

FINAL PROPOSAL

Fluence's MABR Wastewater Treatment Plant

Prepared for Terraphase Engineering and H2O works, San Leandro Wastewater Treatment

Proposal No: 22-5368 V.6

Proposal Date: March 14, 2025

Dear Mr. Morehouse and Mr. Paz,

Fluence is pleased to provide Terraphase and the City of San Leandro (the "Client") with a lease proposal for an onsite demonstration wastewater treatment packaged plant with a maximum flow rate of 63,333 GPD, using Fluence's innovative MABR technology.

Our primary objective with this custom lease is to help the Client get familiarized with the Aspiral system and the MABR technology (the "Demonstration Equipment").

Overview

Fluence combines advanced water treatment technologies and proven delivery platforms to optimize the water cycle for the 21st century. We provide the middle market with local, sustainable and fast-to-deploy water and wastewater treatment and reuse solutions, empowering businesses and communities worldwide to make the most of their water resources.

Demonstration Equipment

The Demonstration Equipment is an Aspiral™ L5 Smart Packaged Wastewater Treatment Solution:

- Consistently delivers high-quality effluent with a low energy consumption
- Packaged design for fast installation and startup
- Simultaneous nitrification/denitrification (SND) provides increased efficiency
- Smart operation requires minimal maintenance, resulting in lower operating costs
- Modular solution allows for future expansion

Scope of Work

Fluence will execute the scope of supply specified below for the Demonstration Equipment for the Client upon execution of the proposal. Fluence will fabricate the Demonstration Equipment and deliver it to the Client in accordance with the timeline in this Proposal. The Client will receive and install the Demonstration Equipment after delivery. Both Fluence and the Client will have the respective scope and responsibilities to execute the Demonstration Program designed by Fluence and agreed to by the Client to determine the process suitability as a possible solution for their needs as follows:

Fluence's Scope of Supply and Responsibilities

Subject to the compliance by the Client and others as specified below, and the other terms and conditions herein, Fluence shall have the following scope of supply and responsibilities:

- After proposal execution
 - One (1) Aspiral L5 unit, including:
 - Single 40-foot tank, five (5) T2 MABR towers, internal pipelines, valves and connections.
 - One (1) skid mounted Feed pump, Process and Mixing air blowers
 - Electrical and control cabinet
 - Instrumentation for secondary treatment (optional upon request)
 - Biological treatment design, process flow diagram, P&ID and preliminary general layout drawings (including hydraulic profile and elevations, excluding constructor drawings)
- Delivery
 - Supply of the Demonstration Equipment DDP San Leandro, CA ("Delivery Point").
- Installation
 - Supervision over installation and decommissioning of the Demonstration Equipment
 - Start-up Fluence employee on site for 5 business days in one trip for each event including expenses to train Client personnel on the proper operation of the system.

Client Scope of Supply and Responsibilities

Subject to the other terms and conditions herein, the Client shall have the following scope of supply and responsibilities:

- After proposal execution
 - A location suitable for installation of the Demonstration Equipment at the Delivery Point
 - Secondary clarified, de-chlorinated effluent to feed directly into Fluence battery limits
 - Civil detailed design for overall Site at the Delivery Point
 - Detailed Site electrical design and onsite electrical supply, electrical works and communication
 - Location and method of discharge of treated effluent
 - All permits and related fees
 - Proof of insurance
 - Project manager (point of contact)
- Delivery
 - Completed civil works ready to set the Demonstration Equipment
 - Site security at the Delivery Point
 - Offloading and Site movement of Demonstration Equipment
- Installation
 - Installation of Demonstration Equipment including power supply, utilities, interconnecting piping, Aspiral L5 inlet and outlet piping, fittings and valves as identified on the Aspiral L5 data sheet.
 - Electrical and communication (wired/mobile) supply to main control cabinet
- Start-up
 - Lab tests and analysis
 - Qualified operator
 - Raw unfiltered sampling data
 - All consumables
 - Permitted or otherwise legal discharge location
 - See Appendix 3 for further specifications
- Operation
 - All consumables
 - Sampling data as described below

Pricing

The following details the pricing for delivery of the Demonstration Equipment outlined in this proposal. Pricing is valid for 30 days from the date of this proposal:

Lease Overview:

- Purpose: To provide the Client with an opportunity to use the Demonstration Equipment to meet their treatment goals and understand the operation requirements using a large-scale pilot. The Client will use best efforts to approve the Demonstration Equipment as an acceptable solution for their full-scale solution and can choose to incorporate the Demonstration Equipment provided under this lease into the final design for the future Project.
- Term: 12 months from delivery of the Demonstration Equipment to the Delivery Point*
- Scope of Demonstration Equipment: See Appendix 3
- Lease Payment Structure:
 - Down Payment: \$15,000 due 30 days after Lease contract signing
 - Monthly Rate: \$15,000 invoiced 1st of month after delivery to the Delivery Point
 - Total Monthly Payments: 12
- Termination by Client:
 - a. The Demonstration Equipment does NOT meet the effluent requirements defined in Appendix 1, or
 - b. The expiry of 12 months from the Delivery Date.
- Remedies for Fluence
 - In the case of Termination for effluent failure, the Client must provide a 30 day notice of non-performance with Appendix 1 effluent limits. Fluence will have the opportunity to adjust the operation of the Demonstration Equipment to perform in accordance with Appendix 1 limits. If after 30 days the Demonstration Equipment remains out of compliance with Appendix 1 limits, then the Client can terminate the Lease and Fluence will remove the Demonstration Equipment from the site. The Client will be responsible for decommissioning the Demonstration Equipment and loading the equipment onto Fluence provided transportation from the site.
 - In the case of Termination pursuant to clause (b) above, the Demonstration Equipment will be returned to Fluence with the appropriate support from the Client to break the unit down and disinfect it per Appendix 5. Fluence will pick up the equipment at the jobsite and remove the Demonstration Equipment.

Other Lease Requirements

- Credit check
- Insurance

Shipment: Upon receipt of down payment, shipment is anticipated within 20-24 weeks.

Services By Fluence

- Supervision over installation, training and commissioning - up to 5 working-days in one trip
- Decommissioning supervision - up to 5 working-days in one trip
- Any additional working-days will be priced at \$1,200 per day, not including travel and accommodation, only upon prior approval by Client.
- See Appendix 6 for additional standard terms and conditions.

Implementation

1. Delivery

The Demonstration Equipment will be shipped to the Client Destination according to the agreed date in working condition to be installed and setup on Site as agreed.

2. Demonstration Protocol

Demonstration Protocol will be jointly developed between the Client and Fluence to meet the Client Objectives as defined by Appendix 1. Prior approval of the Client will be made part of this proposal before execution of the Demonstration Program.

The Demonstration Protocol will include responsibility for performance of laboratory analysis. Such testing will be done according to a third-party laboratory certified in the selected “Standard Methods for the Examination of Water and Wastewater, 24th Edition” (Standard Methods) or newer testing methods.

3. Set-up at the Site

The Client is responsible for determining the location where the Demonstration Equipment will be installed. As part of the [Demonstration Program], the Client will be responsible for providing:

- A. Offloading the Demonstration Equipment from the delivery vehicle to the final location at the Client Destination.
- B. Installing the Demonstration Equipment on a leveled platform per local regulations and requirements using support points as shown in the drawings of Appendix 2.
- C. Connecting power, communications and all inlet/outlet flow piping.

4. Training and Startup

The Demonstration Program will be operated by the Client Staff for the duration of the Lease. Client Staff may include third party contracted labor for the purposes of executing the Demonstration Program. Fluence, where agreed within this proposal, may provide oversight guidance from time to time either remotely or on site. The duties for Fluence are as follows:

- A. Training of Client Staff and on-site operations support (up to 5 working days total), with extra days provided at the quoted rates.

5. Laboratory Analysis

Water quality testing for determination of Demonstration Program performance will be performed by a third-party laboratory certified in the Standard Methods approach agreed to in the Demonstration Test Protocol. Standard Methods testing procedures will be cited in the Demonstration Test Protocol. Testing shall include TSS, Ammonia, and TKN. Testing shall be performed and paid for by Purchaser.

6. Demobilization

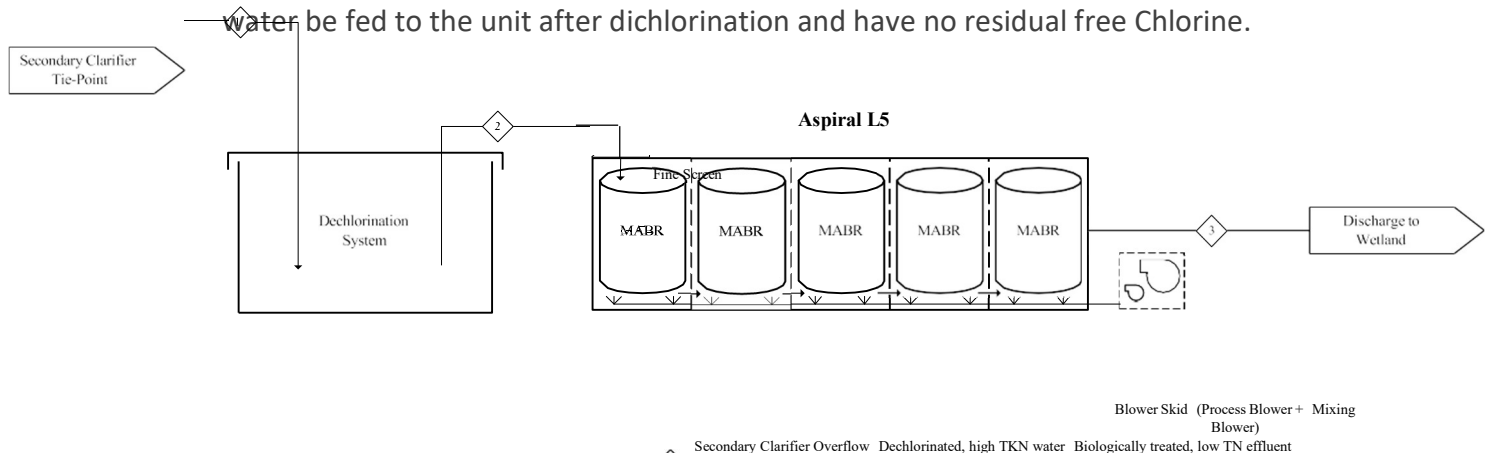
The Demonstration Plant Equipment will be decommissioned under supervision from Fluence. The Client is responsible for providing:

- A. Cleaning and disinfecting the Demonstration Plant Equipment in accordance with the O&M Manual requirements referenced herein and included in Appendix 5.
- B. Disconnecting power, communications and all piping connections.
- C. Loading the equipment onto the respective shipping vehicle.

Demonstration program

7. Demonstration Set Up

The Demonstration system will be installed as per Interface Diagram below. It will operate as per the Demonstration Protocol. It is critical that secondary clarified effluent source water be fed to the unit after dichlorination and have no residual free Chlorine.



8. Method

The Demonstration Equipment is fully automated. The Demonstration Equipment's contaminant removal capability is identical in every way to a full-scale production platform.

Consequently, full-scale system design is simply a matter of a linear scaling up in capacity based on the demonstration data.

Demonstration programs consist of a series of sample runs at various operating parameters to determine purification rates. During sampling, influent and effluent samples will be drawn for analysis.

It should be recognized that some effluent samples will have contaminants of concern above the discharge requirements. This occurs because the purification level is systematically backed off until break through or a non-compliant discharge level is achieved. This is done in order to determine the optimal treatment condition and its corresponding rate.

9. Sampling plan

The following sampling plan provides the guidelines for successful ongoing operation of the demonstration unit. It is the client's responsibility to conduct the samples and analyze the samples in a certified laboratory.

After successful commissioning of the demonstration plant, supervised by Fluence, an approximate acclimation period of 1-3 weeks will take place. During that period the biology will develop on the MABR towers and will begin Nitrifying. During the acclimation period, 2 grab samples per week should be taken from the influent wastewater and the effluent water (samples should be taken per the guidelines referenced in "Standard Methods for the Examination of Water & Wastewater" - Lenore S. Clesceri, American Public Health Association, latest edition) The following elements should be analyzed in a certified laboratory:

- A. Ammonia (NH_4^+)
- B. BOD_5
- C. pH
- D. Dissolved Oxygen (a mobile DO device should be used).

After the biology had acclimatized and the Demonstration system is producing effluent that meet the Ammonia effluent requirement, the following samples should be taken as part of the routine operation of the Demonstration system:

- A. Ammonia (NH_4^+) – Influent and effluent grab sample, once per week.
- B. BOD_5 – Influent and effluent grab sample, once per week.
- C. TSS – Influent and effluent grab sample, once per week (recommended).
- D. Dissolved Oxygen (a mobile DO device should be used) – Grab sample should be taken from the last MABR chamber, once per week.
- E. Nitrate (NO_3^-) – Influent and Effluent grab sample, once per week (recommended).

* In case one of the samples exceeded the estimated influent concentration/effluent requirement concentration, an additional sample should be taken after consultation with Fluence.

10. Valuation

The replacement value of the Demonstration Equipment is the value declared on the Commercial Invoice, as submitted to US Customs. This is the value used for Insurance purposes and is currently valued at \$280,000 USD.

Conclusion

At Fluence, we pride ourselves on partnering with our customers to provide innovative solutions for their water challenges while also providing the highest level of service from the proposal stage, through successful execution, and beyond. If you have questions on this proposal, feel free to contact me at your convenience by email at rbarkan@fluencecorp.com or by phone at 424-278-5135.

Ronen Barkan

N. America Business Development and Sales Director

Appendices to Budgetary Proposal No: 22-5368 V.3 Table of Contents

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Appendix 1 – Basis of Design

Fluence’s Aspiral L5 solution as presented was designed according to the parameters of plant capacity and influent and effluent quality specified below, consistent with the specifications supplied by the client.

Influent and Treated Effluent Wastewater Characteristics

Parameter	Units	Secondary Effluent Wastewater *	Aspiral Effluent Quality
Design flow rate	GPD	63,333	
Minimum wastewater design temperature	°F	64.5	
pH range	-	6.5 – 9	
Biochemical Oxygen Demand ₅	mg/l	25	NA
Total Suspended Solids	mg/l	NA	+5 mg/l**
Ammonia as N	mg/l	NA	≤7.6 ¹
TKN (influent) / TN (effluent)	mg/l	38	NA

* Secondary Effluent wastewater must be clarified and NOT have any residual free chlorine.

* Secondary Effluent wastewater must have sufficient amount of Alkalinity (182.4 mg/l as CaCO₃).

** The Aspiral treatment unit will contribute up to 5 mg/l Total Suspended Solids (TSS) compared with the TSS concentration flowing into the unit at the “Secondary Effluent Wastewater”.

¹ 80% influent TKN reduction

Appendix 2 – Description of Proposed WWTP – Aspiral L5

Fluence's MABR Technology is a low energy advanced aerobic biological treatment, based on the Membrane Aeration Biofilm Reactor process, using an enclosed patented spiral membrane aerated biofilm reactor. MABR treatment significantly reduces energy consumption by eliminating the need for compressed air for aeration of the wastewater. A biofilm forms on the breathable membrane assembled in a continuous spiral. A constant stream of low pressure air distributes oxygen to the wastewater through the MABR spirals, which consist of membrane sheets and spacers. This structure produces optimal oxygen transfer efficiency using air diffusion from one side of the membrane to the wastewater on the other side. The oxygen is consumed by nitrifying bacteria on the membrane, creating an anoxic area on the further side of the membrane, where de-nitrification and BOD removal occur.

The MABR Technology

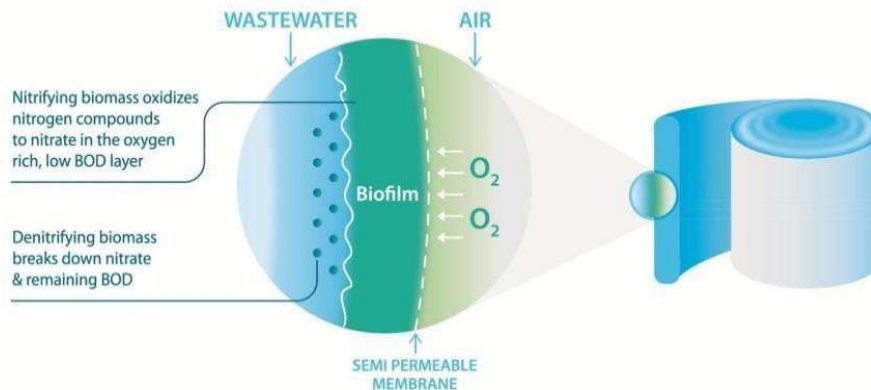
- Wastewater is contacted with the surface of an aerated sleeve of oxygen permeable material
- Aerobic bacteria that develop on the surface of the sleeve treat the wastewater



One spirally wound long sleeve



Simultaneous Nitrification and De-Nitrification



Aspiral L5 Treatment Process Description

The proposed Aspiral L5 system has been designed assuming an equalized flow entering the system. This design allows the unit to safely treat up to 110% of its average hourly capacity.

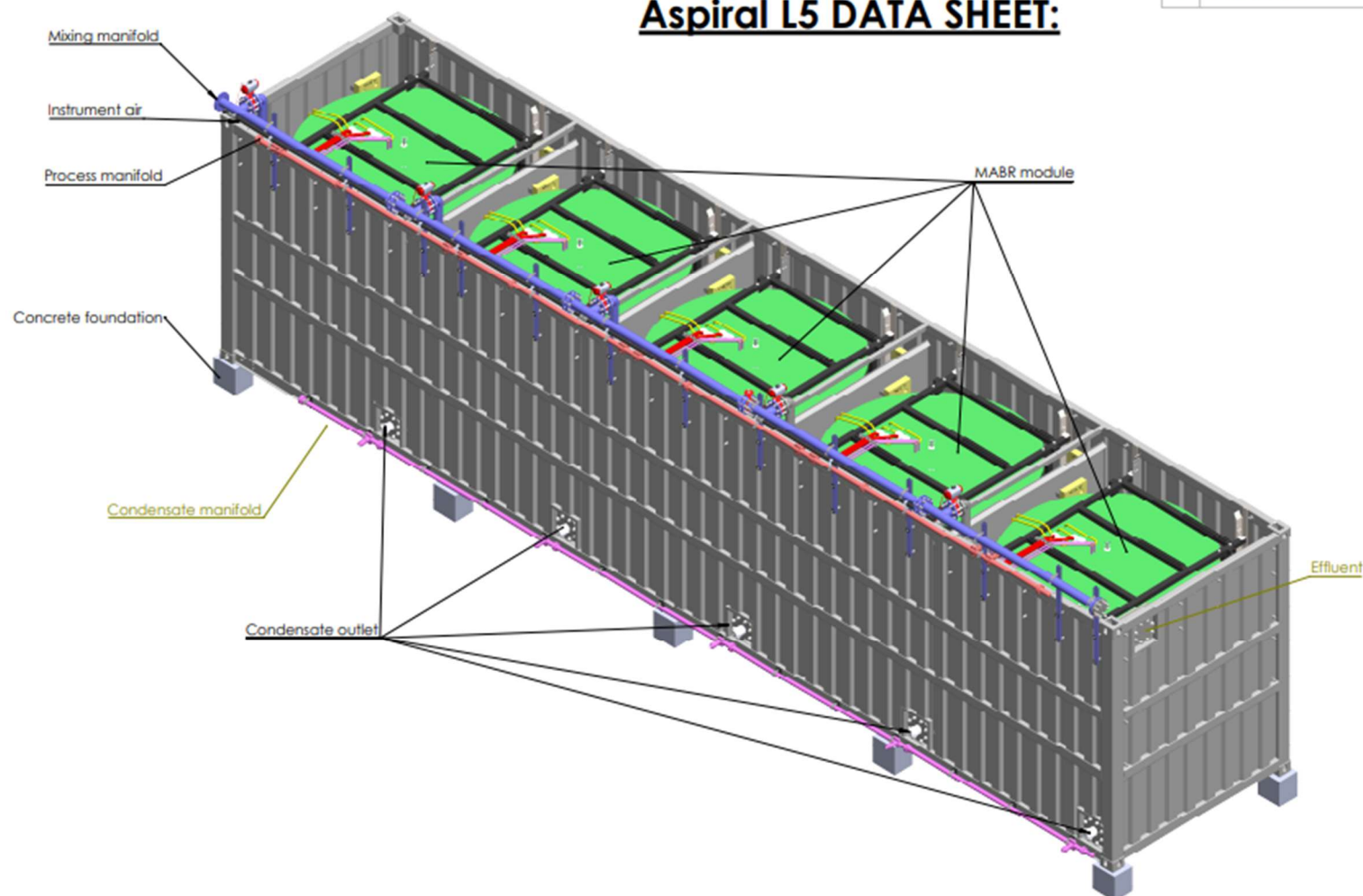
The municipal plant's secondary effluent is pumped into the Aspiral L5 unit, and flows to pretreatment by 1.5 mm fine screening (SMBS dosing to remove residual chlorine is required in case free chlorine is existent in influent wastewater).

The pretreated wastewater flows by gravity to the Fluence Aspiral L5 unit. The submerged MABR towers inside the unit will allow nitrification and some denitrification process removing Ammonia and total Nitrogen pollutants from the wastewater.

The effluent from the Aspiral L5 unit is discharged to a constructed wetland process for farther treatment (outside Fluence scope of supply).

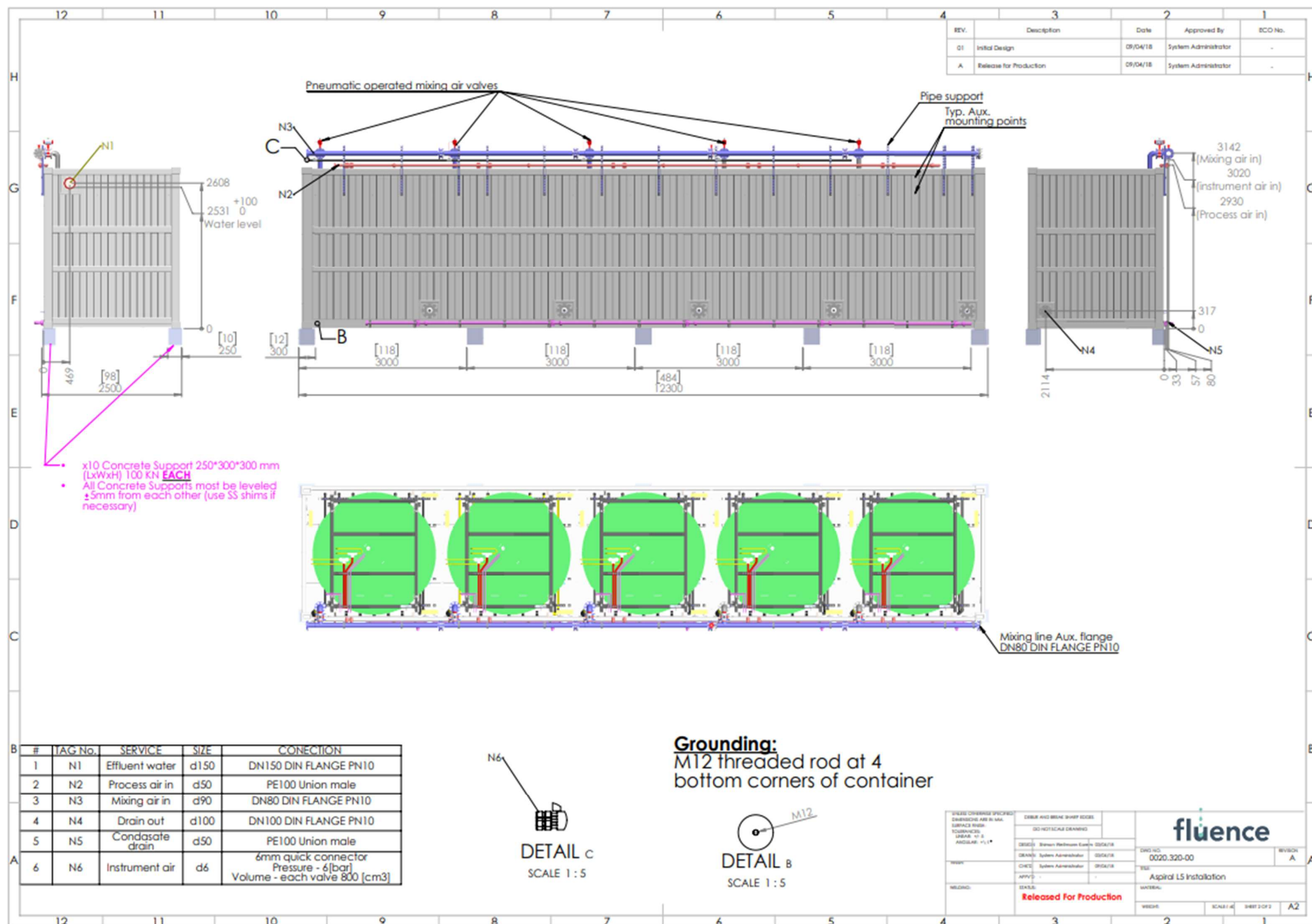
The entire MABR process is monitored and automated using a programmable logic controller.

Aspiral L5 DATA SHEET:

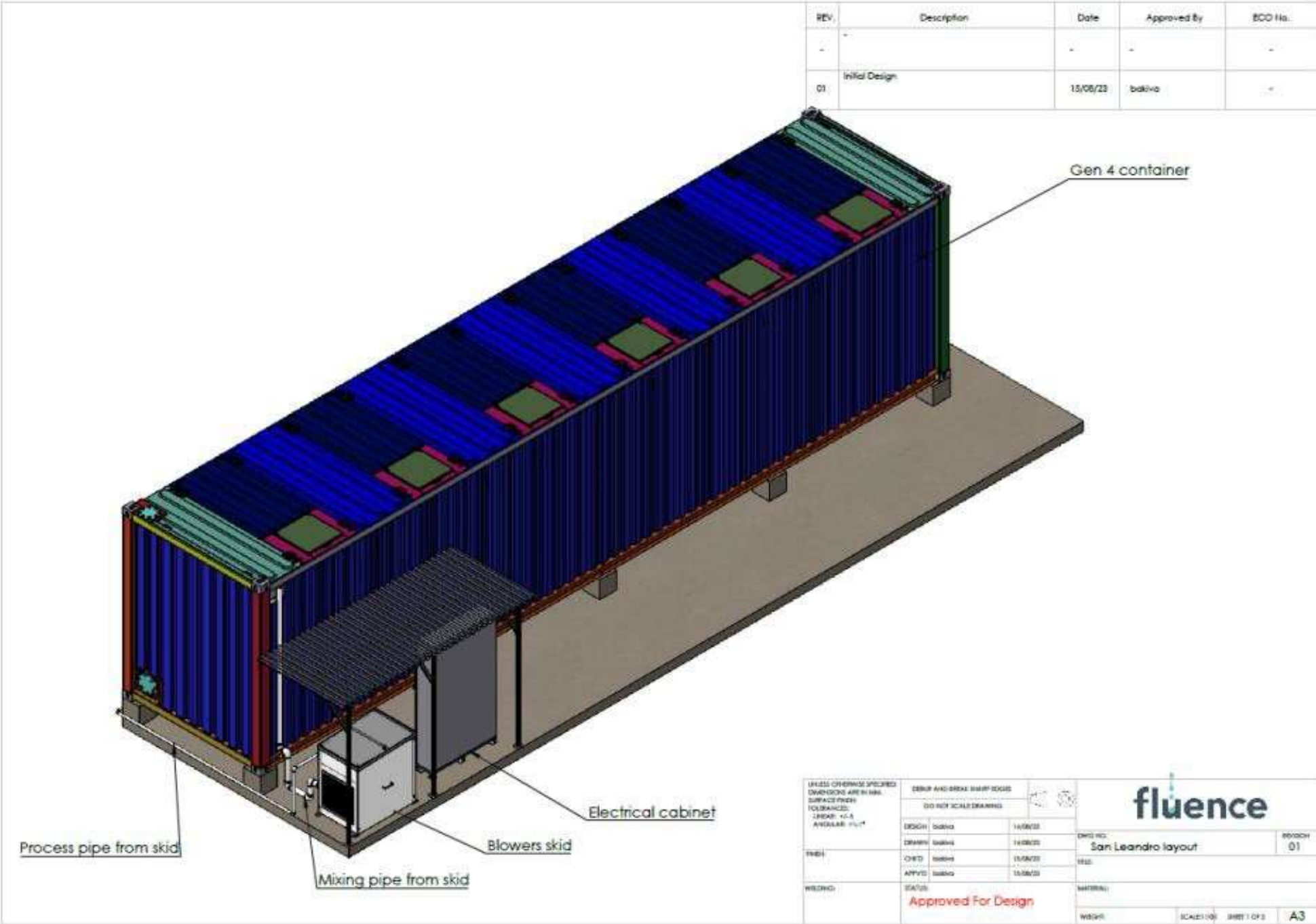


REV.	Description	Date	Approved By	ECO No.
01	Initial Design	09/04/18	System Administrator	-
A	Release for Production	09/04/18	System Administrator	-

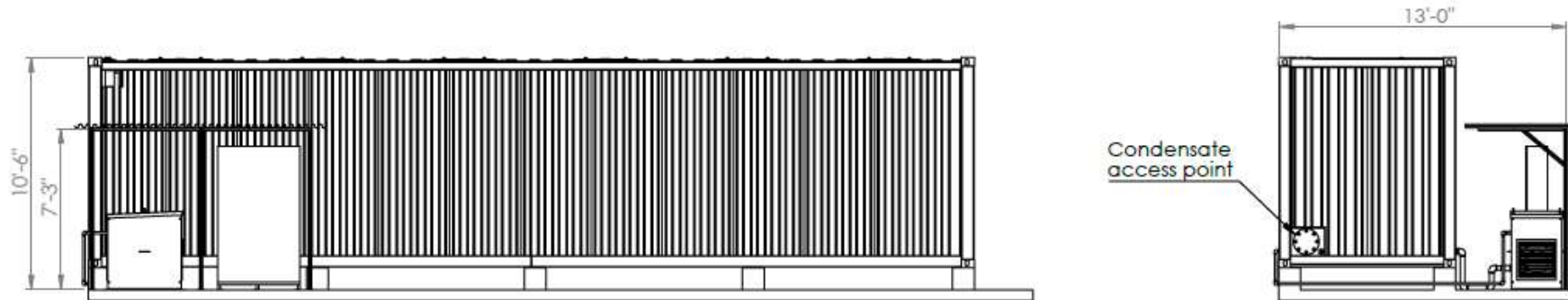
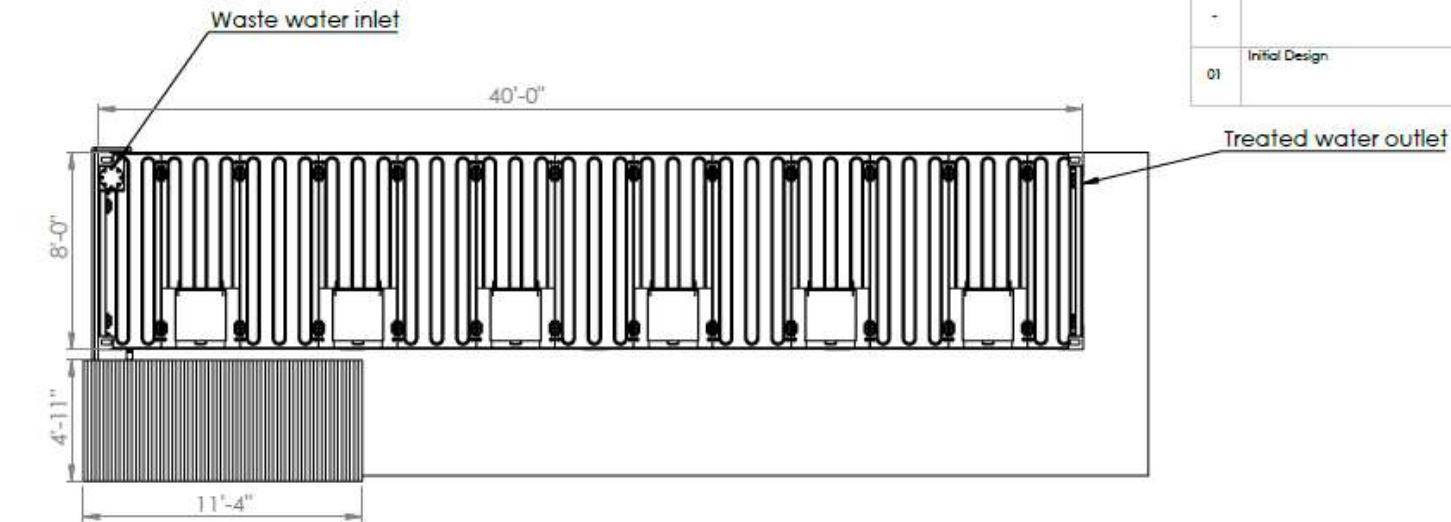
fluencc 0020.320-00 Aspiral L5 Installation Released For Production		DATE: 09/04/18 DRAWN: System Administrator CHECKED: System Administrator APPROVED: System Administrator STATUS: Released For Production
SHEET: 1 OF 2 SCALE: 1:1 A2		



Schematic Layout



REV.	Description	Date	Approved By	ECO No.
-	-	-	-	-
01	Initial Design	15/08/23	bakiva	-



Notes:

1. Container dry weight: 26,455 [pounds]
2. Container wet weight: 132,277 [pounds]
3. Electrical cabinet weight: 600 [pounds]
4. Blower's skid weight: 200 [pounds]

UNLESS OTHERWISE SPECIFIED: DIMENSIONS ARE IN MM SURFACE FINISH: TOLERANCES: LINEAR: ± 5 ANGULAR: $\pm 1^{\circ}$	DESIGN AND BREAK SHARP EDGES			DWG NO. San Leandro layout	REVISION 01	
	DO NOT SCALE DRAWING					
	DESIGN	bakiva	14/08/23			
	DRAWN	bakiva	14/08/23			
	CHECKED	bakiva	15/08/23			
FINISH:	APPROVED	bakiva	15/08/23	TITLE:		
WELDING:	STATUS:		MATERIAL:			
	Approved For Design					
			WEIGHT:	SCALE: 1:100	SHEET 2 OF 2	
					A3	

Appendix 3 – Preliminary Equipment Specification

The following specifications refer to the suggested plant design as presented in Appendix 1.

Component	Specification	Quantity	Responsibility / Supply by	Comments
Aspiral L5	40 ft. special design tank 5 x T2 MABR towers Coarse bubble diffusers Internal piping, fittings and valves	1	Flu enc e	
Equipment Skid	Process air blower: 190 NCFM @ 0.725 PSIG	1		To be installed on external skid. Skid NOT covered
	Mixing air blower: 117 NCFM @ 4.35 PSIG	1		
	Aspiral feed pump	1		Basic with optional upgrade
	Electrical and Control	1		
Secondary effluent dichlorination	To provide dechlorinated effluent to Aspiral	1	Ot her s	TBD
FOG trap		1		Necessary only if FOG >60 mg/l
Concrete floor	According to detailed design made by certified constructor	1		TBD
Aspiral L5 Inlet & Outlet Piping, fittings and valves	According to detailed design	1		

1. Some of the equipment's specifications might change in accordance with the design detailed.

Appendix 4 – Equipment Installation, Start-up and Commissioning

(Under Fluence Supervision by a field service engineer)

1. Installation requirements are estimated to include:
 - a. 3 days for a qualified technician
 - b. 2 days for a certified electrician
 - c. 1 days for a lifting crane with operator
 - d. Supervision includes 5 business days of a Fluence representative
2. Commissioning and startup requirements are estimated to include:
 - a. Local operator
 - b. Delivery of 8,000 gallons of Nitrifying sludge (per reactor) to the site and discharging it to the Aspiral L5 reactor
 - c. Supervision includes 5 business days of a Fluence representative

Estimated Operating Parameters and Customer Requirements

The estimated operating parameters for one (1) Aspiral L5 unit include:

- Sludge production:
 - None
- Estimated power consumption is:
 - 1.29 kWh/1,000 gal treated, or 81.7 kWh/day at the design flowrate of 63,333 gpd
- Total installed power is:
 - 15 kW, 80 amp

Customer requirements for the packaged wastewater treatment plant are:

- Electrical tie-point:
 - 480 V, 3 Phase, 60 Hz

Appendix 5 – Chemical Cleaning and Storage Procedures

- **General Guidelines:**

In most cases, it is unnecessary to clean the membrane surface. The biofilm that naturally develops on the membrane is essential to the process, contributing to biological treatment. It's undergoing regular replacement as part of the system's normal operation.

- **Purpose of Chemical Cleaning:**

Chemical cleaning may be used either to restore the membrane to a condition similar to its original state or preliminary stage for dismantling and storage.

- **Restarting the MABR After Cleaning:**

Upon immediate restarting the MABR system after cleaning, the biofilm will typically regenerate and redevelop within a few weeks when proper conditions will be maintained.

- **Dismantling and Storage of the MABR After Cleaning:**

After the cleaning, the system can be shut down for a long period on-site or removed from the site. However, it is important to note that prolonged or improper storage conditions may negatively and irreversibly impact the MABR functionality.

- **Important Note:**

Chemical cleaning and storage are not part of the MABR reactor's normal lifecycle. Therefore, it is recommended to consult the Fluence Service Department before initiating such procedures to ensure proper handling and minimize potential damage to the membrane.

1. Chemical Cleaning Procedure

Chemical cleaning is conducted to restore the membrane to an almost original condition or prepare it for storage.

Cleaning Stages:

- a. Stop the inlet feed of primary treated influent, RAS, or any other incoming streams into the system.
- b. Operate the under-tower coarse bubble diffuser mixing system continuously for 10 minutes.
- c. Shut down the MABR process air blower that feeds the MABR towers.
- d. Drain the reactor using the reactor's draining flange to remove most MLSS (Mixed Liquor Suspended Solids) that may be accumulated in the Aspiral reactor or detached from the MABR towers during the mixing.
- e. Refill the reactor with clean water (reused and disinfected water can be used).
- f. Operate the mixing system (coarse-bubbles diffusers and fine-bubbles diffusers if present) at maximum power (VFD-100%, regulate-valve wide open) for 5 minutes every 10 minutes for 1 hour.
- g. Drain the reactor.
- h. If needed repeat steps 5–7 again until the TSS level is below 500 mg/L.
- i. Fill the reactor with water containing sodium hypochlorite (NaOCl) at a concentration of 0.1% (1000 ppm).
- j. Operate the mixing system for 1 minute every 6 minutes for at least 4 hours.
 - **Note:** Replenish the hypochlorite concentration to 1000 ppm once every hour.
 - **Note:** Foaming during this step is a normal occurrence. To mitigate its impact and protect the surrounding environment, use a water spray hose to manage and contain the foam effectively.
- k. Drain the reactor to remove the hypochlorite solution.
- l. Refill the reactor with clean water and operate the mixing system for 10 minutes to flush out any residual chemicals.
- m. The system is now ready to be filled and restarted.

Warnings:

- Hypochlorite concentration must never exceed 1%.
- The process air blower must not be operated unless the membrane towers are fully submerged to avoid irreversible damage.
- Handle all chemicals under the product's safety data sheet (MSDS) and safety manual and procedure.
- For any uncertainties or additional guidance, consult a Fluence representative.

2. Membrane Storage Procedure

Storage Stages:

- a. Complete the cleaning procedure as described in the above section ('Chemical Cleaning Procedure').
- b. Prepare a storage solution of clean water with sodium hypochlorite (NaOCl) at a concentration of 2–5 ppm.
- c. Fill the tank until membranes are submerged entirely in the prepared storage solution.
- d. Operate the under-tower mixing system gently for 5 minutes to ensure even distribution of the storage solution.
- e. Ensure the MABR always remains fully submerged to prevent exposure to air.
- f. Protect the reactor from direct sunlight or UV exposure by covering the reactor.
- g. Regularly add water to compensate for evaporation losses and ensure the membrane towers remain submerged entirely.

- h. Monitor the hypochlorite concentration weekly and replenish it to maintain a consistent level between 2–5 ppm.
- i. Before restarting the reactor, drain the storage solution and refill the reactor with clean water.
- j. Operate the under-tower mixing system for 10 minutes to flush out residual chemicals, ensuring the membranes are ready for operation.

Warnings:

- Exposure to direct sunlight can degrade the membranes; always keep the membranes submerged and shielded from UV light.
- Avoid exceeding the specified hypochlorite concentration of 10 ppm for long-term soaking.
- For any uncertainties or additional assistance, consult a Fluence representative.

Appendix 6 – Demonstration Plant Lease Terms and Conditions

These Demonstration Plant Lease Terms together with the Proposal for Wastewater Treatment On-Site Demonstration Program (the “Proposal”) collectively comprise the sole agreement (collectively, the “Agreement”) between Fluence Water (“Fluence”) and “Client” as identified in the Proposal (“Client”)(each a “Party” and collectively the “Parties”) related to the Demonstration Equipment (as defined in the Proposal). These Demonstration Lease Terms control over such proposal or other term of Agreement in the event of a conflict.

1. **Lease.** Fluence agrees to deliver, or have delivered, the Demonstration Equipment at Client’s cost and expense to Client at the Site. Fluence agrees to lease to Client the Demonstration Equipment (which includes the associated documentation provided by Fluence therefor) as delivered by Fluence and installed on the Site (as defined in the Proposal) for the time period set for the in the Proposal (the “Lease”). Fluence agrees to provide the associated services that are expressly set forth in the Proposal (the “Services”). Fluence provides no maintenance, customization, support, or other services under the Agreement, except solely for the Services. Either party may terminate the Agreement, with cause, by thirty (30) days written notice of termination to the other party, or for the other party’s breach of the Agreement and in the case of breach shall state the reason(s) for termination including any special terms in the Proposal.
2. **Use.** Client may use and operate the Demonstration Equipment during the Lease solely for testing and evaluating Fluence’s wastewater treatment process therein under the Proposal solely through employees of Client having the necessary professional expertise and knowledge. Client (and not Fluence) is the operator of the Demonstration Equipment under the Lease and is fully responsible and liable for the Site, the suitability of the Site for Demonstration Equipment, the installation, operation, and use of the Demonstration Equipment, all waste, and the disposal of all waste, generated through the Demonstration Equipment, and all approvals, licenses, and permits necessary for the installation, use, and operation of the Demonstration Equipment at the Site. Client shall ensure that all installation, use, and operation of the Demonstration Equipment, and all waste disposal, occurs in accordance with the Agreement and all applicable law.
3. **Limitations.** Client shall not, directly or indirectly: (i) use the Demonstration Equipment for any purpose, or access or enter any part of the Demonstration Equipment, other than as expressly set in the Agreement; (ii) move or change the location of the Demonstration Equipment from or on the Site; (iii) sublease the Demonstration Equipment or operate or use it for a third party; (iv) provide or make available to any third party, or change, modify, customize, copy, reverse engineer, decompile, disassemble, or create derivative works, improvements or other derivations of, any of the Demonstration Equipment, or any technology, software, works or intellectual property therein; or (v) induce, contribute to, assist with, or support any third party from engaging in any of the foregoing without the specific express prior written consent of Fluence.
4. **Loss.** From the arrival of the Demonstration Equipment at the Site until the Demonstration Equipment is transported back to Fluence at the end of the Lease, Client has the sole risk and liability for any damage, destruction, theft, loss, and misuse of, and all property damage, injury, or death from, the Demonstration Equipment, and all damage, defect, and loss to the Demonstration Equipment by any user or use thereof, whatever the cause (“Loss”). The client is liable to Fluence for all repair and replacement, at the full replacement value, of the Demonstration Equipment as a result of any Loss. Client shall procure and maintain insurance coverage with a nationally reputable insurance company against any Loss of any kind for the full replacement value of the Demonstration Equipment.
5. **Title.** Fluence shall at all times solely retain all ownership, rights, title, and interest in and to the Demonstration Equipment. Other than the Lease, Fluence does not grant or give any, and Client or any third party shall have no, ownership, co-ownership, right to use or possess, security interest, lien, or other right of claim in or to or related to the Demonstration Equipment.
6. **Fees.** Client shall pay Fluence all fees, costs, and expenses as and at the times set forth in the Proposal and as directed by Fluence, without any deduction or set-off, in irrevocable unconditional immediately available funds, to be grossed up in the event of any withholding or deduction. Client shall bear all taxes, fees, charges, and costs related to the Lease.
7. **Force Majeure.** Fluence shall not be liable for any loss, damages or breach caused by circumstances beyond its reasonable control including but not limited to extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, delay of carriers, failure of normal sources of supply, act of government including inability to obtain appropriate regulatory approval such as export license or other government or institutional approval required, or any other cause beyond its reasonable control, whether similar or dissimilar to those listed.
8. **Cancellation or Alteration of Order.** No order which has been accepted by Fluence may be cancelled by [Purchaser] except with Fluence’s agreement in writing and subject to the Purchaser indemnifying Fluence in full against all loss, costs, damages, charges and expenses incurred by Fluence as a result of such cancellation. No order which has been accepted by Fluence may be changed or altered by the Purchaser except with Fluence’s agreement in writing and an adjustment of appropriate price, if required. If the Purchaser cancels or suspends its order for any reason other than Fluence’s breach, Purchaser shall promptly pay Fluence for work performed prior to cancellation or suspension, and for any other direct costs incurred by Fluence as a result of such cancellation or suspension.
9. **Fluence Property.** All reports, data, documentation, and information generated or created by, or resulting from, the Demonstration Equipment, or its use or operation (“Demonstration Results”) and all copies and manifestation thereof in any form or media shall be the sole property of Fluence, shall be delivered promptly to Fluence upon request, and shall be kept fully confidential and not disclosed by Client without written consent and prior review from Fluence. Fluence shall solely own and retain all rights, title, and interest in and to all technology, inventions, methods, processes, software, works, documentation, data, and other intellectual property in or related to or used by the Demonstration Equipment, all Demonstration Results, and all derivative works, improvements, modifications, customizations, and derivations of or from any of the foregoing, and all patents, patent applications, utility models, copyrights, mask work rights, trade secret rights, trademark rights, and other intellectual property rights of any kind anywhere in or to any of the foregoing (individually and collectively “Fluence Property”).
10. **Reservation of Rights.** No right, title, interest, ownership, co-ownership, lien, license, or claim of any kind in or to or under or related to any Fluence Property is, or shall be deemed to be or have been, transferred, assigned, conveyed, granted, or extended to or for the Client of any third party under or in connection with the Agreement or the lease, installation, use, or operation of the Demonstration Equipment. Client hereby irrevocably and unconditionally assigns, transfers, and conveys, and shall cause any third party associated with it to assign, transfer, and convey, to Fluence all rights, title, interest, ownership, liens, licenses, and claims that Client or such third party acquires, owns, or has or may own or have in or to or related to any Fluence Property, free of any payment. Client shall provide, and cause such third party to provide, any assistance requested by Fluence to implement and give full effect to the foregoing provisions. Client shall provide and deliver to Fluence all Fluence Property, and all copies and manifestations thereof, in Client’s or any associated third party’s possession and control upon the end of the Lease, without retaining any copy or manifestation in any form or media thereof.

11. **Access.** Fluence may at any time, directly or indirectly, access and take possession of the Demonstration Equipment, and of any copy, reproduction, derivative work, improvement, or derivation thereof, and transport or return, or have transported or returned to Fluence or any third party designated by Fluence, and Cline hereby gives Fluence and/or a third party designated by Fluences the express right, to enter or access the Site and any other property of or under the direct or indirect control of Client or any of its affiliates at any time for the purpose of the foregoing. Any access or entry of the Site and such other property shall be deemed not to be trespass or any crime, tort, breach of contract or a duty, or otherwise give rise to any claim or liability by Fluence or such third party.
12. **Indemnity.** Client shall indemnify, defend, and hold harmless Fluence and any of its affiliates, officers, directors, employees, agents, representatives, and contractors from and against all claims, allegations, actions, suits, and proceedings, and all liability, losses, damages, penalties, taxes, costs, and expenses (including without limitation, reasonable attorneys' fees and legal costs), arising from or in connection with any use, utilization, operation, and possession of the Pilot Equipment, any Loss, and/or any violations of any applicable law, negligence, willful misconduct, an violation of any third party's rights or property by Client or any of its employees, agents, or representatives. Fluence shall indemnify, defend, and hold harmless Client and its elected and appointed officials, officers, directors, employees, agents, and representatives from and against all claims, allegations, actions, suits, and proceedings, and all liability, losses, damages, penalties, taxes, costs, and expenses (including without limitation, reasonable attorneys' fees and legal costs), arising from or in connection with any use as permitted under this contract in compliance with the operations and maintenance manual instructions as provided by Fluence for utilization, operation, and possession of the Pilot Equipment, any Loss, and/or any violations of any applicable law, negligence, willful misconduct, or any violation of any third party's rights or property by Fluence or any of its employees, agents, or representatives.
13. **Warranties and Representations.** Each Party represents and warrants that it has the authority to enter the Agreement, and the execution, delivery and performance of the Agreement by such Party has been duly and properly authorized by all necessary corporate actions, and the Agreement constitutes the valid and binding obligation of such Party. THE DEMONSTRATION EQUIPMENT IS LEASED, ANY FLUENCE PROPERTY IS MADE AVAILABLE, AND ALL SERVICES ARE PERFORMED AND PROVIDED "AS IS". OTHER THAN THE FOREGOING IN THIS SECTION 11, FLUENCE MAKES NO, AND HEREBY DISCLAIMS ALL, WARRANTIES AND REPRESENTATIONS, EXPRESS, IMPLIED, AND STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, OR WORKMANSHIP, REGARDING THE DEMONSTRATION EQUIPMENT AND ANY FLUENCE PROPERTY.
14. **Liability.** IN NO EVENT SHALL FLUENCE BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, SPECIAL, OR LIQUIDATED DAMAGES OF ANY KIND UNDER OR IN CONNECTION WITH THE AGREEMENT, THE DEMONSTRATION EQUIPMENT, ANY FLUENCE PROPERTY, OR ANY SERVICES. IF FLUENCE IS LIABLE FOR ANY DAMAGES UNDER THE AGREEMENT OR RELATED TO THE DEMONSTRATION EQUIPMENT, FLUENCE PROPERTY, OR SERVICES, FLUENCE'S TOTAL AND AGGREGATE LIABILITY SHALL BE, REGARDLESS OF THE CAUSE OF ACTIONS OR INCIDENTS OR LEGAL THEORIES, THE AGGREGATE AMOUNTS OF THE DEMONSTRATION FEES RECEIVED BY FLUENCE UNDER THE AGREEMENT, PROVIDED THAT THIS EXCLUSION SHALL NOT APPLY TO FRAUD, NEGLIGENCE, WILFUL MISCONDUCT. For avoidance of doubt, the total aggregate liability specified in this Section 14 shall be in addition to any amounts recovered from insurance.
15. **Insurance.** Both parties shall maintain insurance, and furnish proof of such insurance to Client prior to beginning work under this Agreement, in the following amounts: \$1,000,000 of Commercial General Liability insurance, automobile insurance in the amount of \$1,000,000, and workers compensation insurance in the amount of \$1,000,000. Fluence shall include all subcontractors as insureds under its policies. Client, its officers, officials, and employees, are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of Fluence under this Agreement.
16. **Miscellaneous.** The Parties are, and will always represent themselves to be, independent contractors and not partners, joint ventures, co- owners, or other participants in a joint or common undertaking. The personnel of one Party is not, and shall not be deemed to be, personnel of the other Party, and no Party is liable for the personnel of the other party. Client may not transfer the Agreement or assign any right, or delegate any obligation, under the Agreement, and any such attempted transfer, assignment, or delegation shall be null and void. The Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties. The Agreement constitutes the entire understanding and agreement between the Parties related to the subject matter hereof, may not be changed or supplemented other than in written amendment that specifies the provisions of the Agreement that are changed or supplemented and is signed by each Party. No right of a Party is or shall be deemed waived or changed other than as expressly set forth in a written waiver signed by such Party. A failure of a Party to exercise any right provided for herein shall not be deemed to be a waiver of any right hereunder. THE AGREEMENT, AND THE INTERPRETATION AND CONSTRUCTION OF THE AGREEMENT, AND THE VALIDITY, ENFORCEABILITY AND PERFORMANCE OF THE AGREEMENT, AND ANY DISPUTE UNDER THE AGREEMENT AND THE RESOLUTION OF ANY DISPUTE UNDER THE AGREEMENT, SHALL BE GOVERNED BY LAW OF THE STATE OF NEW YORK, UNITED STATES OF AMERICA, AND ANY APPLICABLE U.S. FEDERAL LAW, WITHOUT THE APPLICATION OF ANY CONFLICTS OF LAW PROVISIONS THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF A DIFFERENT JURISDICTION. THE APPLICATION OF THE UNITED NATIONS CONVENTION ON THE INTERNATIONAL SALE OF GOODS IS HEREBY EXPRESSLY DISCLAIMED BY THE PARTIES. In the event of a dispute under the Agreement or on the enforcement of the Agreement, each Party consents and submits to the non-exclusive jurisdiction of competent New York state courts, and the U.S. District Court for the Southern District of New York, sitting in the Borough of Manhattan New York, New York, United States of America. If any provision of the Agreement is held to be invalid or unenforceable, it will be construed, to the extent feasible, so as to render the provision enforceable. If there is no such feasible construction, such provision will be severed from the remainder of the Agreement, which shall remain in full force and effect, and the Parties will use their best efforts to negotiate in good faith a substitute, valid, and enforceable provision most nearly effecting the Parties' intent of such provision.

Appendix 7 – Customer Acceptance

Submitted by:	Accepted By:
Ronen Barkan North America Business Development and Sales Director Fluence Corporation rbarkan@fluencecorp.com	Customer name: Address of customer: Phone number: Email:
Authorized Signature: .	Authorized Signature: .
Authorized Printed Name: .	Authorized Printed Name: .
Date: .	Date: .