8 / 1.0
Number of leads	12 leads, reconnectable
Stator Pitch	2/3
Insulation	Class H
Windings – Temperature Rise	Class F (105/40° C)
Enclosure (IEC-34-S)	IP23
Bearing	Single, sealed
Coupling	Flexible disc
Amortisseur windings	Full
Voltage regulation – no load to full load with MX341 AVR	± 1%
TIF	<50
Radio Frequency Emissions compliance	Meets requirements of most industrial and commercial applications
Line harmonics	5% maximum

STANDARD ACCESSORIES

• Air Filter Restriction Indicator	• Rheostat- Potentiometer on the front panel
• Leakage Detection Sensor	• Water Jacket Heater
• Battery Switch	• Shunt Trip on MLCB
• Crankcase Ventilation Filter	• 3 Position Voltage Selector Switch
• Coolant Drain Extention	• PMG Excitation on Alternator
• Distribution Panel 400A	• Leakage Detector Sensor
• Low Coolant Switch	• Leak Proof Tray
• Extended Maintenance Interval up to 500 Hrs.	• Low Coolant Level Sensor

•Distribution power panel *See image RH back-page - NEMA 3R/IP67 0.09" aluminum panel, black powder coated, weather proof rated; individual Square-D QOU branch breakers; 2 x 20A 125V NEMA5-20 GFCI duplex receptacles; 3 x 50A 125/250V CS6369 twist-lock receptacles & Lexan covers; 1 x15A 125V NEMA 5-15P Shore line connector; 1 set 400A single pin Camlocks rated 400A with snap covers; color coded Camlocks 3 - 5W black, red blue, white & green; pad lockable 1/4 turn door access with cable trap; auxiliary bus bars with mechanical lugs; 1 single barrel lug per phase; mechanical lugs up to 250MCM cable

OPTIONAL ACCESSORIES

• Battery Blanket	• Low coolant level Sensor
• Hydronic heater (5 kw)	• Engineered Options available upon request

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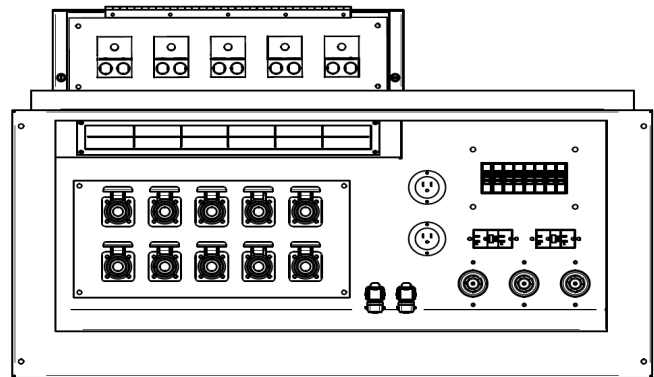
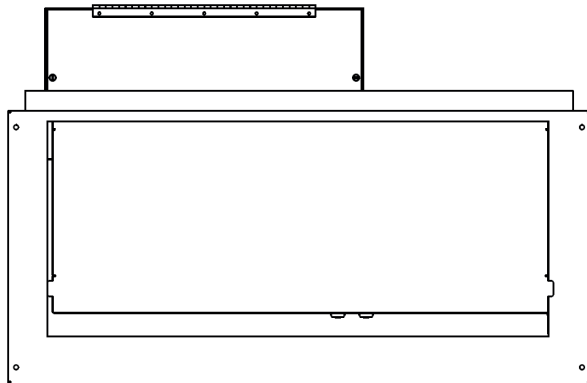
CONTROL SYSTEMS STANDARD FEATURES - Generator Digital Control Panel

HIPOWER® COMAP IntelliGen NT Control Panel: The IntelliGen NT digital control panel is back-lit with icon LCD text display, and is PC configurable. IntelliGen NT is a comprehensive controller for both single and multiple gen-sets operating in standby or parallel modes. Compact construction is optimized for these purposes and various modifications allow customers to select the optimum type for a particular application. A built-in synchronizer and digital isochronous load sharer allow a total integrated solution for gen-sets in standby, island parallel or mains parallel. Native cooperation of up to 32 gen-sets is a standard feature. IntelliGen NT supports many standard ECU Types and is specially designed to easily integrate new ones. Engine alarms included:

High coolant temperature, low oil pressure, low coolant level, unexpected shutdown, low fuel level, stop failure, low battery voltage, battery charging alternator failure, over-speed, under-speed, start failure and emergency stop. Support of engines with ECU (J1939, Modbus and other proprietary interfaces); alarm codes displayed in text form.

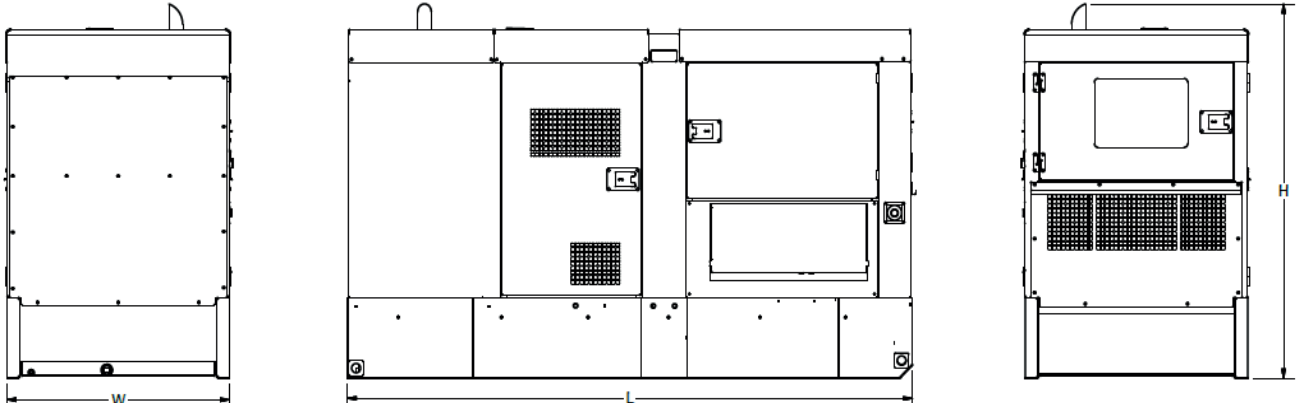


Alternator alarms included: Overload, unbalanced voltage, over voltage, under voltage, over frequency, under frequency, short circuit, reverse power, and incorrect phase sequence.



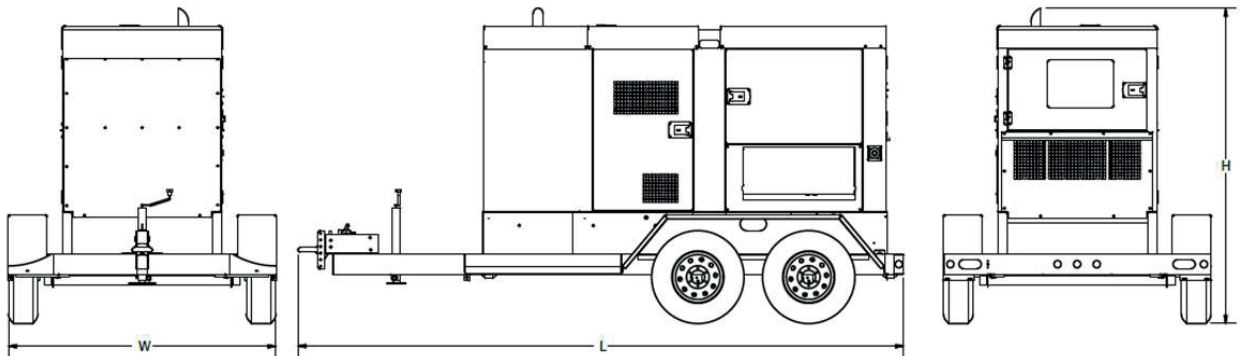
DIMENSIONS, WEIGHTS & SOUND LEVELS

ENCLOSED SET



CONFIGURATION	Fuel Tank Data (base option)			Generator Data *				
	Run Time Hours	Capacity (Gals) DEF	Capacity (Gals) DIESEL	L = Length	W = Width	H = Height	Weight lbs	dBA
Enclosed Set with Trailer	20	7.4	150	124"	51.6"	72.8"	6,610	72

ENCLOSED SET WITH TRAILER



CONFIGURATION	Fuel Tank Data (base option)			Generator Data *				
	Run Time Hours	Capacity (Gals) DEF	Capacity (Gals) DIESEL	L = Length	W = Width	H = Height	Weight lbs	dBA
Enclosed Set with Trailer	20	7.4	150	183"	80.0"	92.8"	9,110	72

* All measurements are approximate and for estimation purposes only. Weights are without fuel tank. Sound levels measured at 23ft (7m) and does not account for ambient site conditions.

REV1-2021



Global Power Supply, LLC
 136 W. Canon Perdido St. Suite 200
 Santa Barbara CA 93101
 United States
 (805) 683-3828

Sell To	Ship To	Seller
Hot Springs Village POA 895 DeSoto Boulevard Hot Springs Village AR 71909 phone: (501) 318-9047 fax: email:	Hot Springs Village POA 895 DeSoto Boulevard Hot Springs Village AR 71909 phone: (501) 318-9047 fax: email:	Robert Short phone: (805) 724-0608 fax: (805) 683-3823 email: robert.short@globalpwr.com

Offer Number	Offer Date	FOB	Terms
GPSQ1124315	4/19/2022	Origin	CIA Wire Transfer

Line	Qty	Description	Unit Price	Ext. Price
1	1	<p>HiPower 100kW HRIW 125 T4F HiPower 100 kW HRIW 125 T4F trailer mounted Power as per HiPOWER Data sheet Power per genset (ISO 8528) 100 kWel Engine Make ISUZU Engine Type 4HK1X Frequency 60 Hz Generator voltage Rental V Phase Rental</p> <p>1 SYSTEM CONFIGURATION 1.1 STARTING AIDS 10A 12V SENS MicroGenius battery charger UL-Listed (installed)</p> <p>2 ENGINE CONFIGURATION 2.1 Engine Description ISUZU 4HK1X, Long-life, heavy-duty, 4-cycle, direct injection engine. EPA Certification Tier Level 4 FINAL 2.2 FUEL SYSTEM 3-way valve kit</p> <p>3 GENERATOR END CONFIGURATION 3.1 Generator End Description STAMFORD UCI 274 E, Brushless, PMG Excited, Four Pole Rotating Field, Class H Insulation (105 °C Temp. Rise), IP23. Single Bearing. 2/3 Pitch Winding. MX341 Automatic Voltage Regulator</p> <p>4 CONTROL PANEL CONFIGURATION 4.1 Cont. Panel Description Digital controller with auto and manual start as well as parallel capability. with push button reset. LCD Display that offers AC metering, protective relaying and engine and generator control and monitoring. Engine and generator controls, diagnostics, and operating information are accessible via the control panel keypads</p> <p>5 PAINTING 5.1 Painting Details</p>	79,600.00	79,600.00

Line	Qty	Description	Unit Price	Ext. Price
		<ul style="list-style-type: none"> • Base skid is epoxy-polyester powder painted - Standard RAL9005 color • Enclosure is epoxy-polyester powder painted - Standard RAL7035 color. • Other colors available upon request. <p>6 ADDITIONAL OPTIONS CONFIGURATION 6.1 ADDITIONAL OPTIONS DESCRIPTION Tandem axle - surge brakes</p> <p>7 MISCELLANEOUS 7.1 Details One copy of Electrical Schematics, Control Panel manual, Warranty Statements, Engine manual, Generator end manual and Generator set manuals is provided with the unit</p> <p>8 FUNCTIONAL TESTS 8.1 Tests Standard acceptance testing performed under HIPOWER quality specification</p> <p>9 SHIPPING CONDITIONS 9.1 Details All units are shipped wet, with all the fluid included minus fuel supply (unless otherwise specified)</p> <p>10 WARRANTY 10.1 Details Standard limited Warranty 2 Years/3500 Hours</p> <p>Lead time: In stock Sellers sole & exclusive warranty: Mfg pass through. Warranty statement to follow.</p>		
2	1	Freight estimate	1,775.00	1,775.00

SCHEDULED DELIVERY DATE: Any delay in scheduled delivery date caused by or requested by Buyer shall not change the due date of any payments to Seller. All payments due prior to delivery shall be made prior to scheduled delivery date. In the event Buyer requests or causes a delay in delivery, "net" terms shall commence on the scheduled delivery date. Buyer shall pay all costs associated with the delayed delivery, including but not limited to storage, handling and transportation of the equipment, applicable federal, state, and local taxes and any other costs incurred by Seller in making further attempts to deliver the equipment. Storage charges:

Up to 500 kW - \$500/month
 501-1000 kW - \$750/month
 1001-1999 kW - \$1000/month
 2000 kW and above - \$1500/month
 All UPS's, ATS's and other miscellaneous equipment - \$250/month
 Buyer shall be invoiced on the first day of each month following the scheduled delivery date.

SubTotal	\$81,375.00
Tax	\$0.00
Grand Total	\$81,375.00
All funds are to be paid in US Dollars	

Offer valid for 15 days. Offer subject to the availability of equipment. Equipment subject to prior sale. See attached for additional terms and conditions.

If GPS is responsible for shipping, it is at the discretion of GPS to choose the freight carrier. Buyer shall be responsible for all charges payable on account of Buyer's shipment. GPS is not liable for any loss or damage or for the acts or omissions on the part of the carrier.

Generator Derates: Unless otherwise stated, Offer to Sell does not include engine/generator derates due to elevation, temperature, fuel or any other non-standard environmental or site conditions. Please consult manufacturer's data sheets for information on derates.

Notes: GPS is relying solely on the information and specifications for the equipment provided by the Customer. Customer acknowledges that the Equipment is of the size, design, capacity and manufacture selected by the Customer and Customer has relied solely on its own judgment in selecting, renting or purchasing the Equipment. GPS does not represent or warrant that the Equipment is suitable for any particular purpose or requirement.

Equipment availability is subject to prior sale.

- A) Quoted prices do not include governmental taxes. If applicable, additional taxes will be added to the invoice or will be invoiced separately.
- B) This Offer to Sell is based on the above bill of materials only.
- C) Offloading equipment is the responsibility of Buyer.
- D) Genset Installation is not included.
- E) Start up is not included.
- F) Batteries are not included unless specified in the description above.
- G) Freight estimate is included. Actual charges billed back in separate invoice.

Please indicate acceptance of this Offer to Sell and the attached Terms and Conditions by signing on the signature line below and returning a copy to the Seller via mail; such as UPS, facsimile or email is acceptable.

Accepted by (Buyer)

OFFER TO SELL TERMS AND CONDITIONS

1. The terms and conditions stated herein, together with such terms as are set forth in the attached OFFER TO SELL (collectively, the "Offer") with such specifications or other documents as are incorporated by reference, as amended in any subsequent authorized writing from Seller, shall constitute the entire agreement between Global Power Supply LLC ("Seller") and Buyer. Any terms contained in Buyer's purchase order received from Buyer that are in addition to or different from the terms and conditions contained herein are expressly objected to and shall be deemed rejected by Seller, unless expressly accepted in writing by Seller. Except as expressly and specifically permitted herein, in the event that any conflict exists between the provisions of this Offer and terms and conditions set forth in any purchase order, invoice or other type of instrument pertaining to the subject matter thereof, the provisions of this Offer shall govern and control notwithstanding any provision to the contrary that may be contained in any such other instrument. All additional or differing terms from this offer contained in any acceptance or purchase order shall be deemed material alterations and notice of objection to them is hereby given. Acceptance of this Offer must be in writing (including email) by an authorized representative of the Buyer.
2. Unless otherwise specified on the face of the attached OFFER TO SELL, all equipment shall be provided "as is" and "where is" with no warranty of any kind whatsoever (except as to title). It is the responsibility of Buyer to arrange for all aspects of transportation and delivery, including preparation for transportation, associated with the equipment that is the subject matter hereof, all at Buyer's cost and expense.
3. Title and risk of loss shall pass to Buyer at the time Seller gives written notice to Buyer of Buyer's right to possession of the equipment or when the equipment is delivered to Buyer or when Buyer enters on the premises where the equipment is located for the purpose of commencing preparation for transportation.
4. Seller warrants that Buyer shall receive good title to the equipment. It is expressly agreed that this warranty will be in lieu of all warranties of fitness and in lieu of the warranty of merchantability. Seller makes no other warranties, express or implied with regard to the equipment hereunder. The equipment is purchased by Buyer "as is" and Seller makes no warranty of merchant- ability or fitness for a particular purpose. Any affirmation of fact or promises made by Seller shall not be deemed to create an express warranty that the equipment shall conform to such affirmation or promise. Buyer acknowledges that it alone has determined that the equipment purchased hereunder will suitably meet the requirements of their intended use. Unless an additional warranty is specified by Seller on the face of the attached OFFER TO SELL, this is the sole and exclusive warranty provided by Seller to Buyer. If an additional warranty is so specified, then that warranty is exclusive (except as to title) and in lieu of all other warranties of quality including any warranty of merchantability or fitness for a particular purpose.
5. This Offer (together with all attachments and documents incorporated or referenced herein), shall constitute the complete and exclusive statement of the terms and conditions of the Offer between the parties with respect to the equipment specified herein, and may hereafter be modified, amended or changed only by a written instrument executed by the duly authorized representatives of both parties. No course of prior or concurrent dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term or any part of any term leading to this Offer or be binding or of any force or effect. Seller's failure to strictly enforce any term or condition of this Offer or to exercise any right arising hereunder shall not constitute a waiver of Seller's right to strictly enforce such terms or conditions or exercise such right thereafter. All rights and remedies under this Offer are cumulative and are in addition to any other rights and remedies Seller may have at law or in equity.
6. This Offer shall be governed by the laws of the State of California, without regard to conflict of law principles. Sole and exclusive venue for any disputes arising out of or related to this Agreement shall be the Superior Court of Santa Barbara California. Buyer and Seller each knowingly, waives any right to trial by jury and agrees that any dispute arising out of this Offer shall be decided by court trial without a jury.
7. Under no circumstances, and in no event, shall Seller be liable in contract or in tort or under any other legal theory for special, punitive, indirect, incidental or consequential losses, or damages of any kind arising in connection with or from any contract resulting from this Offer by Seller or any action or inaction by Seller in relation to the transaction that is the subject matter of this Offer. Buyer hereby acknowledges and agrees that under no circumstances, and in no event, as a result of breach of contract or in tort or any action or inaction by Seller in relation to the transaction that is the subject matter of this Offer, shall Seller's liability to Buyer exceed a sum equal to the lower of (1) the difference between the purchase price herein and the market value of the equipment; or (2) the cost of replacement or repair of the equipment; or (3) the purchase price of the equipment as set forth on the attached OFFER TO SELL.
8. Unless specified otherwise, on the face of the attached OFFER TO SELL, the terms of payment for the equipment hereunder are net thirty (30) days from date of invoice. Buyer shall be responsible for and agrees to pay for all sales, use, occupation, excise, or other taxes arising out of the sale of the equipment to Buyer in addition to the prices quoted or invoiced. Seller is not responsible for obtaining any permits or licenses relating to the equipment and Seller makes no representation that the equipment will conform to any environmental, noise, or other regulations or laws of any kind whatsoever.
9. Buyer shall, at its own expense, defend, indemnify and hold harmless Seller and its officers, directors, agents, representatives and employees, from any and all claims, liabilities, fines, damages, losses and expenses (including attorneys' fees) of any kind whatsoever, arising out of or resulting in any way, directly or indirectly, from Buyer's preparation for transport of the equipment, transport of the equipment, installation of the equipment, use of the equipment, or any claim for the violation of any applicable local, state or federal law, order or regulation in connection with the equipment purchased hereunder, or from any act or omission of Buyer, its agents, employees or subcontractors, or any other action by Buyer in relation to the equipment. This indemnity shall apply without regard to whether the claim is based on breach of contract, breach of warranty, negligence, strict liability or other tort. Seller may have to enforce the agreement Buyer made with Seller notwithstanding the Attorneys Fees paragraph that follows, which applies to other claims arising out of the agreement of the parties. This indemnity shall survive delivery and acceptance of the equipment.
10. Attorneys' Fees (California Civil Code section 1717). Should any legal or equitable proceeding be commenced under, concerning or in relation to this Offer, including without limitation to enforce or interpret any provision in this Offer, the prevailing party in such proceeding shall be entitled to recover from the losing party all fees, court costs and expenses of enforcing any right of such prevailing party under or with respect to this Offer, including without limitation, such reasonable fees and expenses of attorneys and accountants, expert witness fees, litigation related expenses, and other costs incurred in such proceeding, which shall include, without limitation, all fees, costs and expenses of any post judgment proceedings to collect or enforce any judgment.
11. Warranty Definitions. For all purposes of this Offer, the following definitions shall apply to the warranty terms set forth on the face page of the attached OFFER TO SELL. This paragraph provides definitions only and does not indicate the existence of any warranty.
 - a. Commencement of warranty period. The warranty period shall commence at the time title and risk of loss pass to Buyer pursuant to paragraph 3 hereof.

- b. Repair or replacement. This means that Buyer's sole and exclusive remedy shall be limited to the repair or replacement, at Seller's option, of any defective part. Replacement is defined as the physical replacement of the part or, at Seller's option, the whole or, at Seller's option, the payment to Buyer of a sum equal to the purchase price of the equipment as specified on the face of the attached OFFER TO SELL and Buyer shall return defective part or equipment back to Seller. All repair work shall be performed at a facility designated by Seller. Transportation costs to and from the repair facility shall be paid by Buyer. If this warranty is applicable, Buyer agrees that the remedy of repair or replacement is the sole and exclusive remedy of Buyer.
- c. Manufacturer or other vendor pass through. This means that Seller will pass through to Buyer any warranty provided for the equipment by the manufacturer or vendor. Seller will assist Buyer in obtaining information and documentation with respect to said warranty. Buyer agrees that if this warranty is applicable, the sole and exclusive remedy of Buyer is that Buyer will look exclusively to the manufacturer or other vendor for any and all warranty claims.
- d. Working condition on transfer of possession. This means that at the time Buyer first installs or tests the equipment and for 24 hours thereafter, it will perform its ordinary functions, taking into consideration the age of the equipment. In no event shall the time of installation or test be later than 30 days after the passing of title provided for in paragraph 3 hereof. If this warranty is applicable, Buyer agrees that Buyer's sole and exclusive remedy is the return of the equipment for a full refund of the purchase price.
- e. No warranty obligations (except as to title) shall apply to any equipment (1) repaired, modified, or altered without prior approval of Seller; or (2) subject to misuse, abuse, accident, or inadequate maintenance; or (3) based on reasonable wear and tear.