

VIII

R. C. No. 196 - 21 - 22. By PUBLIC WORKS COMMITTEE. January 4, 2022.

Your Committee to whom was referred Res. No. 114-21-22 by Alderpersons Dekker and Perrella authorizing City officials to accept the quote from Ovivo USA, LLC for the purchase of the components required to maintain the east influent screens at the Wastewater Treatment Plant and to make other expenditures relating to the maintenance of the east influent screens; recommends adopting the Resolution.

_____	_____
_____	_____
_____	_____
	Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the _____ day of _____, 20____.

Dated _____ 20____. _____, City Clerk

Approved _____ 20____. _____, Mayor

III

26

Res. No. 114 - 21 - 22. By Alderpersons Dekker and Perrella.
December 20, 2021.

A RESOLUTION authorizing the appropriate City officials to accept the quote from Ovivo USA, LLC for the purchase of the components required to maintain the east influent screens at the Wastewater Treatment Plant and to make other expenditures relating to the maintenance of the east influent screens.

WHEREAS, the influent screens are an important component of the Wastewater Treatment Plant; and

WHEREAS, the influent screens are connected by chains on each edge; and

WHEREAS, these chains have a limited lifespan, and their replacement is contemplated as a part of the maintenance of the influent screen system; and

WHEREAS, the chains which connect the east influent screens have reached the end of their life, and must be replaced (the "Chain Replacement"); and

WHEREAS, because the Chain Replacement does not constitute public construction as that term is used in the Wisconsin Statutes, neither state law nor the City's Procurement Policy require bidding for the materials necessary for the Chain Replacement; and

WHEREAS, it is in the best interest of the City to obtain a new chain and related components from Ovivo USA, LLC ("Ovivo"), who is the original equipment manufacturer of the influent screen system; and

WHEREAS, a purchase order from Ovivo for the necessary components for the Chain Replacement is attached to this Resolution; and

WHEREAS, City Staff are able to install the new chain to complete the Chain Replacement.

NOW, THEREFORE, BE IT RESOLVED: That the appropriate City Officials are authorized to accept the quote from Ovivo to purchase the items identified in the quote for the Chain Replacement for \$60,177.64.

PKS
adopt

BE IT FURTHER RESOLVED: That subject to the appropriation and availability of funds the appropriate City officials are authorized to draw funds, not to exceed \$68,177.64, from Account No. 60138300-631100 to pay for the items from Ovivo for the Chain Replacement and any other miscellaneous hardware or electrical supplies necessary to complete the Chain Replacement.

Dem Dabke
Frank Pucillo

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the _____ day of _____, 20____.

Dated _____ 20____. _____, City Clerk

Approved _____ 20____. _____, Mayor



Ovivo USA, LLC
4246 Riverboat Road, Suite 300
Salt Lake City, UT 84123
Phone: (801) 931-3000 Fax: (801)931-3080

Customer Quote

ATTENTION: Paul Schuette

PHONE NO: (224)629-4060

SOLD TO	CUSTOMER NUMBER 6509	SHIP TO
DRYDON EQUIPMENT, INC.		Sheboygan Regional Wastewater Treatment
EM: accounting@drydon.com		Facility
2445 WESTFIELD DRIVE, SUITE 100		3333 Lakeshore Drive
ELGIN IL 60124-7840		Sheboygan WI 53081
USA		USA

QUOTE #	DATE	TERMS	CUSTOMER RFQ	SALESPERSON	CURRENCY
QSSW105443	11/18/2021	Net 30 days		.DRYDON	USD

L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
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Ovivo can also provide you with installation labor services.
Please contact us for additional turn-key pricing.

1. Shipment: Approximately 10-11 WEEKS after receipt of purchase order and any required data. Lead times can vary depending on time of order placement and current inventory levels.

2. Quantities: The prices are based on the quantities shown and are subject to increase if a lesser quantity is required.

3. FCA: shipping point

4. Freight: ALLOWED, standard ground shipping only.

5. Packing: Made ready for standard transport.

6. Items quoted per customer provided part numbers.

7. This quote is valid for 30 Days. However, stainless steel parts pricing is valid for 10 days.

8. \$100.00 Minimum Order

9. All sales are final.

DATE: 11/18/2021



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1	PART # 696510C ASSY,CHAIN OUTER LINK** Drawing: 696510 REV C	26	EA		756.42	19,666.92
2	PART # 696510A ASSY, CHAIN INNER LINK** Drawing: 696510 REV C	26	EA		1,051.29	27,333.54
3	PART # F10468 CAPSCREW,HX HD,316SS, 3/8-16x2-1/2 Drawing: N/A REV _ +	58	EA		1.54	89.32
4	PART # F10466 CAPSCREW,HX HD,316SS, 3/8-16x2 Drawing: N/A REV _ +	58	EA		1.16	67.28
5	PART # F12750 NUT,HX,NYLOCK,316SS, 3/8-16 (620) Drawing: N/A	116	EA		0.39	45.24
6	PART # F11207 WASHER PLN TYPE A-N 3/8 316SS Drawing: N/A	232	EA		0.21	48.72
7	PART # 581584 WIPER BLADE NEOPRENE 60 DUR	2	EA		50.98	101.96

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Drawing: 581584 REV A +

8	PART # 584569 MAINCHAIN SEALING PLATE, BLK UHMW Drawing: 584569 REV A	52	EA		43.13	2,242.76
9	PART # 550445 CHAIN SPACER UHMW Drawing: 550445 REV B	26	EA		30.77	800.02
10	PART # 553653 BASKET PANEL SEAL NEOPRENE Drawing: 553653 REV A	26	EA		21.00	546.00
11	PART # 548550 MAIN CHAIN SEAL A NEOPRENE ^ Drawing: 548550 REV A	2	EA		828.11	1,656.22
12	PART # 548547 MAIN CHAIN SEAL B NEOPRENE Drawing: 548547 REV A	4	EA		882.59	3,530.36
13	PART # 553652 SCREEN,PROPAPANEL,REMOVE,POLYURETHANE	5	EA		401.93	2,009.65

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L#	Items	Quantity	U/M	Lead Time	Unit Price	Total Value
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Drawing: 553652 REV B

14	PART # 553651	5	EA		407.93	2,039.65
	PANEL,SCREEN,PROPAPANEL,POLYURETHANE					

Please submit purchase order to:

Your point of contact is:

Ben Dansie

Aftermarket Parts and Rebuild Specialist
Inlet Works
Email: benjamin.dansie@ovivowater.com
Cell:385-290-9841
Fax: 801-931-3080

Drawing: 553651 REV A

DATE: 11/18/2021



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Sale Amount:	60,177.64
Total Amount:	60,177.64
	USD

- A) The Ovivo USA, LLC Terms and Conditions of Sale are attached and made essential parts of the Ovivo USA, LLC proposal or purchase order confirmation. These terms and conditions replace and supersede any terms and conditions or warranty included in Buyer's or Owner's purchase order, requests for quotation or specifications and cannot be changed without written approval from an authorized representative of Ovivo USA, LLC.
- B) GST and all other taxes are extra, if applicable.
- C) Pricing valid for acceptance 30 days from date of the proposal document, and will be subject to change thereafter.
- D) Shipping shall be (FCA) Free Carrier at point of manufacture unless otherwise stated above. Insurance is the responsibility of Buyer.
- E) Payment terms are stated above.
- F) Duty, freight and brokerage costs are for Buyer's account unless stated otherwise herein.
- G) Minimum billing of \$100 per order.
- H) Notwithstanding any liabilities or responsibilities it has assumed hereunder, Ovivo USA, LLC shall in no event be responsible to Buyer or any third party in contract or in tort, or otherwise, for loss or damage sustained as a result of the operation of the equipment, loss of use, expenses involved in loss of capital claims or Buyer's or Owner's loss of profit or revenues, or any other indirect, incidental, special or consequential loss or damage, whether arising from defects, delay, or any other cause whatsoever.
- I) Current Ovivo USA, LLC paint specifications shall apply unless otherwise specified.
- J) Any and all stock or "off the shelf" parts returned to Ovivo USA, LLC are subject to a re-stocking fee equal to 25% of their respective invoice price. All other parts, including but not limited to customized and special manufactured parts, shall, at the sole discretion of Ovivo USA, LLC be (i) subject to a restocking fee of 45% of their respective invoice price or (ii) non-refundable.

PLEASE ADDRESS AND SUBMIT YOUR PURCHASE ORDER TO THE ADDRESS INDICATED ABOVE.



Worldwide Experts in Water Treatment

Terms & Conditions of Sale

1. ACCEPTANCE. The proposal of **Ovivo USA, LLC** ("SELLER"), as well as these terms and conditions of sale (collectively the "Agreement"), constitutes SELLER's contractual offer of goods and associated services, and PURCHASER's acceptance of this offer is expressly limited to the terms of the Agreement. The scope and terms and conditions of this Agreement represent the entire offer by SELLER and supersede all other solicitations, discussions, agreements, understandings and representations between the parties. Any scope or terms and conditions included in PURCHASER's acceptance/purchase order that are in addition to or different from this Agreement are hereby rejected.

2. DELIVERY. Any statements relating to the date of shipment of the Products (as defined below) represent SELLER's best estimate, but is not guaranteed, and SELLER shall not be liable for any damages due to late delivery. The Products shall be delivered to the delivery point or points in accordance with the delivery terms stated in SELLER's proposal. If such delivery is prevented or postponed by reason of Force Majeure (as defined below), SELLER shall be entitled at its option to tender delivery to PURCHASER at the point or points of manufacture, and in default of PURCHASER's acceptance of delivery to cause the Products to be stored at such a point or points of manufacture at PURCHASER's expense. Such tender, if accepted or such storage, shall constitute delivery for all purposes of this agreement. If shipment is postponed at request of PURCHASER, or due to delay in receipt of shipping instructions, payment of the purchase price shall be due on notice from SELLER that the Products are ready for shipment. Handling, moving, storage, insurance and other charges thereafter incurred by SELLER with respect to the Products shall be for the account of PURCHASER and shall be paid by PURCHASER when invoiced. Delivery by SELLER of the Products shall constitute acceptance of the Products by PURCHASER, unless written notice of defect or nonconformity is received by SELLER within thirty (30) days of SELLER's delivery of the Products.

3. TITLE AND RISK OF LOSS. SELLER shall retain the fullest right, title, and interest in the Products to the extent permitted by applicable law, including a security interest in the Products, until the full purchase price has been paid to SELLER. The giving and accepting of drafts, notes and/or trade acceptances to evidence the payments due shall not constitute or be construed as payment so as to pass SELLER's interests until said drafts, notes and/or trade acceptances are paid in full. Risk of loss shall pass to PURCHASER at the delivery point.

4. PAYMENT TERMS. SELLER reserves the right to ship the Products and be paid for such on a pro rata basis, as shipped. If payments are not made by the due date, interest at a rate of two percent (2%) per month, calculated daily, shall apply from the due date for payment. PURCHASER is liable to pay SELLER's legal fees and all other expenses in respect of enforcing or attempting to enforce any of SELLER's rights relating to a breach or threatened breach of the payment terms by PURCHASER. In the event of nonpayment SELLER reserves the further right to seek compensation from any third party in possession of the Products.

5. TAXES. Unless otherwise specifically provided in SELLER's quotation/proposal, PURCHASER shall pay and/or reimburse SELLER, in addition to the price, for all sales, use and other taxes, excises and charges, which SELLER may pay or be required to pay to any government directly or indirectly in connection with the production, sale, transportation, and/or use by SELLER or PURCHASER, of any of the Products or services dealt with herein (whether the same may be regarded as personal or real property). PURCHASER agrees to pay all property and other taxes which may be levied, assessed or charged against or upon any of the Products on or after the date of actual shipment, or placing into storage for PURCHASER's account.

6. MECHANICAL WARRANTY. Solely for the benefit of PURCHASER, SELLER warrants that new equipment and parts manufactured by it and provided to PURCHASER (collectively, "Products") shall be free from defects in material and workmanship. The warranty period shall be twelve (12) months from startup of the equipment not to exceed eighteen (18) months from the earliest of the notice of readiness to ship or the actual shipment. If any of SELLER's Products fail to comply with the foregoing warranty, SELLER shall repair or replace free of charge to PURCHASER, EX WORKS SELLER'S FACTORIES or other location that SELLER designates, any Product or parts thereof returned to SELLER, which examination shall show to have failed under normal use and service operation by PURCHASER within the Warranty Period, provided that if it would be impracticable for the Product or part thereof to be returned to SELLER, SELLER will send a representative to PURCHASER's job site to inspect the Product. If it is determined after inspection that SELLER is liable under this warranty to repair or replace the Product or part thereof, SELLER shall bear the transportation costs of (a) returning the Product to SELLER for inspection or sending its representative to the job site and (b) returning the repaired or replaced Products to PURCHASER; however, if it is determined after inspection that SELLER is not liable under this warranty, PURCHASER shall pay those costs. For SELLER to be liable with respect to this warranty, PURCHASER must make its claims to SELLER with respect to this warranty in writing no later than thirty (30) days after the date PURCHASER discovers the basis for its warranty claim and in no event more than thirty (30) days after the expiration of the Warranty Period. In addition to any other limitation or disclaimer with respect to this warranty, SELLER shall have no liability with respect to any of the following: (i) failure of the Products, or damages to them, due to PURCHASER's negligence or willful misconduct, abuse or improper storage, installation, application or maintenance (as specified in any manuals or written instructions that SELLER provides to the PURCHASER); (ii) any Products that have been altered or repaired in any way without SELLER's prior written authorization; (iii) The costs of dismantling and reinstallation of the Products; (iv) any Products damaged while in transit or otherwise by accident; (v) decomposition of Products by chemical action, erosion or corrosion or wear to Products or due to conditions of temperature, moisture and dirt; or (vi) claims with respect to parts that are consumable and normally replaced during maintenance such as filter media, filter drainage belts and the like, except where such parts are not performing to SELLER's estimate of normal service life, in which case, SELLER shall only be liable for the pro rata cost of replacement of those parts based on SELLER's estimate of what the remaining service life of those parts should have been, provided, that failure of those parts did not result from any of the matters listed in clauses (i) through (v) above. With regard to third-party parts, equipment, accessories or components not of SELLER's design, SELLER's liability shall be limited solely to the assignment of available third-party warranties. THE PARTIES AGREE THAT ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, WHETHER WRITTEN, ORAL OR STATUTORY, ARE EXCLUDED TO THE FULLEST EXTENT PERMISSIBLE BY LAW. All warranties and obligations of SELLER shall terminate if PURCHASER fails to perform its obligations under this Agreement including but not limited to any failure to pay any charges due to SELLER. SELLER's quoted price for the Products is based upon this warranty. Any increase in warranty obligation may be subject to an increase in price.

8. SURFACE COATING. Any Product coating provided by SELLER shall be in accordance with SELLER's standard practice, unless otherwise agreed in writing.

9. DRAWINGS AND TECHNICAL DOCUMENTATION. When PURCHASER requests to approve drawings before commencement of manufacture, shipment may be delayed if approved drawings are not returned to SELLER within fourteen (14) days of receipt by PURCHASER of such drawings for approval. SELLER will furnish only general arrangement, general assembly, and if required, wiring diagrams, erection drawings, installation and operation-maintenance manuals for SELLER's equipment (in English language). SELLER will supply six (6) complete sets of drawings and operating instructions. Additional sets will be paid for by PURCHASER. Electronic files, if requested from SELLER, will be provided in pdf, jpg or tif format only.

10. SET OFF. This Agreement shall be completely independent of all other contracts between the parties and all payments due to SELLER hereunder shall be paid when due and shall not be set off or applied against any money due or claimed to be due from SELLER to PURCHASER on account of any other transaction or claim.

11. SOFTWARE. PURCHASER shall have a nonexclusive and nontransferable license to use any information processing program supplied by SELLER with the Products. PURCHASER acknowledges that such programs and the information contained therein is Confidential Information and agrees: a) not to copy or duplicate the program except for archival or security purposes, b) not to use the program on any computer other than the computer with which it is supplied, and c) to limit access to the program to those of its employees who are necessary to permit authorized use of the program. PURCHASER agrees to execute and be bound by the terms of any software license applicable to the Products supplied.

12. PATENT INDEMNITY. SELLER will defend at its own expense any suit instituted against PURCHASER based upon claims that SELLER's Product hereunder in and of itself constitutes an infringement of any valid

apparatus claims of any United States patent issued and existing as of the date of this Agreement, if notified promptly in writing and given all information, assistance, and sole authority to defend and settle the same, and SELLER shall indemnify the PURCHASER against such claims of infringement. Furthermore, in case the use of the Products is enjoined in such suit or in case SELLER otherwise deems it advisable, SELLER shall, at its own expense and discretion, (a) procure for the PURCHASER the right to continue using the Products, (b) replace the same with non-infringing Products, (c) modify the Product so it becomes non-infringing, or (d) remove the Products and refund the purchase price less freight charges and depreciation. SELLER shall not be liable for, and PURCHASER shall indemnify SELLER for, any claim of infringement related to (a) the use of the Products for any purpose other than that for which it was furnished by SELLER, (b) compliance with equipment designs not furnished by SELLER or (c) use of the Products in combination with any other equipment. The foregoing states the sole liability of SELLER for patent infringement with respect to the Products.

13. GENERAL INDEMNITY. Subject to the limitations of liabilities of the parties set forth in this Agreement, each party shall protect and indemnify the other party, its parent and their respective officers, directors, employees and agents from and against all claims, demands and causes of action asserted by or in favor of, if the Products to the extent of the indemnifying party's negligence or willful misconduct in connection with the performance of this agreement.

14. DEFAULT, TERMINATION. In the event that PURCHASER becomes insolvent, commits an act of bankruptcy or defaults in the performance of any term or condition of this Agreement, the entire unpaid portion of the purchase price shall, without notice or demand, become immediately due and payable. SELLER at its option, without notice or demand, shall be entitled to sue for said balance and for reasonable legal fees, plus out-of-pocket expenses and interest, and/or to enter any place where the Products are located and to take immediate possession of and remove the Products, with or without legal process, and/or retain all payments made as compensation for the use of the Products, and/or resell the Products, without notice or demand, for and on behalf of the PURCHASER, and to apply the net proceeds from such sale (after deduction from the sale price of all expenses of such sale and all expenses of retaking possession, repairs necessary to put the Products in saleable condition, storage charges, taxes, liens, collection and legal fees and all other expenses in connection therewith) to the balance then due to SELLER for the Products and to receive from the PURCHASER the deficiency between such net proceeds of sale and such balance. PURCHASER hereby waives all trespass, damage and claims resulting from any such entry, repossession, removal, retention, repair, alteration and sale. The remedies provided in this paragraph are in addition to and not limitations of any other rights of SELLER.

15. CANCELLATION. PURCHASER may terminate this Agreement for convenience upon giving SELLER thirty (30) days prior written notice of such fact and paying SELLER for all costs and expenses (including overhead) incurred by it in performing its work and closing out the same plus a reasonable profit thereon. All such costs and expenses shall be paid to SELLER within ten (10) days of the termination of the Agreement, or be subject to an additional late payment penalty of five percent (5%) of the total amount of costs and expenses owed.

16. REMEDIES. The rights and remedies of the PURCHASER in connection with the goods and services provided by SELLER hereunder are exclusive and limited to the rights and remedies expressly stated in this Agreement.

17. INSPECTION. PURCHASER is entitled to make reasonable inspection of Products at SELLER's facility. SELLER reserves the right to determine the reasonableness of the request and to select an appropriate time for such inspection. All costs of inspections not expressly included as an itemized part of the quoted price of the Products in this Agreement shall be paid by PURCHASER.

18. WAIVER. Any failure by SELLER to enforce PURCHASER's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

19. COMPLIANCE WITH LAWS. If applicable laws, ordinances, regulations or conditions require anything different from, or in addition to that called for by this Agreement, SELLER will satisfy such requirements at PURCHASER's written request and expense.

20. FORCE MAJEURE. If SELLER is rendered unable, wholly or in material part, directly or indirectly, by reason of Force Majeure, to carry out any of its obligations hereunder, then on SELLER's notice in writing to PURCHASER within a reasonable time after the occurrence of the cause relied upon, such obligations shall be suspended. "Force Majeure" shall include, but not be limited to, acts of God, epidemics and pandemics, acts of or delays caused by governmental authorities, changes in laws and regulations, strikes, civil disobedience or unrest, lightning, fire, flood, washout, storm, communication lines failure, delays of the PURCHASER or PURCHASER's subcontractors, breakage or accident to equipment or machinery, wars, police actions, terrorism, embargos, and any other causes that are not reasonably within the control of the SELLER. If the delay is the result of PURCHASER's action or inaction, then in addition to an adjustment in time, SELLER shall be entitled to reimbursement of costs incurred to maintain its schedule. For the avoidance of doubt, if the cause relied upon has commenced prior to the Parties entered into a contracting relationship, it shall not render the cause void and/or not capable of being included within the definitions of Force Majeure, as listed within this Article 20.

21. INDEPENDENT CONTRACTOR. It is expressly understood that SELLER is an independent contractor, and that neither SELLER nor its principals, partners, parents, subsidiaries, affiliates, employees or subcontractors are servants, agents, partners, joint ventures or employees of PURCHASER in any way whatsoever.

22. SEVERABILITY. Should any portion of this Agreement, be held to be invalid or unenforceable under applicable law then the validity of the remaining portions thereof shall not be affected by such invalidity or unenforceability and shall remain in full force and effect. Furthermore, any invalid or unenforceable provision shall be modified accordingly within the confines of applicable law, giving maximum permissible effect to the parties' intentions expressed herein.

23. CHOICE OF LAW, CHOICE OF VENUE. This Agreement shall be governed and construed in accordance with the laws of the State of Utah, without regard to its rules regarding conflicts or choice of law. The parties submit to the exclusive jurisdiction and venue of the state and federal courts located in Salt Lake City, Utah.

24. ASSIGNMENT. PURCHASER shall not assign or transfer this Agreement without the prior written consent of SELLER. Any attempt to make such an assignment or transfer shall be null and void. SELLER shall have the authority to assign, or otherwise transfer, its rights and obligations in connection with this Agreement, in whole or in part, upon prior written notice to PURCHASER.

25. LIMITATION ON LIABILITY. To the extent permissible by law, SELLER shall HAVE NO FURTHER LIABILITY IN CONNECTION WITH THIS AGREEMENT in excess of the amount paid by purchaser for the products giving rise to such liability. Notwithstanding any liabilities or responsibilities assumed by SELLER hereunder, SELLER shall in no event be responsible to PURCHASER or any third party, whether arising under contract, tort (including negligence), strict liability, or otherwise, for loss of anticipated profits, loss by reason of plant shutdown, non-operation or increased expense of operation, loss of data, service interruptions, cost of purchased or replacement power, cost of money, loss of use of capital or revenue or any other indirect, incidental, special, punitive, exemplary, or consequential loss or damage, whether arising from defects, delay, or from any other cause whatsoever.

26. PRIVACY AND DATA PROTECTION. Seller has put in place rigorous safeguards and procedures regarding privacy and data protection, notably the Ovivo Privacy Policy (ovivowater.com/privacy-policy), and requires that Purchaser adhere to its data protection principles to the extent applicable to Purchaser.

27. DATA COLLECTION. PURCHASER consents to the collection of the Products operational data and to the use of such data for the purpose of improving the Products and other purposes stated herein. PURCHASER further agrees that such data collection does not constitute a performance monitoring service or duty by SELLER.

28. INSURANCE. SELLER shall maintain that its current levels of insurance for the duration of the Project, as set forth in its standard certificate of insurance, available upon request.

29. BONDS. If PURCHASER deems it necessary, and within ten (10) days of PURCHASER's request, SELLER shall provide one or more Bonds in favor of PURCHASER, at PURCHASER's expense, by an institution, and in form approved in advance by SELLER.

30. PERMITS. PURCHASER shall be solely responsible to obtain and maintain in force all necessary permits with respect to any products to be provided by SELLER hereunder and any intended use by PURCHASER.

REVISED - March 2020

