



Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
Contract

Order Date: 02-21-2024

CORRECT ORDER NUMBER MUST APPEAR
 ON ALL PACKAGES, INVOICES, AND
 SHIPPING PAPERS. QUESTIONS
 CONCERNING THIS ORDER SHOULD BE
 DIRECTED TO THE DEPARTMENT
 CONTACT.

Order Number:	CCT 1400 1400 AGR2400000002 1	Procurement Folder:	1283305
Document Name:	PCR EQUIPMENT MAINTENANCE	Reason for Modification:	
Document Description:	PCR EQUIPMENT MAINTENANCE		
Procurement Type:	Central Sole Source		
Buyer Name:	Crystal G Husted		
Telephone:	(304) 558-2402		
Email:	crystal.g.husted@wv.gov		
Shipping Method:	Best Way	Effective Start Date:	2024-02-07
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	2025-02-06

VENDOR		DEPARTMENT CONTACT	
Vendor Customer Code:	000000175344	Requestor Name:	Cynthia D Fisher
LIFE TECHNOLOGIES CORPORATION		Requestor Phone:	(304) 558-2221
5791 VAN ALLEN WAY		Requestor Email:	cindy.fisher@wv.gov
CARLSBAD	CA	92008	
US			
Vendor Contact Phone:	760-603-7200	Extension:	
Discount Details:			
	Discount Allowed	Discount Percentage	Discount Days
#1	No	0.0000	0
#2	Not Entered		
#3	Not Entered		
#4	Not Entered		

24
 FILE LOCATION _____

INVOICE TO	SHIP TO
PROCUREMENT OFFICER 304-558-2221 AGRICULTURE DEPARTMENT OF ADMINISTRATIVE SERVICES 1900 KANAWHA BLVD E CHARLESTON WV 25305-0173 US	AUTHORIZED RECEIVER 304-538-2397 AGRICULTURE DEPARTMENT OF MOOREFIELD FIELD OFFICE 60B INDUSTRIAL PARK RD MOOREFIELD WV 26836-0302 US

2-21-2466

Total Order Amount:	\$52,432.28
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Purchasing Division's File Copy

PURCHASING DIVISION AUTHORIZATION <i>Mark O'Neil 2/21/2024</i> DATE: 2023-10-31 ELECTRONIC SIGNATURE ON FILE	ATTORNEY GENERAL APPROVAL AS TO FORM <i>John S. Gray</i> DATE: 2/27/2024 ELECTRONIC SIGNATURE ON FILE	ENCUMBRANCE CERTIFICATION <i>2-27-24</i> DATE: _____ ELECTRONIC SIGNATURE ON FILE
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Extended Description:

THE VENDOR, LIFE TECHNOLOGIES CORPORATION, AGREES TO ENTER WITH THE AGENCY, WEST VIRGINIA DEPARTMENT OF AGRICULTURE, INTO A CONTRACT TO PROVIDE PCR EQUIPMENT MAINTENANCE PER THE TERMS AND CONDITIONS, AND THE VENDOR'S QUOTE DATED 02/07/2024 INCORPORATED HEREIN BY REFERENCE, AND MADE A PART OF HEREOF.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
1	81101706	0.00000		0.000000	\$8,619.96
Service From	Service To	Manufacturer		Model No	
2024-02-07	2025-02-06				

Commodity Line Description: 7500 Real-Time PCR System
Serial # 275011023

Extended Description:

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
2	81101706	0.00000		0.000000	\$8,619.96
Service From	Service To	Manufacturer		Model No	
2024-02-07	2025-02-06				

Commodity Line Description: 7500 Real-Time PCR System
Serial # 275015975

Extended Description:

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
3	81101706	0.00000		0.000000	\$8,589.96
Service From	Service To	Manufacturer		Model No	
2024-02-07	2025-02-06				

Commodity Line Description: Kingfisher Flex 96 DW Unit
Serial # 711-1781

Extended Description:

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
4	81101706	0.00000		0.000000	\$6,006.22
Service From	Service To	Manufacturer		Model No	
2024-02-07	2025-02-06				

Commodity Line Description: Quantstudio 5, 0.1ML Block
#272514021

Extended Description:

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
5	81101706	0.00000		0.000000	\$8,589.96
Service From	Service To	Manufacturer		Model No	
2024-02-07	2025-02-06				

Commodity Line Description: Kingfisher Flex 96 DW Unit
Serial # 711-8 G0372

Extended Description:

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
6	81101706	0.00000		0.000000	\$1,500.00

Service From	Service To	Manufacturer	Model No
2024-02-07	2024-03-06		

Commodity Line Description: 7500 Real-Time PCR System
Serial # 275011023

Extended Description:
Reinstatement

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
7	81101706	0.00000		0.000000	\$1,500.00

Service From	Service To	Manufacturer	Model No
2024-02-07	2024-03-06		

Commodity Line Description: 7500 Real-Time PCR System
Serial # 275015975

Extended Description:
Reinstatement

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
8	81101706	0.00000		0.000000	\$1,500.00

Service From	Service To	Manufacturer	Model No
2024-02-07	2024-03-06		

Commodity Line Description: Kingfisher Flex 96 DW Unit
Serial # 711-1781

Extended Description:
Reinstatement

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
9	81101706	0.00000		0.000000	\$1,500.00

Service From	Service To	Manufacturer	Model No
2024-02-07	2024-03-06		

Commodity Line Description: 7500 Real-Time PCR System
Serial # 275011023

Extended Description:

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
10	81101706	0.00000		0.000000	\$6,006.22

Service From	Service To	Manufacturer	Model No
2024-03-31	2025-02-06		

Commodity Line Description: Quantstudio 5, 0.1ML Block
#272514023

Extended Description:

**STATE OF WEST VIRGINIA
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"): Moorefield Animal Health Diagnostic Laboratory
Vendor: Life Technologies Corporation

Contract/Lease Number ("Contract"): Service Agreement Quotation No. 40658627 /CSSD AGR 24K01
Commodity/Service: RCR Equipment Maintenance CCT AGR 24K02


The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**
2. **PAYMENT** – Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.
Any language imposing any interest or charges due to late payment is deleted.
3. **FISCAL YEAR FUNDING** – Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.
4. **RIGHT TO TERMINATE** – The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.
Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.
5. **DISPUTES** – Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.
Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.
Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.
6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.
7. **GOVERNING LAW** – Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.
8. **RISK SHIFTING** – Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.
9. **LIMITING LIABILITY** – Any language limiting the Vendor's liability for direct damages to person or property is deleted.
10. **TAXES** – Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.
11. **NO WAIVER** – Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

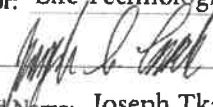
- 12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
- 13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State’s prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
- 14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
- 15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor’s benefit is deleted.
- 16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
- 17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
- 18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act (“FOIA”) (W. Va. Code §29B-a-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State’s sole discretion.

Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.
- 19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that is has the authority to modify such third-party software’s terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
- 20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and ~~striketrough~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General’s authorized representative expressly agree to and knowingly approve those alterations.

State: WV Dept of Agriculture
By: 
Printed Name: Joseph L Hatton
Title: Deputy Commissioner
Date: Feb 13, 2024



Vendor: Life Technologies Corporation
By: 
Printed Name: Joseph Tkach
Title: Director, Global Service Sales
Date: November 22, 2023

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

Term Contract

Initial Contract Term: The Initial Contract Term will be for a period of one (1) year. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to one (1) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Alternate Renewal Term – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

Fixed Period Contract: This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that:

the contract will continue for _____ years;

the contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's Office (Attorney General approval is as to form only).

One-Time Purchase: The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

Construction/Project Oversight: This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and continues until the project for which the vendor is providing oversight is complete.

Other: Contract Term specified in _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

Open End Contract: Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

Service: The scope of the service to be provided will be more clearly defined in the ~~specifications included herewith.~~

Vendor's quotation
Service Agreement
Quotation No. 40658627

Combined Service and Goods: The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

One-Time Purchase: This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

Construction: This Contract is for construction activity more fully defined in the specifications.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One-Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

LICENSE(S) / CERTIFICATIONS / PERMITS: In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

Commercial General Liability Insurance in at least an amount of: 100,000 per occurrence.

Automobile Liability Insurance in at least an amount of: _____ per occurrence.

Professional/Malpractice/Errors and Omission Insurance in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

Commercial Crime and Third Party Fidelity Insurance in an amount of: _____ per occurrence.

Cyber Liability Insurance in an amount of: _____ per occurrence.

Builders Risk Insurance in an amount equal to 100% of the amount of the Contract.

Pollution Insurance in an amount of: _____ per occurrence.

Aircraft Liability in an amount of: _____ per occurrence.

9. WORKERS' COMPENSATION INSURANCE: Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. VENUE: All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

Not Applicable _____ for _____.

Liquidated Damages Contained in the Specifications.

Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature below ~~on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.~~

13. PRICING: The pricing set forth herein is firm for the life of the Contract, ~~unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.~~

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract and Vendor fails to conform to the specifications contained in the Contract within thirty (30) days after receipt of written notice thereof. ~~The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5-2.b.~~ Upon cancellation, the Purchasing Division Director shall pay the total prices of services actually performed and expenses actually and reasonably incurred in servicing the covered equipment from the effective date of this Contract until the cancellation date or the prorated price of the underlying service plan from its effective date until the cancellation date, whichever is greater.

20. TIME: Vendor's instrument services shall be scheduled upon mutual agreement of the parties and all services purchased from Vendor shall be delivered according to the quotation and invoice terms. Time is of the essence to the extent the Parties have mutually agreed to a performance or delivery date and each has performed prior conditions required for delivery. ~~regarding all matters of time and performance in this Contract.~~

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a quotation bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

~~**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.~~

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR NON-CONFLICT: Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

Revised 11/1/2022

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. NO DEBT CERTIFICATION: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

38. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

39. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
 1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
 2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a “substantial labor surplus area”, as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

45. VOID CONTRACT CLAUSES: This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

46. ISRAEL BOYCOTT: Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Printed Name and Title) Yanna Fytopoulos, Service Sales Representative

(Address) 5781 Van Allen Way, Carlsbad, CA 92008

(Phone Number) / (Fax Number) 1-800-955-6288, option 3, 3

(Email address) Yanna.Fytopoulos@thermofisher.com, cc: services.sales@thermofisher.com

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.

Life Technologies Corporation

(Company) _____

(Signature of Authorized Representative)

Joseph Tkach Director, Global Service Sales 8/3/2023

(Printed Name and Title of Authorized Representative) (Date)

408-314-2480

(Phone Number) (Fax Number)

Joseph.Tkach@thermofisher.com

(Email Address)

Instrument Services Terms and Conditions

These terms and conditions apply to instrument services purchased from Life Technologies Corporation (“we” “us” or “our”). If you purchase instrument services from other Thermo Fisher Scientific entities, different terms and conditions may apply. If you have any questions about our quotation, our ordering process, or what terms and conditions apply to your order, please call Customer Services at 1 800 955 6288.

As used in this document, “you” and “your” refer to our Instrument Services customer that appears on the Instrument Services quotation and/or any final Service Plan documents.

1. Contract Terms.

1.1 General Terms. These are the contract terms and conditions under which we sell, and/or provide, our Instrument Services to you (“Service Terms”), unless (i) we specifically designate other terms to apply to a specific service; or (ii) if you and we have entered into a valid, active, written agreement that expressly provides that its terms supersede and replace these Service Terms with respect to the services covered by the other agreement. Any additional or different terms and conditions that you may provide to us, are material alterations and we reject them. These Service Terms collectively with any quotation provided by us constitute the “Agreement.” Our offer to sell and/or perform Instrument Services is expressly limited to the terms of the Agreement. By ordering or requesting Instrument Services from us, you agree to accept and be bound by these Service Terms. The Agreement is the complete and exclusive contract between us with respect to your purchase of, or request for, Instrument Services.

1.2 Terms Conflict. If any conditions within the Agreement documents conflict with each other, we will give them the following order of precedence with the document listed first being given a higher order of priority: these Service Terms, the quotation, and, if you are buying a Service Plan, the service level description of the Service Plan.

1.3 When Agreement takes Effect. The Agreement between us is created when we accept your order or request, either by sending a written confirmation or by initiating performance of the Instrument Services.

2. Service Offerings.

2.1 Service Offerings. We offer repair, maintenance, relocation, recertification, training, qualification, and technical and application support services for your instruments and devices (collectively, “Instrument Services”).

2.2 Manufacturer Warranty Services. Some of our Instrument Services are provided as part of the limited instrument manufacturer warranty we offer you when you purchase our instrument.

2.3 Service Plans. We also provide post-manufacturer warranty maintenance and repair Instrument Services called “Service Plans”. Descriptions of our Service Plans are available at <http://www.thermofisher.com/instrumentservices>.

2.4 Where we Perform Services. We perform most Instrument Services in your lab, but we may perform some Instrument Services for smaller instruments at one of our facilities.

3. Price.

3.1 Determining Price. For Instrument Services you purchase, the price is shown in our quotation to you. If we do not provide you with a quotation, the price will be the list price that applies to your country on the date we receive your order.

3.2 Taxes and Fees. Our prices do not include any taxes (including VAT), duties, levies or other government fees that may apply to your order. If they apply, it will be your responsibility to pay them. If we pay them, we will add them to your invoice. If you claim any exemption, upon request you must provide a valid, signed certificate or letter of exemption for each respective jurisdiction.

4. Payment Terms.

4.1 Payment Terms. Unless we indicate another period on our quotation, you must pay invoices within 30 days from the invoice date in the currency specified in our invoice. Each order is a separate transaction, and you may not setoff payments from one order against another.

4.2 Late Payment. If you are late in making payment, without affecting our other rights, we may suspend performance or cancel your contract, reject your future orders, and charge you a late-payment charge, from the due date until paid, at the rate of 1% per month (12% per year) or, if less, the maximum amount allowed by law. You agree to pay this late charge upon request.

4.3 Collection Costs. If we appoint a collection agency or an attorney to recover any unpaid amounts, you must pay, to the extent permitted by applicable law, all reasonable costs of collection, including all associated reasonable attorneys’ fees.

5. Scheduling.

5.1. Available Times. We provide Instrument Services Monday through Friday, 8:00 a.m. to 5:00 p.m. (local time), excluding holidays.

5.2. Scheduling. We will work with you to schedule Instrument Services at a time that is mutually convenient.

6. Decontamination and Safe Working Environment.

6.1. Decontamination Obligations. Before we perform Instrument Services on your instrument, you will fully decontaminate your instrument or its component of radioactive, biological, toxic or other dangerous materials or substances or any material and, if we request, you will submit to us an accurate and completed certificate of decontamination.

6.2. Moving Instrument. If we reasonably request, you agree to move your instrument to another location that we reasonably deem is safe for our employees to perform Instrument Services.

6.3. Biosafety Level-3 and 4 Laboratories. We do not service instruments in biosafety level-3 laboratories, unless we agree otherwise in writing in advance. There may be an additional charge and additional terms for Instrument Services in such facilities. We do not service instruments in biosafety level-4 laboratories.

7. Spare Parts.

7.1. Repair or Replace. We may repair or replace any parts of the instrument based on our reasonable professional judgment.

7.2. New, Used or Reconditioned Parts. We may use new, used, or reconditioned parts. All parts will have the same warranties as new parts. We may retain any replaced part as our property.

8. Service Plans.

8.1. Service Level Descriptions. For service level descriptions of our Service Plans, please go to <http://www.thermofisher.com/instrumentservices>. The terms of Service Plans that apply to you are incorporated into these Service Terms.

8.2. Instrument Recertification. If your instrument has not been under our warranty or our Service Plan immediately prior to the time of your requested coverage, before we cover your instrument under a Service Plan, we may require instrument recertification. We will provide instrument recertification services on a time-and-materials basis. If applicable, the fees for any such recertification services will be estimated by us and approved by you in writing, in advance of our performance of recertification services.

8.3. No Coverage for Ancillary Equipment. Unless we stated otherwise in our quotation, our Service Plans cover only our instruments and do not include ancillary equipment even if we supplied it.

8.4. No Replacement of Consumables. Our Service Plans do not cover replacement of consumable products used on the instruments.

8.5. Exclusions. In addition to the above exclusions, our Service Plans do not cover replacement of parts or repairs needed for defects or damage resulting from (i) your neglect, carelessness, or misuse, for example, connecting the instrument to electrical services or other utilities not in accordance with the installation requirements for the instrument, using incompatible solvents or samples with the instrument, operating the instrument not in conformance with our instructions or specifications, or your improper or inadequate maintenance of the instrument; (ii) installation of software or use in combination with software or products that we did not supply or authorize; (iii) modification, repair, service transfer to another location of the instrument that you or your employees, agents or an unauthorized contractor made; (iv) intrusive activity, including without limitation computer viruses, hackers or other unauthorized interactions with instrument or software that detrimentally affects normal operations; from acts of nature or accident; or (v) any defects or damage that we did not cause.

8.6. Terminating your Service Plan. Service Plans may be terminated in the following ways:

(A) Terminating for Any Reason. You or we may cancel your Service Plan by sending a written notice of termination to the other at least 30 days before effective date of termination.

(B) Terminating for Cause. We may immediately terminate a Service Plan if the instrument covered by the Service Plan is transferred to another location without our advance written consent, or we may adjust the cost of providing the Instrument Services at the new location provided you agree in writing to pay the new rate which may be higher.

(C) Effects of Termination. If a Service Plan is terminated by you under Section 8.6(A) or by us under Section 8.6(B), we will charge you for the total price of services actually performed and expenses actually and reasonably incurred in servicing the covered instrument under the underlying Service Plan from its effective date until the effective termination date, or the prorated price of the underlying Service Plan from its effective date until the effective termination date, whichever is greater, plus 15% of the total fee

paid for the underlying Service Plan. We will credit you for any payment that you made to us in excess of this amount and you may use the credit toward future purchases from us of instruments, consumables or Service Plans. We do not provide cash refunds on account of the early cancellation of any Service Plan or other agreement for Instrument Services.

9. Limited Warranty for Instrument Services.

9.1. **Limited Warranty.** We warrant that the Instrument Services we provide to you will be in accordance with the generally accepted standards prevailing in the Instrument Service industry. You must make any claim for breach of this warranty within 90 days of the date the Instrument Services were performed and prior to any unauthorized repair, change, or modification has been made to any part of the instrument.

9.2. **Exclusions.** Our warranties do not apply to (i) your neglect, carelessness, or misuse, such as but not limited to, connecting the instrument to electrical services or other utilities not in accordance with the installation requirements for the instrument, using incompatible solvents or samples with the instrument, operating the instrument not in conformance with our instructions or specifications, or your improper or inadequate maintenance of the instrument; (ii) installation of software or use in combination with software or products that we did not supply or authorize; (iii) modification, repair, service transfer to another location of the instrument that you or your employees, agents or an unauthorized contractor made; (iv) intrusive activity, including without limitation computer viruses, hackers or other unauthorized interactions with instrument or software that detrimentally affects normal operations; from acts of nature or accident; or (v) any defects or damage that we did not cause. **ADDITIONALLY, ANY INSTALLATION, MAINTENANCE, REPAIR, SERVICE, RELOCATION OR ALTERATION TO OR OF, OR OTHER TAMPERING WITH, THE PRODUCTS PERFORMED BY ANY PERSON OR ENTITY OTHER THAN US WITHOUT OUR PRIOR WRITTEN APPROVAL, OR ANY USE OF REPLACEMENT PARTS WE HAVE NOT SUPPLIED, WILL IMMEDIATELY VOID AND CANCEL ALL WARRANTIES WITH RESPECT TO THESE INSTRUMENT SERVICES AND THE AFFECTED PRODUCTS.**

9.3. **Remedies.** During the applicable warranty period only, for services not meeting our warranty, we agree, at our option to: (i) re-perform the defective Instrument Services, or (ii) refund to you the fee you paid to us for the defective Instrument Services, if applicable. This section states our entire liability for a valid warranty claim under the Agreement.

9.4. **Limitations.** **OUR WARRANTIES EXTEND ONLY TO YOU, THE ORIGINAL PURCHASER, AND YOU CANNOT TRANSFER THEM. WITH RESPECT TO INSTRUMENT SERVICES, EXCEPT AS EXPRESSLY STATED, WE DISCLAIM ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING BUT NOT LIMITED TO WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY.**

10. Compliance with Laws, Codes, Rules and Regulations.

10.1 We make no representation that the Instrument Services we provide to you will meet or satisfy standards of any governmental body, including the U.S. Food and Drug Administration. You agree that it is your responsibility to ensure that such services are adequate to meet your regulation or certification requirements and that all requirements of any governmental body or other organization, including, but not limited to, any requirement of the U.S. Food and Drug Administration are your responsibility.

10.2 In fulfilling obligations under the Agreement, we and you agree to comply, and to have our and your employees and subcontractors assigned to the Agreement and business relationship comply, with all applicable laws, codes, rules and regulations which may relate to our respective activities and responsibilities under the Agreement.

11. Indemnification.

11.1. **Our General Indemnity.** We will indemnify and hold you harmless from and against any and all third-party claims for injury to persons, including death, or damage to tangible property occurring while our employees are on your premises to the extent the claims are caused by our employees' gross negligence, recklessness, and willful misconduct, provided we are given prompt notice of any claim and, to the extent permitted by applicable law, the opportunity to control the defense and settlement of the claim.

11.2. **Conditions to Our Indemnity.** As a condition to any of our indemnification obligations you must (a) notify us in writing, as soon as you become aware of any claim; (b) not admit any liability or take any other action in connection with the claim that could affect the defense; (c) to the extent permitted by applicable law, allow us to solely control the defense or settlement of the claim; and (d) give us your reasonable information, co-operation and assistance.

12. **Limitation of Liability.** **TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE OR YOU WILL NOT BE LIABLE UNDER ANY LEGAL THEORY (INCLUDING BUT NOT LIMITED TO CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR WARRANTY OF ANY KIND) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, MULTIPLE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO COSTS OF COVER, LOST PROFITS, LOST DATA, LOSS OF BUSINESS, LOSS OF GOODWILL OR LOSS OF REVENUE) THAT WE OR YOU MIGHT INCUR UNDER THE AGREEMENT, OR THAT MAY ARISE FROM OR IN CONNECTION WITH OUR PRODUCTS OR SERVICES, EVEN IF WE OR YOU HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. WE WILL NOT BE LIABLE FOR ANY LOSS OR INJURY THAT IS THE RESULT OF INSTRUMENT, EQUIPMENT, OR PRODUCT ERROR OR THE FAILURE OF AN INSTRUMENT, EQUIPMENT, OR OTHER PRODUCT TO PERFORM IN ACCORDANCE WITH ITS SPECIFICATIONS. OUR TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THESE SERVICE TERMS, ANY SERVICE PLAN, OR INSTRUMENT SERVICES, INCLUDING WITHOUT**

LIMITATION ANY SERVICES RENDERED THEREUNDER, OR BREACH THEREOF OR FAILURE TO PERFORM IN CONTRACT, TORT, WARRANTY, OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES YOU PAID US FOR THE SPECIFIC SERVICE PLAN OR INSTRUMENT SERVICES THAT GIVE RISE TO YOUR CLAIM.

NOTWITHSTANDING THE FOREGOING, THE PROVISIONS ABOVE IN THIS SECTION 12 DO NOT LIMIT A PARTY'S LIABILITY FOR INDEMNIFICATION, BREACH OF CONFIDENTIALITY, FRAUD, OR THAT CANNOT BE LIMITED BY LAW.

13. Miscellaneous.

13.1. Assignment. You or we may not transfer or assign your Service Plan or any contract with us for Instrument Services without the prior written consent of the other, which consent will not be unreasonably withheld or delayed. Any attempted transfer or assignment in violation of this Section 13.1 will be void. Notwithstanding the foregoing and subject to Section 8.6(B) of these Service Terms, we or you may assign the Agreement without consent to an affiliate or to a purchaser of all or substantially all of our or your assets or in connection with a merger, acquisition, or consolidation, provided that we or you provide written notice to the other of such assignment within a reasonable time from the date of such assignment and further provided that the non-assigning party is not prohibited by law or regulation or business policies from conducting business with the entity to which this Agreement is assigned. Our and your rights, obligations and liabilities will inure to the benefit of and bind our and your successors and assigns.

13.2. Intellectual Property. Nothing in these Service Terms shall be deemed or construed as a license or grant of any intellectual property rights, whether express, implied, by estoppel, or otherwise, to you, or to limit our rights to enforce our patent or other intellectual property rights.

13.3. Governing Law. The Agreement and performance under it will be governed by the laws of the State of Delaware, USA, without regard to provision on the conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.

13.4. Uncontrollable Circumstances. We or you will not be responsible or liable for failing to perform our or your obligations (excluding your payment obligations) under the Agreement to the extent caused by circumstances beyond our or your reasonable control.

13.5. No Waiver; Invalidity. Our or your failure to exercise any rights under the Agreement is not a waiver of our or your rights to damages for breach of contract and is not a waiver of any subsequent breach. If any provision or part of the Agreement is found by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of the Agreement. No person other than you or us will have any rights under the Agreement. Headings are for convenience only and shall not be used in the interpretation of these Service Terms.

13.6. Confidentiality. All non-public information that either party ("Receiving Party") receives or acquires from the other party ("Disclosing Party"), either in writing, orally, or through observation of operations, or in the course of fulfilling obligations under the Agreement that is marked as confidential, or if not so marked, which a reasonable person would identify as confidential given the nature of the information and the circumstances of its disclosure ("Confidential Information") shall be held by the Receiving Party in confidence at all times, employing reasonable means to protect the confidentiality of the Confidential Information and used solely as required to perform the obligations under the Agreement, and shall be returned or destroyed when no longer required, or upon request by the Disclosing Party. The Receiving Party shall ensure that all recipients of the said Confidential Information, including a Receiving Party's employees, agents, subcontractors and/or licensors, comply with the obligations under this section. For the avoidance of doubt, it is understood and agreed that our Confidential Information includes the terms of the Agreement and any non-public technical information, commercial information (including prices, without limitation), manuals or instructions received from us as a result of discussions, negotiations and other communications between you and us in relation to our products or Instrument Services, and your Confidential Information includes the terms of the Agreement and any non-public information about you, your business, operations, and research and development programs, or that is viewed or accessed either during the performance of this Agreement or as a result of discussions, negotiations or other communications between you and us. A Receiving Party will not disclose, or allow to be disclosed, the Confidential Information by any means to any third party without the prior written approval of the Disclosing Party.

The above obligations of confidentiality and non-disclosure do not apply to information that:

- (A) is or becomes publicly available other than through breach of these Service Terms;
- (B) is lawfully obtained by either party from a lawful third party without breach of these Service Terms by a party or its employees, agents, subcontractors or licensors;
- (C) was known to a party prior to disclosure to such party by a Disclosing Party as shown by documentation sufficient to establish such knowledge; or
- (D) is required by law to be disclosed by you or us.

13.7. Notices. Any notice or communication required or permitted under these Service Terms must be in writing and will be deemed received when personally delivered, or 3 business days after being sent by certified mail, postage prepaid, to a party's specified address.

13.8. Our Insurance. For the duration of the Agreement:

(A) We will pay for and maintain the following minimum limits of insurance coverage: (i) commercial general liability and products liability coverage with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, (ii) commercial automobile liability covering liability arising out of our operation of any vehicle (any automobile, including owned, non-owned and hired vehicles) with minimum limits of \$1,000,000 combined single limit each accident, (iii) umbrella liability coverage with limits not less than \$5,000,000 per occurrence and \$5,000,000 aggregate, and (iv) workers' compensation as may be required by the jurisdiction in which we are doing business and employers' liability insurance of \$1,000,000. Coverage may be provided on a claims-made rather than occurrence basis. If coverage is provided on a claims-made basis, coverage will be maintained for a period of three (3) years following termination of the Agreement with a retroactive date on or prior to the effective date of the Agreement.

(B) If agreed in writing that these Service Terms will govern, you will be included as an additional insured under the commercial general liability and umbrella liability policies for liability arising out of operations by us or on our behalf, but only to the extent required by written Agreement.

(C) Upon request, we will promptly furnish a certificate of insurance, and applicable endorsement, to you evidencing such coverages. To receive a certificate of insurance, you must provide your desired address for the certificate holder. Any applicable endorsement will be a blanket endorsement.

(D) We will provide a minimum of thirty (30) days advance written notice to you in the event of cancellation of our insurance policies in the event a gap in coverage would be reasonably expected to occur.

13.9. Changes to Terms. We reserve the right to change these Service Terms at any time. Any changes made will not apply to the Agreement between us for any order we receive before the changes are made. The most recent revision date can be found at the end of these Service Terms.

March 10, 2021

SERVICE AGREEMENT QUOTATION

Life Technologies Corporation
 North American Sales and Service
 Attn: Service Contract Administration
 Mailstop: PLE C-1
 5781 Van Allen Way
 Carlsbad, CA 92008
 Tel: 1-800-955-6288, option 3,3
 Email: service.sales@thermofisher.com

TO Renee See
 Moorefield Animal Health
 Diagnostic Laboratory
 60B Moorefield Industrial Park
 MOOREFIELD WV 26836

QUOTE NO. 40658627
 ORIGINAL QUOTATION DATE 02/06/2023
 REVISION DATE 02/07/2024
 EFFECTIVE 02/07/2024 TO 02/06/2025
 PAGE 1 OF 5
 QUOTE VALID TO 03/06/2024

TELEPHONE 304-538-2397
 FAX:
 YOUR REFERENCE:

Customer PO No.

This agreement is entered into between Life Technologies and the undersigned Customer in consideration of the payments provided for in this Agreement. Subject to the terms and conditions of this Agreement, Life Technologies agrees to perform the services set forth on the attachment to this Agreement on the equipment listed below for the period described.

ITEM NO.	QTY.	EQUIPMENT DESCRIPTION/ EFFECTIVE DATES/ NOTES	SERIAL NUMBER	COVERAGE	EXTENDED PRICE USD
0010	1	7500 FAST Real Time PCR System Begin Date: 02/07/2024 End Date: 02/06/2025	(275011023)	AB Assurance 1PM	\$ 8,619.96
0012	1	7500 FAST Real Time PCR System Begin Date: 02/07/2024 End Date: 03/06/2024	(275011023)	Reinstatement	\$ 1,500.00
0020	1	7500 FAST Real Time PCR System Begin Date: 02/07/2024 End Date: 02/06/2025	(275015975)	AB Assurance 1PM	\$ 8,619.96
0022	1	7500 FAST Real Time PCR System Begin Date: 02/07/2024 End Date: 03/06/2024	(275015975)	Reinstatement	\$ 1,500.00

Terms of payment are net 30 days from invoice date. This quotation is subject to the terms and conditions attached. Stenographical and clerical errors on the face of this form are subject to correction.

NOTE: Customer is responsible for applicable taxes, including sales, use and/or excise tax.

PLEASE SIGN THIS SERVICE AGREEMENT QUOTATION AND RETURN A COPY ALONG WITH YOUR PURCHASE ORDER.

ACCEPTED BY CUSTOMER

Signature of authorized person

Please print name and title

Date

Yanna Fytopoulos

Service Sales Representative

Maestro User

Prepared by

02/07/2024

Date

~ NOTICE OF CONFIDENTIALITY~ The contents of this quotation including but not limited to pricing and services information are confidential to Life Technologies and/or its affiliate(s). This quote and its contents are intended only for the customer named in this quote and not for distribution to any third party.

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ITEM NO.	QTY.	EQUIPMENT DESCRIPTION/ EFFECTIVE DATES/ NOTES	SERIAL NUMBER	COVERAGE	EXTENDED PRICE USD
0030	1	KINGFISHER FLEX ,96 DW UNIT Begin Date: 02/07/2024 End Date: 02/06/2025	(711-1781)	AB Assurance 1PM	\$ 8,589.96
0032	1	KINGFISHER FLEX ,96 DW UNIT Begin Date: 02/07/2024 End Date: 03/06/2024	(711-1781)	Reinstatement	\$ 1,500.00
0040	1	KINGFISHER FLEX ,96 DW UNIT Begin Date: 02/07/2024 End Date: 02/06/2025	(711-8G0372)	AB Assurance 1PM	\$ 8,589.96
0042	1	KINGFISHER FLEX ,96 DW UNIT Begin Date: 02/07/2024 End Date: 03/06/2024	(711-8G0372)	Reinstatement	\$ 1,500.00
0050	1	QUANTSTUDIO 5, 0.1ML BLOCK Begin Date: 03/31/2024 End Date: 02/06/2025	(272514021)	AB Assurance 1PM	\$ 6,006.22
0060	1	QUANTSTUDIO 5, 0.1ML BLOCK Begin Date: 03/31/2024 End Date: 02/06/2025	(272514023)	AB Assurance 1PM	\$ 6,006.22
Total net price:					\$ 52,432.28

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Contract Notes:

REINSTATEMENT FEE

The reinstatement fee is associated with a long lapse in service coverage. We don't have a record of preventative care or instrument condition when coverage lapses for extended periods of time. For that reason, to enter into a contract that covers repairs on your instrument, we assess a fee in lieu of charging you to open a service call to recertify the condition of your instrument.

Quoted price is valid only if the purchase order is received on or before the quotation valid-to date.

Lock in today's service contract price for 2 or more years, if applicable.

To expedite your order, the signed service agreement and purchase order may be emailed to service.sales@lifetech.com.

Please issue the purchase order to Life Technologies and include the following:

- Quotation number
- Billing address
- Instrument(s) location

- Payment is due 30 days from invoice date.
- Applicable taxes are extra.
- Billing Frequency for multiyear agreements is upfront in full, or annual in advance

NOTE: If you submit PO's through a B2B system, please include this Quote # in the comments section to ensure proper processing.

Please contact your Sales Representative for more information:

Yanna Fytopoulos
 direct tel: + 1 (614) 208-7295
 direct email: yanna.fytopoulos@thermofisher.com
 Team tel: 1-800-955-6288, option 3 then option 3

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Terms of Life Technologies Service Plans North America

The Life Service Agreement Terms and Conditions set forth below after the Plan description(s) are incorporated into and are an integral part of each Service Plan, and are agreed to by you as part of any Service Plan ordered.

AB Assurance Plan

1. Parts, labor and travel for remedial repair.
2. No charge for planned maintenance visits. The number of planned maintenance visits is indicated in LT's quotation (A). The annual planned maintenance (PM) visit is automatically opened and will be performed within the contract period. Should you have an immediate need to request and/or schedule your PM, please contact our Instrument Care Center at 800-955-6288 option 3,1 or email them at InstrumentServices@Lifetech.com to schedule. This PM visit ensures optimal performance of your instrument, often preventing major breakdowns before they happen.
3. Guaranteed priority response time of 2 business days after receipt of a service call for instruments located in LT's Service Zones 1 and Zone 2. If LT fails to arrive at the instrument location within Zone 1 or Zone 2 within 2 business days for reasons other than customer's failure to provide access to LT or causes beyond the reasonable control of LT, LT will provide customer a service plan renewal credit in an amount equivalent to one day's pro-rated charge for each day LT's response is late. (See footnote (B) for call time cut off, other details, and terms and conditions).
4. Target response time of 3 business days for remedial repairs outside of Zones 1 and 2. LT will use reasonable efforts to respond within 3 business days from receipt of a service call.
5. Priority telephone and email access to instrument technical support.
6. Telephone and email access to application technical support.
7. Remote Monitoring and Dx Service, which provides for notification to customer of instrument failures or errors that are reported by AB's Remote Monitoring software.

Important Notes and Footnotes

It is customer's responsibility to provide access to LT so LT may complete service, planned maintenance, Installation Performance Verification, and other service calls within the plan period. Calls not completed within a plan period will be cancelled unless LT failed to make reasonable efforts to complete the call within the plan period.

(A) Planned maintenance visits are intended to minimize the need for service calls. LT may perform more than the number of planned maintenance visits indicated in LT's quotation, at LT's discretion. Customer will not be charged for any planned maintenance visits made during the plan period, except for visits that are in addition to the number indicated in LT's quotation that are requested by customer.

(B) A service call must be received by LT's service center before 2:00 PM local time (U.S.A. Eastern, Central, Mountain, or Pacific time) for priority response time service. Each late day's pro-rated credit is an amount equal to 1/365th of the annual fee for the service plan covering the instrument with respect to which the service call was made. If a service plan covers more than one instrument, the pro-rata credit is determined by allocating a pro-rata portion of the plan's annual fee to the instrument with respect to which the service call was made. The credit may be used by customer when renewing its current service plan covering that instrument for a consecutive period, as a credit against plan fees. To be eligible to use the credit, LT's Service Plan Administrator must receive notice in writing (e-mail notification is satisfactory) of the customer's intention to use the credit for a renewal at the time of renewal, but in any event no later than fifteen (15) days after the expiration of the service plan period in which the credit was earned. The credit described above is LT's sole obligation and customer's sole remedy for failure of LT to respond to a service call within one business day for the LT Complete Plan and LT Uptime Plan and two business days for the LT Assurance Plan. The address of LT's Service Plan Administrator is Life Technologies Service Plan Administrator, 6065 Sunol Blvd Pleasanton, CA 94566 (e-mail: Service.Sales@LifeTech.com).

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To reduce the number of pages, we are directing you to Life's Instrument Services Terms and Conditions on our website. Please read the important statement below carefully.

This quotation, and Life's **INSTRUMENT SERVICES TERMS and CONDITIONS** (which are incorporated by reference into this quotation and any resulting contract), set out the terms on which Life is offering to sell the service(s) listed in this quotation. By issuing a purchase order or otherwise ordering or accepting services, you expressly confirm that you intend to be bound by and agree to the terms of this quotation and Life's Instrument Services Terms and Conditions to the exclusion of all other terms not expressly agreed to in writing by an authorized representative of Life, and that the purchase and sale transaction between you and Life is subject to and will be governed by this quotation and Life's Instrument Services Terms and Conditions.

Life's Instrument Services Terms and Conditions can be found on Life's website at <http://www.lifetechnologies.com/termsandconditions> under the "terms and conditions" link at the bottom of Life's webpage.

If you have any questions, please visit our website at www.lifetechnologies.com.