

CITY OF NEPTUNE BEACH, FLORIDA

116 First Street
(904) 270-2400 - Fax: 270-2417

9637

PURCHASE AUTHORIZATION

Vendor Name: OVIVO USA, LLCDate: 1 29 2021Vendor Address: 4246 RIVERBOAT ROAD #300
SALT LAKE CITY, UT 84123-2583Phone Number: 904-524-9576Contact: JOE SACCORequesting Department: WWTPAccount to Charge: 401-4335-535-60-64Purpose or Use: REPLACE CLARIFIER DRIVE 1 & MOTOR AS IT IS UNOPERABLE

Vehicle or Equipment Number: _____

Quotes (check the appropriate box)

- ☐ \$500-\$999 Two verbal quotes
☐ \$1,000-\$9,999 Three quotes signed by vendor
☒ \$10,000 and over-Appropriate Authorization
and Project Approved by Council

Quantity	Description	Price	Total
1	C30HT DRIVE UNIT SEE ATTACHED FOR SPECIFICATIONS		\$62,456.00
<div>SOLE SOURCE</div> <div>Carl I could only find a clarifier motor budgeted for FY23 - nothing in this fiscal year. CB</div>			
TOTAL AMOUNT OF PURCHASE			\$62,456.00

APPROVED: _____

Department Head

APPROVED: _____

Finance Director

APPROVED: _____

City Manager

Prepared by: _____

ANGIE BRIDGES

2-1-2021

Date

2/16/21

Date

2/19/2021

Date

Ovivo USA, LLC
4246 Riverboat Road - Suite 300
Salt Lake City, Utah
84123-2583
USA

Telephone: 801.931.3000
Facsimile: 801.931.3080
www.ovivowater.com



January 26, 2021

City of Neptune Beach
Attn: Allan Kelly
2010 Hawthorne St.
Neptune Beach, FL 32266

Re: EIMCO Water Technologies Equipment
Sole Source

To Whom It May Concern:

Please be advised that Ovivo USA, LLC is the "Sole Source" manufacturer and exclusive distributor of all EIMCO Water Technologies parts/equipment used in Ovivo (formerly EIMCO Water Technologies) wastewater & water treatment process facilities.

Our exclusive agent for this equipment in your geographic area is:

TSC-Jacobs (North)
24156 SR 54
Suite 3
Lutz, FL 33549

Joe Sacco
813 242-2660 - Office
904 524-9576 - Mobile

Please direct all inquiries for municipal wastewater treatment equipment to above agent.

Respectfully,



Bill Stewart
Sales Engineer
Ovivo USA, LLC Rebuild Group
801 931-3265
bill.stewart@ovivowater.com



PROPOSAL

Q122220B-S

27 JANUARY 2021

**NEPTUNE BEACH WWTP
2010 HAWTHORNE ST
NEPTUNE BEACH, FL 32266**

**ATTN:
JAY BENNETT**

**ONE C30HT DRIVE REPLACEMENT FOR
43'-0" DIA. "C3S" TYPE CLARIFIER**

AREA REPRESENTATIVE

**TSC Jacobs - North
Joe Sacco
(904) 524-9576
joetscjr@gmail.com**

Revision B, 01/25/2020, Per customer request.

PREPARED BY

**Bill Stewart
Phone (801) 931-3265
Fax (801) 931-3080
bill.stewart@ovivowater.com**

**Ovivo USA, LLC
4246 Riverboat Road – Suite 300
Salt Lake City, Utah 84123-2583**



PROJECT SUMMARY:

Ovivo USA, LLC (formerly EIMCO Water Technologies – EWT) is pleased to offer the following proposal to provide one (1) C30HT model thickener drive to replace existing drive assembly. Original drive unit was supplied 1987 by EIMCO under serial #23661-01.

ITEMS INCLUDED:

Ovivo will manufacture and supply one (1) new C30HT drive unit to include the following:

- Basic C30HT drive with torque spring rated to match the existing unit
- Motor drive package (3/4 HP TEFC motor, reducer, sprockets, chain & guard)
- Drive torque control unit with micro switches and actuating pin
- Premium Ovivo paint scheme, two (2) coats of Tnemec Series 66HS epoxy @ 4-6 mils DFT
 - Top coated with (1) coat of Tnemec Series 73 Endura Shield urethane paint @ 3-5 mils DFT Sky Blue color
 - Top coat is highly resistant to abrasion, wet conditions, corrosive fumes, chemical contact & weathering
- Drive unit is completely factory assembled, calibrated and tested.
- Two (2) year warranty with Ovivo installation services.
- Assembly fasteners – 316 SS
- Shim kit
- Engineering
- FOB ship point freight prepaid and allowed
- O & M manual
- Performance and payment security Bond.

Installation Services:

- Florida State licensed General Contractor
- (1) One Mobilization and Demobilization.
- Service truck, crane, mats and related equipment.
- 10 hours per day.
- Blocking and shoring as required to support the existing rotating mechanism.
- Removal and installation of existing walkway structure (as required).
- Note: existing wiring and electrical components disconnection and reconnection is not provided by Ovivo.
- Removal of existing and installation of new drive unit.
- Alignment and leveling of drive and rotating clarifier components.
- Disposal of replaced components.

ITEMS NOT INCLUDED (But not limited to the following):

- Dewatering, draining and/or cleaning of the tank prior to start of installation.
- Electrical disconnect/installation or alteration of existing electrical supply.
- Walkway and center platform including walking surface, handrails and enclosure, Re-install existing.
- Existing clarifier mechanism components to be re-used unless noted above.
- Finish or touch up painting.
- Lubricants or drive unit oil.
- Disposal of any old lubricants/fluids.
- Overtime work hours.
- See general items listed.

Price for (One) C30HT drive unit complete as described above...	\$62,459.00
Pass-through pricing for Performance/Payment Security Bond...	\$ 997.53
Total.....	\$63,456.53

Lead time for manufacture is estimated at 2 - 4 weeks after receipt of purchase order.

Lead time for installation work is estimated at 2 – 3 weeks.

FIELD SERVICE

Our proposal includes the service of a qualified service engineer for the following:

1 Day / 1 Trip / Each Machine

to assist in adjusting, servicing, and checking out these mechanisms, and in training the operators in maintenance, troubleshooting, and repair of the equipment.

Additional service days can be purchased at the current rate.

DELIVERY

Ovivo intends to ship all Products as indicated above after receipt of approved purchase order and approved submittal drawings from Purchaser. However, the date of shipment of the Products represent Ovivo's best estimate, but is not guaranteed, and Ovivo 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 this proposal. If such delivery is prevented or postponed by reason of Force Majeure, as defined in Ovivo's standard terms and conditions of sale, Ovivo 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 proposal. 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 Ovivo that the Products are ready for shipment. Handling, moving, storage, insurance and other charges thereafter incurred by Ovivo with respect to the Products shall be for the account of Purchaser and shall be paid by Purchaser when invoiced.

DELAYS IN CONSTRUCTION

Prior to Ovivo construction mobilization, the Owner is to confirm that the construction area is ready for our construction crew mobilization. Tank must be cleaned, free of plant waste and standing water, and must remain in this condition throughout construction. (Pumps, piping, valving, gates, stop blocks, etc. –whether permanent or temporary - are not the responsibility of Ovivo.)

If applicable, the electrical supply must be disconnected. Also, if applicable, arrangements must be made for reconnection of electrical supply within 10 working days of notice by Ovivo.

Owner must notify Ovivo of any confined space requirements prior to mobilization of Ovivo's crew.

Failure to have the construction area ready prior to our arrival will result in rescheduling of equipment installation and any financial costs incurred due to delays. Please note that our crews are frequently booked weeks in advance, and rescheduling to best meet the Owner's needs may not be possible.

PRICING TERMS

All prices quoted are in US Dollars. Prices are good for 30 days. After expiration of the pricing effective period, prices will be subject to review and adjustment. Prices quoted are FOB point of shipment, with freight included to an accessible point nearest the jobsite. Federal, state or local sales, use or other taxes are not included in the sales price.

PAYMENT TERMS

Per Florida state payment statutes, One hundred percent (100%) payment due within thirty (30) days after Purchaser's receipt of invoice. Invoice will be submitted after all materials have been received at the job site and they have been successfully installed by an Ovivo contractor and the field service check-out and start-up procedure is finalized.

TAXES

Federal, State or local sales, use or other taxes are not included in the sales price. Such taxes, if applicable, shall be for Purchaser's account.

BACKCHARGES

In no event shall Purchaser/Owner do or cause to be done any work, purchase any services or material or incur any expense for the account of Ovivo, nor shall Ovivo be responsible for such work or expenses, until after Purchaser/Owner has provided Ovivo's PROJECT MANAGER full details (including estimate of material cost and amount and rate of labor required) of the work, services, material or expenses, and Ovivo has approved the same in writing. Ovivo will not accept Products returned by Purchaser/Owner unless Ovivo has previously accepted the return in writing and provided Purchaser/Owner with shipping instructions.

****PURCHASE ORDER SUBMISSION****

In an effort to ensure all purchase orders are processed timely and efficiently, please submit all purchase order documentation to the following department and address:

Ovivo USA, LLC
4246 Riverboat Road - Suite 300,
Salt Lake City, Utah 84123-2583
Fax #: 801-931-3080
Tel. #: 801-931-3265
bill.stewart@ovivowater.com

ADDITIONAL FIELD SERVICE

When included and noted in the Product pricing of each proposal item, Ovivo will supply the service of a competent field representative to inspect the completed installation and adjustment of equipment, supervise initial operation, and instruct Owner's personnel in the operation and maintenance of each proposal item for the number of eight (8) hour days. Notwithstanding Ovivo's performance of the above-referenced services, Ovivo shall not be held liable for any faulty workmanship or other defects in the Products' installation, or for other goods and/or services, performed by third parties unless such goods and/or services are expressly included under Ovivo's scope of work.

If additional service is required over and above the Field Services described above, it will be furnished to the Purchaser and billed to him at the current rate for each additional day required, plus travel and lodging expenses incurred by the service personnel during the additional service days.

It shall be the Purchaser's responsibility to provide for all necessary lubrication of all equipment prior to placing equipment in operation. All equipment must be in operating condition and ready for the Field Service Engineer when called to the project location. Should the Contractor not be ready when the Field Service Engineer is requested or if additional service is requested, the Ovivo current service rates will apply for each additional day required, plus travel and lodging expenses incurred by the service personnel during the additional service days.

GENERAL ITEMS NOT INCLUDED

Unless specifically and expressly included above, prices quoted by Ovivo do not include unloading, hauling, erection, installation, piping, valves, fittings, stairways, ladders, walkways, grating, wall spools, concrete, grout, sealant, dissimilar metal protection, oakum, mastic, field painting, oil or grease, electrical controls, wiring, mounting hardware, welding, weld rod, shims, leveling plates, protection against corrosion due to unprotected storage, special engineering, or overall plant or system operating instructions or any other products or services.

MANUALS

The content of any and all installation, operation and maintenance or other manuals or documents pertaining to the Products are copyrighted and shall not be modified without the express prior written consent of Ovivo. Ovivo disclaims any liability for claims resulting from unauthorized modifications to any such manuals or other documents provided by Ovivo in connection with the Project.

WARRANTY AND CONDITIONS

Ovivo standard Terms and Conditions of Sale is attached and made an essential part of this proposal. These terms and conditions are an integral part of Ovivo's offer of Products and related services and replace and supersede any terms and conditions or warranty included in Purchaser or Owner requests for quotation or specifications and cannot be changed without written approval from an authorized representative of Ovivo.

TERMS AND 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.

7. CONFIDENTIAL AND PROPRIETARY INFORMATION. All nonpublic or proprietary information and data furnished to PURCHASER hereunder, including but not limited to price, size, type, design and other technical or business information relating to the Products is the sole property of SELLER and submitted for PURCHASER's own confidential use solely in connection with this Agreement and is not to be made known or available to any third party without SELLER's prior written consent.

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 setoff 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, any entity 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, **Duval County, Florida**.

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 Product's 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 a 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.

Ovivo USA, LLC

4246 Riverboat Road - Suite 300
Salt Lake City, Utah
84123-2583
USA

Telephone: 801.931.3000

Facsimile: 801.931.3080

www.ovivowater.com



**Worldwide Experts
in Water Treatment**

NORTH AMERICAN FIELD SERVICE RATE SHEET

Effective January 1, 2019

Standard (Travel)	Daily Rate (8 hour day)	\$ 1,200.00
Hourly Rate (4 hour minimum)		\$ 150.00
Standard (Labor)	Daily Rate (8 hour day)	\$ 1,200.00
Hourly Rate (4 hour minimum)		\$ 150.00
Saturday	Daily Rate (8 hour day)	\$ 1,800.00
Hourly Rate (4 hour minimum)		\$ 225.00
Sundays/Holidays *	Daily Rate (8 hour day)	\$ 2,400.00
Hourly Rate (4 hour minimum)		\$ 300.00
Overtime **	Hourly Rate - Standard Day	\$ 225.00
Hourly Rate - Weekends & Holidays		\$ 300.00

* Except Christmas Day and New Year's Day

** For all hours worked over eight (8) hours per day

UNLESS OTHERWISE ARRANGED; EXPENSES ARE CHARGED AT ACTUAL COST PLUS 10%

Please Note:

- All of the rates provided are portal to portal. In addition, travel and living expenses will be invoiced at actual cost PLUS 10 % and documentation will be provided for these expenses. ***If a fixed Per Diem rate is required, it will be charged at \$250.00 per day (lodging and meals) with the exception of the East Coast where the price will be \$300.00.*** Travel on Saturday, Sunday or Holidays, and after 8 hours per day will be billed at the overtime rate.
- Use of **Ovivo** Fleet vehicles for travel will be charged at the rate of \$0.58 per mile.