DRAFT SERVICES AGREEMENT BETWEEN THE CITY OF SUNNYVALE AND POLYDYNE, INC. FOR ON-CALL POLYMER PROVIDER

THIS AGREEMENT dated _____ is by and between the CITY OF SUNNYVALE, a California chartered municipal corporation ("CITY"), and POLYDYNE, INC. ("CONTRACTOR").

WHEREAS, CITY advertise an Invitation for Bids (IFB) F22-148 on July 25, 2022; and

WHEREAS, CITY accepted the bid submitted by CONTRACTOR on October 19, 2022; and

WHEREAS, CITY desires to secure on demand supply of polymer for waste water treatment to meet the required NTU; and

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services by CONTRACTOR

CONTRACTOR shall provide goods and services in accordance with Exhibit "A" entitled "Technical and Performance Specification." All exhibits referenced in this Agreement are attached hereto and are incorporated herein by reference. To accomplish that end, CONTRACTOR agrees to assign Wendy Mueller to this project, to act in the capacity of Account Manager, and personally direct the services to be provided by CONTRACTOR.

Except as specified in this Agreement, CONTRACTOR shall furnish all technical services, including labor, material, equipment, transportation, supervision, and expertise, to perform all operations necessary and required to satisfactorily complete the services required in this Agreement.

2. Contract Term

The term of this Agreement shall be for Three (3) years from the date of execution, unless otherwise terminated. The agreement may be renewed for three (3) one-year periods at the sole option of the City.

3. Payment of Fees and Expenses

CITY agrees to pay CONTRACTOR at the rate set forth in Exhibit "B". Total compensation shall not exceed Three Million and No/100 Dollars ($3,000,000.00), unless upon written modification to this Agreement signed by both parties. CONTRACTOR shall submit progress payment invoices to CITY no more frequently than monthly to be paid in accordance with the procedures outlined in Exhibit "B" attached and incorporated by reference.

All invoices, including detailed backup, shall be sent to the City of Sunnyvale, attention Accounts Payable, P.O. Box 3707, Sunnyvale, CA 94088-3707. Payment shall be made within thirty (30) days upon receipt of an accurate, itemized invoice by CITY's Accounts Payable Unit.

4. No Assignment of Agreement

CONTRACTOR shall bind themselves, their partners, successors, assigns, executors, and administrators to all covenants of this Agreement. Except as otherwise outlined in this Agreement, no interest in this Agreement or any of the work provided for under this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of CITY. However,

assigned to a bank, trust company, or other financial institutions, or to a trustee in bankruptcy, provided that written notice of any such assignment or transfer shall be first furnished to CITY. In case of the death of one or more members of the CONTRACTOR's firm, the surviving member or members shall complete the services covered by this Agreement. Any such assignment shall not relieve the CONTRACTOR from any liability under the terms of this Agreement.

5. Independent Contractor

CONTRACTOR is not an agent or employee of CITY but is an independent contractor with full rights to manage its employees subject to the requirements of the law. All persons employed by CONTRACTOR in connection with this Agreement will be employees of CONTRACTOR and not employees of CITY in any respect. CONTRACTOR is responsible for obtaining statutory Workers' Compensation coverage for its employees.

6. Standard of Workmanship

CONTRACTOR represents and maintains that it is skilled in the professional calling necessary to perform the services and its duties and obligations, expressed and implied, contained herein, and CITY expressly relies upon CONTRACTOR's representations regarding its skills and knowledge. CONTRACTOR shall perform such services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California.

7. Responsibility of CONTRACTOR

CONTRACTOR shall be responsible for the professional quality, technical accuracy, and the coordination of the services furnished by it under this Agreement. Neither CITY's review, acceptance, nor payment for any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and CONTRACTOR shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONTRACTOR's negligent performance of any of the services furnished under this Agreement.

8. Right of CITY to Inspect Records of CONTRACTOR

CITY, through its authorized employees, representatives, or agents, shall have the right, at any and all reasonable times, to audit the books and records including, but not limited to, invoices, vouchers, canceled checks, time cards of CONTRACTOR for the purpose of verifying any and all charges made by CONTRACTOR in connection with this Agreement. CONTRACTOR shall maintain for a minimum period of three (3) years from the date of final payment to CONTRACTOR or for any longer period required by law, sufficient books and records in accordance with generally accepted accounting practices to establish the correctness of all charges submitted to CITY by CONTRACTOR. Any expenses not so recorded shall be disallowed by CITY.

9. No Pledging of CITY's Credit

Under no circumstances shall CONTRACTOR have the authority or power to pledge the credit of CITY or incur any obligation in the name of CITY.

10. Ownership of Material

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and other material developed, collected, prepared or

caused to be prepared, under this Agreement shall be the property of CITY, but CONTRACTOR may retain and use copies thereof.

CITY shall not be limited, in any way, in its use of said material, at any time, for work associated with Project. However, CONTRACTOR shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to the release of this material to third parties for work other than on Project.

11. Indemnity

CONTRACTOR shall indemnify and hold harmless CITY and its officers, officials, employees and volunteers against any and all suits, claims, damages, liabilities, costs and expenses, including attorney fees, arising out of the performance of the work described herein, caused by or related to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, or agents in the performance (or non-performance) of services under this Agreement.

12. Insurance Requirements

The City requires that all contractors maintain insurance requirements on the Pacific Insurance Network System (PINS). The CONTRACTOR shall take out and maintain during the life of this Agreement, policies of insurance as specified in Exhibit "C" attached and incorporated by reference, and shall provide all certificates and/or endorsements as specified in Exhibit "C."

13. Remedy for Product Non-Performance or Failure to Support Product

Refer to Exhibit D for actions the City may take if the product fails to meet the product performance requirements and/or the supplier fails to provide sufficient quality control or product support.

14. Conflict of Interest

CONTRACTOR shall avoid all conflicts of interest, or appearance of conflict, in performing the services and agrees to immediately notify CITY of any facts that may give rise to a conflict of interest. CONTRACTOR is aware of the prohibition that no officer of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement, the CONTRACTOR shall not accept employment or an obligation that is inconsistent or incompatible with the CONTRACTOR'S obligations under this Agreement.

15. Governing Law, Jurisdiction, and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to conflict of law or choice of law principles. The proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

16. Records, Reports, and Documentation

CONTRACTOR shall maintain complete and accurate records of its operation, including any and all additional records required by CITY in writing. CONTRACTOR shall submit to CITY any and all reports concerning its performance under this Agreement that may be requested by CITY in writing. CONTRACTOR agrees to assist CITY in meeting CITY's reporting requirements to the state and other agencies with respect to the CONTRACTOR's work hereunder. All records, reports, and documentation relating to the work performed under this Agreement shall be made available to City during the term of this Agreement.

17. Termination of Agreement

A. If CONTRACTOR defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONTRACTOR. In the event of such termination, CONTRACTOR shall be compensated in proportion to the percentage of satisfactory services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONTRACTOR shall present CITY with any work product completed at that point in time.

B. Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONTRACTOR. In the event of such termination, CONTRACTOR shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONTRACTOR shall present CITY with any work product completed at that point in time.

C. If CITY fails to pay CONTRACTOR, CONTRACTOR at its option may terminate this Agreement if the failure is not remedied by CITY within (30) days after written notification of failure to pay.

18. Subcontracting

None of the services covered by this Agreement shall be subcontracted without the prior written consent of CITY. Such consent may be issued with notice to proceed if subcontract CONTRACTORS are listed in the project work plan.

19. Compliance with Laws

(a) CONTRACTOR shall not discriminate against, or engage in the harassment of, any City employee or volunteer or any employee of CONTRACTOR or applicant for employment because of an individual's race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, cancer or HIV/AIDS-related medical condition, genetic characteristics, and physical or mental disability (whether perceived or actual). This prohibition shall apply to all of CONTRACTOR's employment practices and to all of CONTRACTOR's activities as a provider of services to the City.

(b) CONTRACTOR shall comply with all federal, state and City laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

20. Changes

CITY or CONTRACTOR may, from time to time, request changes in the terms and conditions of this Agreement. Such changes, which are mutually agreed upon by CITY and CONTRACTOR, shall be incorporated in amendments to this Agreement.

21. Other Agreements

This Agreement shall not prevent either Party from entering into similar agreements with others.

22. Severability Clause

In case any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions which shall remain in full force and effect.

23. Captions

The captions of the various sections, paragraphs and subparagraphs, of the contract are for convenience only and shall not be considered nor referred to for resolving questions of interpretation.

24. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

25. Governing Law, Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

26. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

IN WITNESS WHEREOF, the parties have executed this Agreement.

CITY OF SUNNYVALE ("CITY")

By_____
City Manager

ATTEST:

By_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

POLYDYNE, INC. (“CONTRACTOR”)

By_____

_____
Name/Title

By_____

_____
Name/Title

Exhibit A
Technical and Performance Specification

A. Product Requirements

Bidders are invited to submit product(s) for testing and may participate in the testing process as described in Section C. If the products perform satisfactorily in either mode during the Mandatory Full-Scale Performancetesting ("Performance"), Bidders will be asked to submit a bid in accordance with the result from the Performance. For the product(s) to be acceptable, they must:

- Meet all applicable requirements for NPDES discharge (10 NTU mode) and recycled water production (2 NTU mode) when used in conjunction with the normal tertiary plant treatment processes. The most relevant requirements are listed in Appendix A.

- Minimize filter run times. Target run times are a minimum of 24 hours between backwashes at the DMFs when in 10 NTU mode and 16 hours in 2 NTU mode. A backwash is deemed to be required when filter headloss reaches 4.5 feet in either filter half. Because of difficulties experienced in the removal of algal types currently populating the oxidation ponds, these target run times have not been met recently, and failure to meet the target will not exclude a product from consideration. Nevertheless, filter run times will be a factor in the product evaluation process.

- Utilize existing storage and delivery equipment as described in the Background Section. Minor modifications to existing systems are acceptable. Major modifications would be acceptable if made at the Bidder's expense and did not entail a significant increase in maintenance requirements compared to existing systems. Note: The existing bulk polymer storage equipment will not be available for the Bidder's use for the demonstration testing. Bidder shall supply the required product(s) in "totes" or equivalent storage vessel(s) and will tie into the existing dilution/delivery systems. (The tie-in connection that normally supplies the polymer dilution units from the 7000-gallon polymer storage tank is a 2-inch manifold. Other systems use smaller connections).

- Consist of products for use at DAFTs with a strong preference that the primary product (which will be stored in the 7000-gallon tank) be the same for 10 NTU and 2 NTU production modes. Use of any additional products (i.e., a filter aid or supplemental products to be added to the AFT or FRR structures may differ for 10 NTU and 2 NTU modes.

- Exhibit no immediate or long-term adverse impacts on plant operations or NPDES permit compliance, including toxicity impacts as described below. The "no impacts" requirement will remain in effect throughout the Bidder's contract.

Product requirements may be modified by the City as necessary to meet permit requirements or otherwise deemed to be in the City's interests.

C. Product Testing

Phase 1, On-site Benchtop Testing (Optional)

During Phase I, Bidders will be invited to visit the WPCP to become familiar with the processes and facilities and perform benchtop testing so that Bidders can narrow their product(s) selection for the subsequent

Mandatory Full-Scale Performance Testing. Such benchtop testing is optional. Within a limited 2-3 week period, the City will allow each Bidder up to two days for benchtop testing. The City will make space available on-site and assist with sample collection. During this time, WPCP Operations staff will be available to explain how the treatment processes and associated equipment function and answer process-related questions. Operators will not disclose information related to other Bidders or results from testing by others. Benchtop results are for the Bidder 's benefit and will not be part of the evaluation process.

Phase 2, Mandatory Full-Scale Performance Testing (Vendor presence optional)

For Phase II, Bidders will furnish a volume of product(s) sufficient to conduct the full-scale testing, which will take place over several days and be conducted by WPCP Operations staff. The first test will be in 10 NTU mode at a nominal flow rate of 7 mgd. The second test will be in 2 NTU mode at a nominal flow rate of 3 mgd. Bidders shall supply a sufficient quantity of product(s) to treat the specified flows at the expected dosage rates. Bidders will be reimbursed for the cost of products supplied for demonstration testing up to a maximum of $5000 total.

Test #1 (10 NTU Operation):

The products will be tested in DAFT #1 with WPCP Operators performing all operations. On the first day of test #1, up to 12 hours will be allowed to "dial in" optimal product mix and dosages based on the Bidder's recommendations, or in the absence of a recommendation, the Operator's experience. Results during this period will not be used to rank Bidders. On the second day, the AFT effluent will be directed to a "clean" recently backwashed filter (DMF #1 or #2), and the official 10 NTU testing period will commence. The maximum (non-mandatory) turbidity target for the DAFT effluent will be 10 NTU ± 1 NTU, whereas the required maximum turbidity for the Dual Media filter effluent will be a firm <9.5 NTU. The target DAFT effluent turbidity may be relaxed if the filter effluent turbidity remains below 9.5 NTU

The DAFT and DMF will be run for a total of 16-24 hours, exclusive of the "dial-in" period. A final decision regarding duration will be made by Operations prior to commencement of the test and applied equally to all Bidders. Turbidities at the DAFT influent, DAFT effluent and filter effluent will be monitored continuously, along with filter head loss. Dosage rates may be adjusted upwards or downwards to meet the above-specified targets or requirements. Compliance with the filter effluent turbidity requirement will be assessed based on hourly average turbidity, with each hourly average evaluated relative to the required turbidity. Testing will continue for the chosen test duration regardless of whether the specified target or requirement is met.

Test #2: (2 NTU Operation)

Product(s) will be used in DAFT #3 operating in "2 NTU" mode for recycled water production, at approximately 2.8 mgd flow. The non-mandatory target DAFT effluent turbidity in 2 NTU mode is 4 NTU. DAFT effluent from DAFT #3 will be directed to either DMF #3 or DMF #4. The test results will be deemed in compliance with the recycled water turbidity limits if the average filter effluent turbidity, based on continuous measurements (not hourly averages), is less than 2 NTU for the test duration and if the filter effluent turbidity does not exceed 5 NTU more than 5% of the total time and never exceed 10 NTU.

On the first day of Test #2, up to 12 hours will be allowed to "dial in" optimal product mix and dosages based on the Bidder 's recommendations, or in the absence of the Bidder 's on-site presence, Operator's experience. If a filtered effluent turbidity of <2 NTU is not achieved by the end of the period, the 2 NTU test may be

terminated at the City's discretion. If 2 NTU compliance is achieved, on the second day, the AFT effluent will be directed to a "clean" recently backwashed filter (DMF #3 or #4), and the official 2 NTU testing period will commence. The test will be for 8-16 hours, and compliance with turbidity requirements and monitoring for filter head loss will be assessed starting from that time. All data during the test period will be captured using a standardized form plus SCADA records, which will track all relevant data during the test.

The on-site testing procedures described above may be modified at the City's discretion, but not in a manner that would materially advantage or disadvantage any Bidder .

Test results for each Bidder will provided to that Bidder , who may then to submit a bid in accordance with the Bid Form and Section G. Because of the difficulties the City is currently facing in meeting NPDES permit requirements and producing recycled water, and the fact that changing oxidation pond effluent conditions may render particular products more or less effective over time, the City may solicit pricing proposals from Bidders whose products failed to comply fully with either 10 NTU and 2 NTU TU test requirements, so as to have the greatest flexibility to utilize different products in the face of changing conditions.

D. Product Support Requirements

Bidders selected through this process must provide ongoing technical consultation and assistance for normal use of the product(s) as part of the unit prices. For routine technical assistance, the timing of such support shall be determined by mutual agreement between the supplier and the WPCP. For emergency assistance (i.e., required to meet NPDES permit requirements), the supplier shall be available on-site within 48 hours of notification (verbal or electronic) by the WPCP. Failure to provide technical assistance at this level may result in the City switching to another supplier or canceling the contract.

Product support related to performance degradation or product quality issues shall not be eligible for reimbursement of supplier's costs for labor, expenses, or materials. However, if technical consultation and assistance beyond that which could be considered normal product support is required, the City will ask the supplier to submit a scope of work and cost for such assistance.

E. Toxicity Considerations

The City is required by its NPDES permit to conduct "whole effluent toxicity" testing, which includes separate acute toxicity and chronic toxicity testing protocols. Acute toxicity is assessed in a flow-through bioassay using rainbow trout. Acute toxicity in the WPCP effluent has rarely been observed. Chronic toxicity testing is performed by a contract laboratory using the alga *Thalassiosira pseudonana*. Over the past 25 years, effluent chronic toxicity has occasionally been observed with this and other test species. A statistical analysis of plant operating conditions suggests that polymers used in the DAFTs may cause or contribute to such toxicity under circumstances when high flocculant doses are needed to meet effluent (or recycled water) turbidity requirements resulting in "carry over" of polymer to the final effluent. Instances of chronic toxicity trigger requirements for costly accelerated testing, and if toxicity persists, costly investigations. Such instances may also trigger more restrictive requirements in the subsequent NPDES permit re-issuance.

To assess the potential for chronic toxicity linked to the coagulant/flocculant product(s), the City may collect filtered (or final) effluent samples for chronic toxicity testing during the mandatory full-scale performance testing process or at any time thereafter when the product(s) are in use. The findings from such testing may

eliminate a product from consideration, or if a supply agreement has been entered into for that product, restrict its use and/or switch to a product from a different supplier.

F. Product Delivery

The following will apply to products supplied to the City under subsequent product purchase agreements. These requirements are in addition to those specified in the example Services Agreement provided as an attachment to this IFB:

- Product(s) shall be delivered to the City's Water Pollution Control Plant, 1444 Borregas Avenue, Sunnyvale, CA 94089.
- Suppliers must adhere to applicable WPCP and OSHA safety requirements while on site.. The supplier shall be responsible for connecting their hoses to the WPCP receiving station and satisfactorily cleaning up any spills related to off-loading. Service air and a connection hose are typically available for the supplier's use while off-loading product. A diaphragm pump is available for off-loading products to the filter aid tank. Payment for the product delivered will be based on the difference in truck weight before and after delivery, using the scales available at the City's adjacent SMaRT facility, and weight for must be provided by the City or weights from other certified public scales acceptable to the City.
- Deliver the product to the existing storage facilities using the existing plant access roads with corresponding turning radii. The maximum allowable sized delivery truck shall be 5000 gallons.
- The supplier shall provide test results and certification that product(s) conforms with those specified in the purchase agreement for each delivery. The City may, at its option, conduct testing to verify properties. If the City's test determines that the product fails to meet specifications, a written notice will be forwarded to the supplier. The entire delivery from which the sample was taken may be rejected by the City and returned to the supplier at the supplier's expense. Upon written notice of two or more failures to meet product specifications, the City may, at its option, terminate the contract. If this action becomes necessary, the supplier shall be responsible for removing and disposing of any unused product and cleaning the storage tank. Note: The City encourages the supplier to make product improvements to maintain high levels of treatment in response to changing treatment conditions. If such changes result in deviation from the established specifications, the manufacturer must notify the City in writing, with the new values on the Certification of Authenticity (COA), and the deviation may be waived by mutual prior consent.
- The supplier shall deliver the quantity and quality of products ordered within ten (10) days of being notified by the City that a shipment is required. The quantity, quality, and delivery time are essential and critical obligations of this contract and will be contractual obligations. Failure to deliver, as obligated, may result in suspension or cancellation of the contract.

Product Test Result:

Polydyne 10 NTU Trial Summary **Product:** **WE 717**

Parameter	DMF #1, Run 1	DMF #1, Run 2	DMF #2, Run 1	DMF #2, Run 2	Average or Total, All Runs[1]
Start Run Stop Run	8/30/22 12:00 8/30/22 18:40	8/30/22 19:15 8/31/22 7:06	8/30/22 12:42 8/30/22 20:05	8/30/22 20:50 8/31/22 8:20	
Run Duration, hr:min	6:40	11:51	7:23	11:30	9:21
Avg AFT Effluent Turbidity, NTU	20.8	21.2	21.4	21.1	21.1
Avg Filter Effluent Turbidity, NTU	5.55	6.63	5.82	6.55	6.3
Flow Treated (per DMF), mgal [2]	0.97	1.75	1.06	1.69	5.48
Poly Use (per DMF), ml [2]	126,211	211,425	136,765	204,638	679,039
Volumetric Dose, ml/gal Volumetric Dose, gal/mgal [3]	0.130 34.2	0.121 31.9	0.129 34.2	0.121 31.9	0.124 32.8

1. Average turbidities are weighted by run duration.
2. Flow and poly use are for specified DMF. Flow was measured indivdually for each DMF. Poly use attributed to indiv. DMF is 50% of total AFT #1 poly use during the run, since AFT effl. flow to DMF #1, #2 was approx. equal over the majority of the run.
3. Dose in gal/million gallons is equivalent to parts per million, volumetric basis.

Exhibit B

Compensation Schedule

SECTION VI. BID FORM (RETURN THIS PORTION)

HONORABLE CITY COUNCIL

City of Sunnyvale
Sunnyvale, California

The undersigned bidder hereby offers to sell and deliver polymers and flocculant/coagulant to the City of Sunnyvale in strict compliance with the specifications, terms and conditions stated herein.

Base Bid

Product #	CLARIFLOC WE-717
Manufacturer:	Polydyne Inc.
Product Name & Number:	CLARIFLOC WE-717
Product Specific Gravity or Bulk Density:	8.4 - 8.6 Lbs/Gal.
Percent Active (min:)	43 (Min % active ingredient(s) as a percent of wet weight)
Unit Price :	$ 1.65/Lb. (Per wet pound of product delivered, excluding sales tax)

Delivery will be made within 10 days (maximum 10 days) after receipt of an order, F.O.B. destination: Sunnyvale WPCP. Prices are guaranteed to be firm during the initial three-year contract term Yes . (yes/no).

Terms for payment of invoices Net 30 Days - No Discounts

Bid price includes any additional equipment or modifications required for use of supplier's products Yes (yes/no).

Unit bid price(s) above include technical consultation and assistance for the normal use of the product(s) as described in Section D.

ADDITIONAL INFORMATION

1. Company Name Polydyne Inc.

2. Address 1 Chemical Plant Road
   Riceboro, GA 31323

3. Sunnyvale Business License Number. 054975

4. Number of Years Performing the Specified Work 27

5. Business Organization (Check One):
   - ☐ Individual Proprietorship
   - ☐ Partnership
   - ☑ Corporation
   - ☐ Other

   If incorporated, provide the following information:

   Date of Incorporation 8/21/1995 State of Incorporation Delaware

Exhibit C

INSURANCE REQUIREMENTS FOR CONTRACTOR

CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the CONTRACTOR, his agents, representatives, or employees.

Minimum Scope and Limits of Insurance. CONTRACTOR shall maintain limits no less than:

1. Commercial General Liability: $2,000,000 per occurrence and $4,000,000 aggregate for bodily injury, personal injury, and property damage. ISO Occurrence Form CG 0001 or equivalent is required.

2. Automobile Liability: $1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 or equivalent is required.

3. Workers' Compensation: Statutory Limits and Employer's Liability: $1,000,000 per accident for bodily injury or disease. This policy must be endorsed with a waiver of subrogation in favor of the City of Sunnyvale.

Industry-Specific Coverages. If checked below, the following insurance is also required:

☐Professional Liability Insurance / Errors and Omissions Liability in the minimum amount of $1,000,000 per occurrence.

☐If working directly with children, the Certificate of Insurance must include coverage for molestation and sexual abuse in the minimum amount of $1,000,000 per occurrence and $2,000,000 aggregate. In the event that Abuse & Molestation Liability coverage is provided via a Claims Made Policy, the coverage shall include a minimum of a five-year extended reporting clause.

x☐Pollution Liability Insurance in the minimum amount of $1,000,000 per occurrence

☐MCS-90 Endorsement to Business Automobile insurance for transportation of hazardous materials and pollutants

☐Builder's Risk / Course of Construction Insurance in the minimum amount of $_ .

Deductibles and Self-Insured Retentions:

Any deductibles or self-insured retentions must be declared and approved by the City of Sunnyvale, Risk Manager. The CONTRACTOR shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention.

Other Insurance Provisions:

The general liability and automobile liability policies (and if applicable, pollution liability, sexual abuse and molestation, and builder's risk policies) shall contain, or be endorsed to contain, the following provisions:

1. The City of Sunnyvale, its officials, employees, agents and volunteers are to be covered as additional insureds with respects to liability arising out of activities performed by or on behalf of the CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, occupied or used by the CONTRACTOR; or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the City of Sunnyvale, its officers, employees, agents or volunteers.

2. For any claims related to this project, the CONTRACTOR's insurance shall be primary. Any insurance or self-insurance maintained by the City of Sunnyvale, its officers, officials, employees, agents and volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Sunnyvale, its officers, officials, employees, agents or volunteers.

4. The CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City of Sunnyvale.

6. The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce the CONTRACTOR'S policy limits of coverage. Therefore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

Acceptability of Insurers:
Insurance is to be placed with insurers with a current A.M. Best's rating of not less than A:VII, unless otherwise acceptable to the City of Sunnyvale, Risk Manager.

Verification of Coverage:
CONTRACTOR shall furnish the City of Sunnyvale with original a Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City of Sunnyvale, Risk Manager prior to commencement of work.

The aforementioned insurance requirements can be met through any combination of primary and excess/umbrella policies that fulfill the stipulated coverage as cited above.

Subcontractors
CONTRACTOR shall require all subcontractors to procure and maintain insurance policies subject to these requirements. Failure of CONTRACTOR to verify existence of sub-contractor's insurance shall not relieve CONTRACTOR from any claim arising from sub-contractors work on behalf of CONTRACTOR.

Exhibit D

Remedy Process for Product Non-Performance or Failure to Support Product

If, during the term of this agreement, the product(s) fail to meet performance requirements or exhibit a lack of adequate quality control (e.g., inconsistency in physical characteristic or performance compared to previous batches, evidence of contamination, etc.), the City may take the following actions:

- Notify the supplier and allow them to work with WPCP staff for a duration commensurate with the issue at hand to resolve the performance degradation or other issue. Suppliers shall respond to such a notification within 24 hours.

- For performance degradation or product quality issues that could impact the WPCP's ability to meet permit requirements and/or which adversely affect plant operations, the City will request that the supplier send a representative to the WPCP to examine the issue(s) at hand and work with WPCP staff in resolving them. In such cases, the supplier shall provide the representative within 48 hours of making

the request. The City shall be the sole judge as to whether performance degradation or product quality

issues may impact the WPCP's ability to meet permit requirements adversely affect plant operations

- Product support related to performance degradation or product quality issues shall not be eligible for reimbursement of supplier's costs for labor, expenses, or materials.

- The supplier shall be responsible for maintaining product quality throughout the delivery process and shall be responsible for remedying product quality issues that may arise from the actions of 3rd party transporters used by the supplier to deliver the product.

- Depending on the outcome of the supplier intervention and at its option, the City may elect to purchase product(s) from another supplier that participated in full-scale testing or to invite different suppliers to conduct demonstration testing on an emergency basis to develop performance data for comparison with the initial supplier's product.

- If such testing reveals significantly improved performance, the City reserves the right to temporarily suspend or terminate the supplier's contract and enter into a supply agreement with an alternate supplier.

- The product delivered to the WPCP cannot be contaminated. The supplier shall compensate the City for contaminated product that impact WPCP equipment or processes, or result in the need for non-routine efforts by WPCP staff to resolve in the form of a direct payment or product credit. Products that have been contaminated or are otherwise of unsuitable quality for the intended use shall be removed and replaced by the supplier at no cost to the City.

- The contaminate may consist of, but are not limited to:

1. Debris

2. Unknow materials that alter the physical and/or chemical properties