



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

State of West Virginia Purchase Order

Order Date: 03-24-2022

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:	CPO 1400 1400 AGR2200000011 1	Procurement Folder:	1001406
Document Name:	DNA/RNA EXTRACTION SYSTEM	Reason for Modification:	
Document Description:	DNA/RNA EXTRACTION SYSTEM		
Procurement Type:	Central Purchase Order		
Buyer Name:	Crystal G Hustead		
Telephone:	(304) 558-2402		
Email:	crystal.g.hustead@wv.gov		
Shipping Method:	Best Way	Effective Start Date:	
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	

VENDOR	DEPARTMENT CONTACT																				
Vendor Customer Code: 000000232669 QIAGEN LLC 19300 GERMANTOWN RD GERMANTOWN MD 20874 US Vendor Contact Phone: 999-999-9999 Extension: Discount Details: <table><thead><tr><th></th><th>Discount Allowed</th><th>Discount Percentage</th><th>Discount Days</th></tr></thead><tbody><tr><td>#1</td><td>No</td><td>0.0000</td><td>0</td></tr><tr><td>#2</td><td>Not Entered</td><td></td><td></td></tr><tr><td>#3</td><td>Not Entered</td><td></td><td></td></tr><tr><td>#4</td><td>Not Entered</td><td></td><td></td></tr></tbody></table>		Discount Allowed	Discount Percentage	Discount Days	#1	No	0.0000	0	#2	Not Entered			#3	Not Entered			#4	Not Entered			Requestor Name: Joshua L Arbaugh Requestor Phone: 304-558-2212 Requestor Email: jarbaugh@wvda.us 22 FILE LOCATION
	Discount Allowed	Discount Percentage	Discount Days																		
#1	No	0.0000	0																		
#2	Not Entered																				
#3	Not Entered																				
#4	Not Entered																				

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 304-558-2227 AGRICULTURE DEPARTMENT OF REGULATORY PROTECTION DIVISION 313 GUS R DOUGLAS LN, BLDG 11 CHARLESTON WV 25312 US

3-28-22 Feb 5
4-6-22 BOR

Purchasing Division's File Copy

Total Order Amount: \$29,907.00

ENTERED

CH 3/24/22

PURCHASING DIVISION AUTHORIZATION DATE: <u>Linda Harper 3/25/22</u> ELECTRONIC SIGNATURE ON FILE	ATTORNEY GENERAL APPROVAL AS TO FORM DATE: <u>John S. Gray</u> ELECTRONIC SIGNATURE ON FILE	ENCUMBRANCE CERTIFICATION DATE: <u>Beverly Tolson 4-12-22</u> ELECTRONIC SIGNATURE ON FILE
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4/12/2022

Extended Description:

THE VENDOR, QIAGEN LLC, AGREES TO ENTER WITH THE AGENCY, WEST VIRGINIA DEPARTMENT OF AGRICULTURE, INTO A CONTRACT FOR THE ONE-TIME PURCHASE OF A DNA/RNA EXTRACTION SYSTEM, COMPUTER AND SOFTWARE, BARCODE SCANNER, AND WORKTABLE, WITH SHIPPING AND WARRANTY PER THE TERMS AND CONDITIONS, BID REQUIREMENTS, AND THE VENDOR'S BID DATED 02/23/2022, INCORPORATED HEREIN BY REFERENCE, AND MADE A PART OF HEREOF.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
1	41000000	1.00000	EA	28071.000000	28071.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: DNA/RNA Extraction System, computer, software,

Extended Description:

barcode Scanner, Worktable

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
2	78121603	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Shipping

Extended Description:

Shipping

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
3	41000000	1.00000	EA	1836.000000	1836.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Warranty

Extended Description:

Warranty

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
4	41000000	1.00000	EA	0.000000	0.00
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Preventative Maintenance

Extended Description:

Preventative Maintenance

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: This Contract becomes effective on the effective start date listed on the first page of this Contract and the initial 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 _____ 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 maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

☒ **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.

☐ **Other:** See attached _____

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.

☒ **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.

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 below must be provided to the Purchasing Division by the Vendor as specified below.

☐ **BID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

☐ **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.

☐ **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

☐ **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

☐ **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 and must include the State as an additional insured on each policy 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: 100,000.00 per occurrence.

☒ **Automobile Liability Insurance** in at least an amount of: 100,000.00 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.

☒ ***STATE OF WV MUST BE LISTED AS ADDITIONAL INSURED ON INSURANCE CERTIFICATE

☒ ***CERTIFICATE HOLDER SHOULD READ AS FOLLOWS:
WVDA
1900 KANAWHA BLVD E, CHARLESTON, WV 25305

☐

☐

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

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. [Reserved]

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:

☐ _____ for _____.

☐ Liquidated Damages Contained in the Specifications.

☐ Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature 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. 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.

20. TIME: Time is of the essence 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 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 CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) 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; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall 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. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

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. PURCHASING AFFIDAVIT: 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, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Purchasing Division affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

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 hearth, 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 supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-award 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.

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.

Jesse Grasso, Customer Solutions Manager
(Name, Title)
Jesse Grasso, Customer Solutions Manager
(Printed Name and Title)
19300 Germantown Road, Germantown, MD 20874
(Address)
484-502-9847 / 800-718-2056
(Phone Number) / (Fax Number)
Jesse.Grasso@qiagen.com
(email address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation 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 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 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.

QIAGEN LLC
(Company)
 Sr Dir of Accounting
(Authorized Signature) (Representative Name, Title)
Harry A. Scott Sr Dir of Accounting
(Printed Name and Title of Authorized Representative)
Feb 22, 2022
(Date)
240-477-2167 / 800-718-2056
(Phone Number) (Fax Number)

DNA/RNA Extraction System

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Department of Agriculture to establish a contract for the one time purchase of DNA/RNA Extraction System, computer and software, barcode scanner, and worktable, with shipping and warranty. It will also include a one-year preventative maintenance and support plan. This will include full coverage for parts, labor, and travel; one (1) on-site preventative maintenance; remote technical support; on-site applications support; and remote monitoring.
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
 - 2.1 **“Contract Item”** means the DNA/RNA Extraction System, computer and software, barcode scanner, worktable, shipping, warranty, and preventative maintenance as more fully described by these specifications.
 - 2.2 **“Pricing Page”** means the pages, contained in wvOASIS or attached as Exhibit A, upon which Vendor should list its proposed price for the Contract Items.
 - 2.3 **“Solicitation”** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
 - 2.4 **“Deliverables”** means all items being purchased through this RFQ.
 - 2.5 **“Preventative Maintenance Plan”** means routine service conducted by the vendor that is recommended to keep the instrument fully operational.
 - 2.6 **“Warranty”** means the written warranty of the manufacturer of a new instrument of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under that warranty.
 - 2.7 **“Service”** means performing routine maintenance work or repair to the instrument or software.
3. **GENERAL REQUIREMENTS:**
 - 3.1 **Mandatory Contract Item Requirements:** Contract Item must meet or exceed the mandatory requirements listed below.

DNA/RNA Extraction System

3.1.1 DNA/RNA Extraction System

3.1.1.1 The DNA/RNA Extraction System must be fully automated, spin-column based nucleic acid extraction.

3.1.1.2 The DNA/RNA Extraction System must have the ability to run over 3000 protocols: including customizable protocols.

3.1.1.3 The DNA/RNA Extraction System must be able to utilize at least 80 different types of kits.

3.1.1.4 The DNA/RNA Extraction System must have a sample range of up to 12 samples per run.

3.1.1.5 The DNA/RNA Extraction System must come with a worktable that is fully-lit.

3.1.1.6 The DNA/RNA Extraction System must be able to decontaminate the entire worktable with built-in UV light.

3.1.1.7 The DNA/RNA Extraction System must include a computer, software, and barcode scanner.

3.1.2 Computer, Software, and Barcode Scanner

3.1.2.1 The DNA/RNA Extraction System software must utilize a guided, automated setup.

3.1.2.2 The DNA/RNA Extraction System computer and software must provide real-time run status with push notifications for complete runs and errors.

3.1.2.3 The DNA/RNA Extraction System computer and software must have remote connectivity to monitor when outside of the laboratory.

DNA/RNA Extraction System

3.1.2.4 The DNA/RNA Extraction System computer and software must generate run reports.

3.1.2.5 The DNA/RNA Extraction System must utilize a barcode scanner to track samples and preparation kits throughout the process.

3.1.3 Shipping

3.1.3.1 Equipment must be delivered within 90 days after receipt of order.

3.1.3.2 All equipment should be packaged and capable of fitting through access doors. Packaging dimensions should not exceed 33.25" x 79".

3.1.4 Warranty

3.1.4.1 The vendor must provide a full one-year parts and labor warranty on all items, including preventative maintenances that are recommended by the vendor's preventative maintenance service plans.

3.1.5 Preventative Maintenance

3.1.5.1 Preventative maintenance services shall be performed by the vendor who shall agree to have an adequate number of trained staff and replacement parts available to comply with the requirements in 3.1.5.2 and 3.1.5.3.

3.1.5.2 Vendor must respond to service calls within 24 hours.

DNA/RNA Extraction System

3.1.5.3 Vendor must be capable of performing all requests for repairs and/or service within three business days of request.

3.1.5.4 After any preventative maintenance or repairs have been completed on a particular instrument, the vendor shall guarantee the accuracy and precision of the instrument at the location where the instrument will be used.

3.1.5.5 Reports of service will be signed by State of WV authorized laboratory personnel to ensure work has been completed.

4. CONTRACT AWARD:

4.1 Contract Award: The Contract is intended to provide Agencies with a purchase price for the Contract Items. The Contract shall be awarded to the Vendor that provides the Contract Items meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

4.2 Pricing Page: Vendor should complete the Pricing Page by placing all-inclusive information in each column for item number, model/brand name, unit price and extended amount. There should be a price for the DNA/RNA Extraction System, computer and software, barcode scanner, worktable, shipping, warranty, and service. If there is no charge for any deliverable, indicate in the cell with "no charge". The bidder/vendor information must be completed and include an authorize signature. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Vendor should type or electronically enter the information into the Pricing Page to prevent errors in the evaluation.

5. PAYMENT:

5.1 Payment: Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

DNA/RNA Extraction System

6. DELIVERY AND RETURN:

6.1 Shipment and Delivery: Vendor shall ship the Contract Items immediately after being awarded this Contract and receiving a purchase order or notice to proceed. Vendor shall deliver the Contract Items within 90 days after receiving a purchase order or notice to proceed. Contract Items must be delivered to Agency at 313 Gus R. Douglass Lane, Charleston, WV 25312.

6.2 Late Delivery: The Agency placing the order under this Contract must be notified in writing if the shipment of the Contract Items will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the Contract, and/or obtaining the Contract Items from a third party.

Any Agency seeking to obtain the Contract Items from a third party under this provision must first obtain approval of the Purchasing Division.

6.3 Delivery Payment/Risk of Loss: Vendor shall deliver the Contract Items F.O.B. destination to the Agency's location.

6.4 Return of Unacceptable Items: If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified those items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.

6.5 Return Due to Agency Error: Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

DNA/RNA Extraction System

7 VENDOR DEFAULT:

7.1 The following shall be considered a vendor default under this Contract.

7.1.1 Failure to provide Contract Items in accordance with the requirements contained herein.

7.1.2 Failure to comply with other specifications and requirements contained herein.

7.1.3 Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

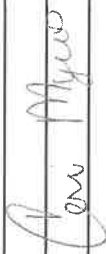
7.1.4 Failure to remedy deficient performance upon request.

7.2 The following remedies shall be available to Agency upon default.

7.2.1 Immediate cancellation of the Contract.

7.2.2 Immediate cancellation of one or more release orders issued under this Contract.

7.2.3 Any other remedies available in law or equity.

Item No.	Description	Model #/Brand Name	Quantity	Unit Price	Extended Amount
1	DNA/RNA Extraction System, computer and software, barcode scanner, and worktable	9002864	1	28,071	28,071
2	Shipping	N/A	1	0	0
3	Warranty	9245210	1	1,836.00	1,836.00
4	Preventative Maintenance Service	Included w/ Cat#9245210	1	0	0
Failure to use this form may result in disqualification					Grand Total
					29,907
Bidder / Vendor Information					
Name:	QIAGEN LLC				
Address:	19300 Germantown Road, Germantown, MD 20874				
Phone:	484-502-9847				
Email Address:	<u>Jesse.Grasso@qiagen.com</u>				
Authorized Signature:	 Cori Myers, Director, Contracts				



Mrs. Megan Young
West Virginia Department of Agriculture
275 Gus R Douglass lane
Charleston, West Virginia
25312

Feb 21, 2022
QIAGEN LLC
19300 Germantown Road
Germantown, MD 20874-1415
US Orders: 800-426-8157
Fax: 800-718-2056

Phone: +3045382397
myoung@wvda.us

Quote Number 220221US01465888JG

Customer Number 306685

Dear Mrs. Megan Young

Thank you for your interest in our products. Please find below the details of your quotation.

QIAcube Connect System PRV-1

Cat. No. / ID: 9002871

Instrument and service agreement package: robotic workstation for automated purification of DNA, RNA or proteins using QIAGEN spin column kits; includes installation, application training and one preventive maintenance visit.

One-year warranty on labor, travel and parts also included.

Line Item No.	Quantity	Catalog #	Product	Unit Price [USD]	Total Price [USD]
1	1	9002871	QIAcube Connect System PRV-1	*29,907.00	*29,907.00

Quote Total [USD]: 29,907.00

* In case of changes to List Prices at QIAGEN, the prices of these products will remain in effect for the validity period of the quote.

*QIAGEN covering 100% S&H costs. Thank you for choosing QIAGEN



The following products have been offered with significant and/or full discount.

Line Item No.	Quantity	Catalog #	Product	Item Type	List Price [USD]	Discount %	Total Price [USD]
1	1	9003094	QIASphere Connectivity Package B	Included with Sales	777.00	100.00	0.00
2	1	990395	Starter Pack, QIAcube	Included with Sales	679.00	100.00	0.00
3	1	9026181	O-Ring Change Tool for QIAcube Connect	Included with Sales	361.00	100.00	0.00

To ensure that correct prices are invoiced please always use the quote number stated above when placing your order.

This Quote shall be governed by the QIAGEN Standard Terms and Conditions available at

<http://www.qiagen.com/products/ordering-information/Ordering-terms-USA/>

Did you know that you can directly apply this quote to online orders? Simply go to the web shop at [qiagen.com](http://www.qiagen.com), add your products to your cart, and enter this quote number. You'll get the products at the quoted price. It's the most convenient way to order!

Terms of Delivery and payment:

Offer validity: Valid From: 02/15/2022

Valid To: 05/15/2022

Price: Prices do not include Tax

Shipping Terms: FOB Shipping Point, Prepaid and absorbed by QIAGEN

Payment: 30 days net

This offer was created electronically and is valid without a signature.

RE: CRFQ AGR2200000018 DNR/RNA Extraction System

1 message

Jesse Grasso - QIAGEN <JesseAlexander.Grasso@qiagen.com>
To: "Hustead, Crystal G" <crystal.g.hustead@wv.gov>

Mon, Apr 4, 2022 at 9:26 AM

Hello Crystal,

Please see attached QIAGEN standard Terms & Conditions that are referenced on this quote. Having said that when we submitted the bid we did sign off on the Terms & Conditions on the solicitation documents, so that would supersede our standard T&Cs in this case.

Let me know if anything further is needed at this time.

Best Regards,

Jesse Grasso
Customer Solutions Manager, Automation Sales | Mid-Atlantic

Department

QIAGEN

Sample to Insight

QIAGEN LLC | 19300 Germantown Road | Germantown, MD 20874 | USA

Mobile +1-484-502-9847

Jesse.Grasso@qiagen.com
www.qiagen.com

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From: Hustead, Crystal G <crystal.g.hustead@wv.gov>
Sent: Friday, April 1, 2022 8:52 AM
To: Jesse Grasso - QIAGEN <Jesse.Grasso@qiagen.com>
Subject: Fwd: CRFQ AGR2200000018 DNR/RNA Extraction System

Caution: This message was sent from outside QIAGEN. Please ensure it is legitimate before taking action.

Good Morning Jesse,

The WV Attorney General's office has requested that we obtain the terms and conditions that are mentioned in the quote from your bid response. Can you please forward a copy to me at your earliest convenience.

The following products have been offered with significant and/or full discount:

Line Item No	Quantity	Catalog #	Product	Item Type	List Price (USD)	Discount %	Total Price (USD)
1	1	9003094	QIAsphere Connectivity Package B	Included with Sales	722.00	100.00	0.00
2	1	9003095	Starter Pack, QIAscube	Included with Sales	672.00	100.00	0.00
3	1	90025181	O-Ring Change Tool for QIAscube Connect	Included with Sales	36.00	100.00	0.00

To ensure that correct prices are invoiced please always use the quote number stated above when placing your order.
This Quote shall be governed by the QIAGEN Standard Terms and Conditions available at http://www.qiagen.com/products/ordering/information/OrderingTerms_USA

Do you know that you can directly apply this quote to online orders? Simply go to the web shop at qiagen.com, add your products to your cart, and enter this quote number. You'll get the products at the quoted price. It's the most convenient way to order.

Terms of Delivery and payment:

Offer validity: Valid From: 02/15/2022
Valid To: 05/15/2022
Price: Prices do not include Tax
Shipping Terms: FOB Shipping Point. Prepaid and assorted by QIAGEN
Payment: 30 days net

This offer was created electronically and is valid without a signature

On Tue, Mar 8, 2022 at 2:49 PM Hustead, Crystal G <crystal.g.hustead@wv.gov> wrote:



Hello Jesse,

Please see the attached request for commercial general liability and auto liability insurance

--

Thank you,
Crystal Hustead, CPPB
Senior Buyer
State of West Virginia Purchasing Division
2019 Washington St. East
Charleston, WV 25305
Email: Crystal.G.Hustead@wv.gov

2 attachments

-  **15513-004-Updated Sales Terms and Conditions-1221-US-CA (1).pdf**
131K
-  **QIAGEN CRFQ AGR2200000018_Complete Solicitation Documents 2022Feb23.pdf**
14284K

Sales Terms & Conditions

1. THE CONTRACT.

These terms and conditions (also referred to as this "Agreement") apply to all sales of products and services by QIAGEN to its customers (each, a "Customer"), unless QIAGEN and Customer have agreed to a separate written contract signed by authorized representatives of both parties (a "Contract"). To the extent the parties have executed a Contract, and there are any conflicts between these terms and those in the Contract, then the Contract shall control. Any provisions printed or otherwise contained in any purchase order, acknowledgement, acceptance or other document from Customer purporting to govern the purchase of products or services from QIAGEN which are inconsistent with or in addition to these terms and conditions shall have no force or effect and shall not constitute any part of the Agreement between the parties, unless in writing and signed by an authorized representative of QIAGEN.

2. ORDERS.

Customer shall place orders for QIAGEN products using purchase orders consistent with these terms and conditions. All orders shall include the minimum following information: shipping and billing address, catalog number, product description, size, quantity, and purchase order number. In the event Customer's purchase order varies from the terms herein, the terms herein shall control, even if Customer's purchase order states otherwise. All confirmations, invoices and other writings delivered by QIAGEN to Customer shall be deemed accepted by Customer together with any terms and conditions set forth thereon unless Customer gives written notice to QIAGEN prior to shipment of products or performance of services by QIAGEN.

3. PRICING AND ACCEPTANCE.

3.1 All prices are subject to change without prior notice. Pricing provided in a written quotation signed by an authorized QIAGEN representative shall be valid during the period specified on the quotation, however, this price may be adjusted by QIAGEN due to market conditions, increases in the rate of inflation, or increased production and distribution costs.

3.2 The prices stated herein do not include any sales, use or excise taxes, customs duties, imposts or other assessments of any kind, value-added or similar taxes, which may arise from the manufacture, processing, sale or shipment of the products or services, and Customer shall be solely responsible for any and all such taxes, duties or other assessments. If QIAGEN has the legal obligation to collect any such taxes, duties or other assessments, the appropriate amount shall be added to QIAGEN's invoice to Customer and paid by Customer. If, for whatever reason, QIAGEN does not collect

any such amount from Customer and QIAGEN becomes liable to pay any such taxes, duties or other assessments or any penalties related thereto, Customer shall promptly pay such amounts directly to the appropriate governmental authority or, if QIAGEN is required to pay or has paid such amounts, shall pay such amounts to QIAGEN in accordance with Section 4 below.

3.3 All orders from Customer are binding upon Customer and may be accepted by QIAGEN, at QIAGEN's option, either by sending an order acknowledgement or confirmation, or by delivering the resulting products or services to Customer.

4. TITLE; RISK OF LOSS; SHIPPING.

- 4.1 All products are shipped FCA QIAGEN's facility, with shipping and handling fees prepaid and added to the invoice amount. Title to and risk of loss of products shall pass to Customer at the place and time QIAGEN delivers such products to the shipper. QIAGEN may change freight carriers without notice. If a shipment fails to be delivered as scheduled, Customer shall be responsible for pursuing a claim with the freight company and QIAGEN shall provide reasonable cooperation with such endeavor.
- 4.2 Representations as to delivery dates are approximate only, unless QIAGEN has given an expressly binding commitment. Partial delivery or performance of products and services under this Agreement shall be permitted unless Customer has expressly stated in writing on the face of the QIAGEN quotation or on the Customer's purchase order that partial delivery will not be accepted.
- 4.3 QIAGEN shall not be liable for any delay in performance or nonperformance as the result of war, fire, flood, accidents, acts of God, terrorism, embargoes, acts of third parties, acts of governmental authority or any agency or commission thereof, breakdown of equipment, shortages of material, labor or power, labor strikes, work stoppage or labor unrest, or any other cause beyond QIAGEN's reasonable control. If any of the foregoing events occurs, QIAGEN may make deliveries of the products and services proportionate to production and/or postpone the shipment or delivery period of the products and services to a reasonable time after the difficulty has ceased, or QIAGEN may, at its option upon notice given to Customer within twenty (20) days after the commencement of any such event, declare this Agreement terminated and all rights and liabilities of QIAGEN and Customer, except with respect to products and services previously shipped or performed or in QIAGEN's inventory, shall cease and terminate. QIAGEN shall have no obligation to buy in the open market any article to be used in QIAGEN's manufacture or processing when the supplier thereof has defaulted in delivery.
- 4.4 If this Agreement calls for more than one shipment of products or delivery of services, each shipment and delivery shall constitute a separate sale under the terms and conditions of this Agreement and Customer agrees to accept each shipment and delivery and pay each invoice in full when due at the contract prices regardless of controversies relating to other delivered or non-delivered products or services. If Customer fails to accept or pay for shipment or delivery, or in the event a dispute arises concerning QIAGEN's performance hereunder, then QIAGEN may, without prejudice to any other lawful remedy and without any liability to Customer, (i) suspend further performance hereunder until acceptance or payment by Customer of all previous shipments and deliveries or until the dispute shall have been resolved, or (ii) terminate this Agreement with respect to any unaccepted or undeliverable portion, in which case Customer shall be responsible for any expense or loss sustained by QIAGEN in connection with this Agreement.

5. PAYMENT TERMS.

- 5.1 The full amount of each invoice for products and services hereunder shall be paid net 30 days (terms contingent upon credit worthiness of Customer) from the date of the invoice unless otherwise stated on the face of the invoice.
- 5.2 Payment by check, credit card, or wire transfer will be effective only after these instruments have cleared and been paid. Credit cards will be accepted at time of each order only for processing on invoice date. Any discounts and expenses shall be borne by Customer.
- 5.3 QIAGEN reserves the right to assess a late fee equal to one and one-half percent (1.5%) per month or, if lower, the maximum amount permitted by applicable law, on all amounts not paid when due, calculated on a daily basis beginning with the 1st day following the invoice due date. Any check or remittance received from or for the account of Customer may be accepted and applied by QIAGEN against any indebtedness owing by Customer, without prejudice to, or the discharge of, the remainder of any such indebtedness regardless of any condition, provision, statement, legend or notation appearing on, referring to or accompanying any check or remittance.
- 5.4 At any time, when in QIAGEN's opinion the financial condition of Customer so warrants, or if Customer fails to make payment when due or otherwise defaults hereunder, QIAGEN may change any terms of payment, suspend any credit previously extended to Customer, require partial or full payment in advance and delay shipment until such terms are met, and pursue any other remedies available at law. In such event, if Customer refuses to accept such changes, any outstanding order may be cancelled without any liability to QIAGEN. In the event of bankruptcy or insolvency of Customer or in the event any proceeding is brought by or against Customer under any bankruptcy or insolvency laws or their equivalent, QIAGEN may cancel any order then outstanding without liability to Customer.

6. LIMITED WARRANTY.

6.1 Product and Equipment Warranties.

- (a) **Product Warranty.** QIAGEN warrants that, at the time of shipment, the products sold by it are free from defects in materials and workmanship and conform to the Specifications, if any, that accompany the products. QIAGEN agrees to replace any defective or non-conforming product purchased directly from QIAGEN (provided that such nonconformity was not caused by misuse or negligence of Customer) if Customer provides notice to QIAGEN within thirty (30) days after receipt. No claim will be honored if Customer fails to notify QIAGEN within the period specified.
- (b) **Equipment Warranty.** QIAGEN warrants that: (i) all new instrumentation manufactured by and purchased directly from QIAGEN will correspond to the product specifications and be free from defects in workmanship and materials for a period of twelve (12) months from the original date of shipment, and (ii) all refurbished instrumentation purchased directly from QIAGEN will correspond to the product specifications and be free from defects in workmanship and materials for a period of six (6) months from the original date of shipment. Repair or replacement of defective parts will be provided to the purchaser during this time period provided the QIAGEN instrumentation is operated under conditions of normal and proper use, but not in the event that damage is caused by the Customer. If any part or subassembly proves to be defective, it will be repaired or replaced at QIAGEN's sole option, subsequent to inspection at the factory, or in the field by an authorized factory representative, provided that such defect manifested under normal and proper use. QIAGEN may use new, used, or reconditioned parts of equivalent or superior specifications in the repair of your equipment. Parts removed and replaced as part of the repair become QIAGEN property.

6.2 Customer agrees that QIAGEN's sole liability, and Customer's sole and exclusive remedy, pursuant to any claim of any kind against QIAGEN, including without limitation any claim in contract, negligence or strict liability, shall be, at QIAGEN's option, (a) replacement of any non-conforming products or reperformance of any non-conforming services or (b) a refund of the price allocable to the non-conforming products or services.

6.3 Returns.

Customer must obtain authorization for all returns of products from a QIAGEN Customer Relations or Technical Services Representative. A Returned Good Authorization number shall be assigned and must be included in the shipping documentation. Some products may not be eligible for return due to regulatory or storage requirements.

(a) Returns due to Nonconforming product. If Customer chooses to return nonconforming (i.e., does not conform to Specifications) products under the product Warranty, QIAGEN will assess the product to verify the nonconformance. If the product is found to be non-conforming, QIAGEN shall send a replacement within 48 hours for all stocked items. If Customer is asked by QIAGEN to return the nonconforming product, QIAGEN will pay for the return shipping charges as well.

(b) Returns due to Customer Ordering Error. Products ordered in error are returnable within thirty (30) days after shipment was started by QIAGEN; provided that the products being returned remain unopened and suitable for resale, as determined by QIAGEN in its sole discretion. Customer must pay for the return freight. A credit shall be issued for the invoice price of the returned product less (1) a restocking fee of the greater of 20% of the return value or \$30.00 and (2) freight costs incurred by QIAGEN for the shipment to and/ or from Customer. Special orders, non-stocked items, and discontinued reagents may not be returned.

THE LIMITED WARRANTY IN SECTION 6.1 ABOVE IS EXPRESSLY IN LIEU OF ANY AND ALL OTHER WARRANTIES AND CONDITIONS AND QIAGEN HEREBY DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION (A) ANY IMPLIED WARRANTIES OR CONDITIONS, INCLUDING WITHOUT LIMITATION WARRANTIES OR CONDITIONS APPLIED BY STATUTE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR (B) ANY IMPLIED WARRANTY OR CONDITION, INCLUDING WITHOUT LIMITATION A WARRANTY OR CONDITION IMPLIED BY STATUTE THAT ANY USE OF THE GOODS OR SERVICES WILL NOT VIOLATE OR INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHTS OF THIRD PARTIES, WITHRESPECT TO THE GOODS OR SERVICES, OTHER THAN AS EXPRESSLY SET FORTH IN SECTION 6.1 ABOVE

7. LIMITATION OF LIABILITY AND REMEDY.

7.1 CUSTOMER ACKNOWLEDGES AND AGREES THAT THE AMOUNTS WHICH QIAGEN IS CHARGING HEREUNDER DO NOT INCLUDE ANY CONSIDERATION FOR QIAGEN'S ASSUMPTION OF THE RISK OF CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH USE OF THE GOODS OR SERVICES BY CUSTOMER. ACCORDINGLY, CUSTOMER AGREES THAT QIAGEN SHALL NOT IN ANY EVENT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS OR OTHER ECONOMIC LOSS, ARISING IN CONNECTION WITH CUSTOMER'S USE OF OR INABILITY TO USE THE GOODS OR SERVICES. THIS LIMITATION OF LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE AND INDEPENDENT OF ANY FAILURE OF ESSENTIAL PURPOSE OF THE LIMITED WARRANTY AND REMEDIES PROVIDED HEREUNDER.

7.2 QIAGEN's liability for breach of warranty or for any loss or damage resulting from any other cause whatsoever, including alleged negligence, shall not exceed the lesser of (i) the cost of correcting any non-conformities in the products or services or (ii) the cost of replacing the products or reperforming the services. In no event (including unenforceability of the above limitations and independent of any failure of essential purpose of the limited warranty and remedies provided hereunder) shall QIAGEN's aggregate liability for damages under this Agreement exceed the purchase price previously paid by Customer for the non-conforming products or services. The parties acknowledge that the limitations set forth in this Section 7.2 are integral to the prices charged under this Agreement and that, were QIAGEN to assume any further liability other than as set forth herein, such prices would of necessity be set substantially higher. Customer expressly agrees that this limitation of damages and remedies shall constitute the exclusive remedies and measure of damages available to Customer and all other remedies and measures of damages which might otherwise be available under the law of any jurisdiction are hereby waived by Customer.

7.3 Without limitation to the generality of the foregoing limitation, QIAGEN shall not be liable for any damage or loss caused by the improper or unapproved use of the products.

8. INDEMNIFICATION.

Customer shall indemnify QIAGEN, defend and assume the settlement of, and the defense of any suit or suits or other legal proceedings brought to enforce all losses, damages, injuries, claims, demands, and expenses ("Liability") arising out of the use of Products purchased by Customer hereunder, regardless of where, how, and by whom used, and shall pay all judgments entered in any such suit or suits or other legal proceedings, except for Liability resulting from QIAGEN's gross negligence or willful misconduct. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding termination of this Agreement, whether by expiration of time, by operation of law, or otherwise.

9. GENERAL COMPLIANCE.

Each of the parties represents and warrants to the other party that it will comply with all applicable laws, rules or regulations ("Applicable Laws"), including, but not limited to, applicable federal, state and local laws, rules, regulations and guidelines relating to the manufacturing, quality control, packaging, labeling, handling, shipping, importation, exportation and storage of Products, HIPAA, Medicare and Medicaid billing and referral requirements and the Federal Food, Drug and Cosmetic Act. It is the intention of the parties that this Agreement be administered in accordance with the federal antikickback statute (Title 42, United States Code, Section 1320a-7b(b)). Accordingly, insofar as required by such statute or by the discount safe harbor regulations at 42 CFR § 1001.952(h), Customer shall fully and accurately report in applicable cost reports and provide information upon request to Medicare, Medicaid and other federal health care programs on all discounts and price reductions under this Agreement.

10. HIPAA COMPLIANCE.

The parties acknowledge that use of the Products and Equipment by Customer may be subject to the requirements of HIPAA and the related privacy and security regulations, and other current and future laws, rules and regulations regarding collecting, accessing, using, disclosing, electronically transmitting, securing, and storing protected health information of patients ("PHI"). The parties acknowledge that PHI is not required for QIAGEN's performance of this Agreement and that QIAGEN is neither a "covered entity" nor a "business associate" of the Customer. If in the performance of any services that are related to the provision of Products, Supplies and Equipment under this Agreement, Customer inadvertently provides access to QIAGEN to PHI, whether on paper, tape, diskette, CD or other tangible media, in instruments or computers, electronically displayed, or verbally disclosed, QIAGEN agrees that it shall not use, disclose, or reproduce, in any manner, any such PHI and shall promptly report such disclosure to Customer.

11. CONFIDENTIALITY.

Each party shall use Confidential Information (information of a proprietary or sensitive nature that is not readily available through sources in the public domain) of the other party only for purposes of this Agreement. Otherwise, except as may be required by law neither party shall use, publish nor disclose, or cause anyone else to use, publish or disclose, any Confidential Information of the other party. The restrictions on disclosure and use hereunder shall not apply to any information which (a) is or becomes generally available to the public, other than as a result of disclosure by the party receiving the information pursuant to this Agreement, (b) was made available to other third persons on a non-confidential basis by the disclosing party prior to the execution of this Agreement, (c) becomes available on a non-confidential basis from a third person, which third person was not itself under an obligation to maintain the confidentiality of such information, or (d) is required by law, regulations, including securities and other disclosure law, subpoena or court order to be disclosed. The provisions of this paragraph shall survive the expiration or other termination of this Agreement regardless of the cause of termination.

12. DATA PRIVACY.

The parties acknowledge that in certain circumstances, for business and safety reasons, Customer may wish to collect personal or biometric data (as defined by applicable privacy legislation, and which may include but shall not be limited to fingerprints, DNA or RNA samples, photographs, or signatures) from QIAGEN employees who will perform services on Customer's premises or enter Customer's facilities for other business reasons. Customer will bear all costs associated with the collection of such data, and Customer agrees to comply with all applicable data privacy and security laws and regulations in collecting, storing, handling, and using such personal and/or biometric data, and will indemnify QIAGEN, defend and assume the settlement of, and the defense of any suit or suits or other legal proceedings brought to enforce all losses, damages, injuries, claims, demands, and expenses ("Liability") arising out of Customer's breach of such applicable data privacy and security laws or regulations, and shall pay all judgments entered in any such suit or suits or other legal proceedings, except for Liability resulting from QIAGEN's gross negligence or willful misconduct. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding termination of any purchase or service agreement between the parties, whether by expiration of time, by operation of law, or otherwise.

13. NON-DISCRIMINATION.

Neither Customer nor QIAGEN shall discriminate in the performance of this Agreement because of race, color, sex, sexual orientation, age, religion, handicap, marital status, or national origin in violation of any applicable federal, state, or local law or regulation.

14. ENTIRE AGREEMENT.

This Agreement, including any attachments, exhibits or schedules hereto or delivered herewith, represent the entire agreement between the parties with respect to the subject matter hereof. No amendment or modification of the terms of this Agreement shall be binding on either party unless in writing and signed on behalf of each party.

15. BINDING EFFECT; ASSIGNMENT.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Agreement shall not be assignable by Customer without QIAGEN's prior written consent; except that Customer may assign this Agreement, without the prior consent of QIAGEN, to the successor to all or substantially all of the business of Customer as long as the successor or surviving entity in such transaction agrees to be bound, in writing, by the terms and provisions of this Agreement, and written notice of such assignment is provided to QIAGEN prior to consummation of the transaction. This Agreement shall be assignable by QIAGEN.

16. WAIVER.

The waiver by a party hereto of any breach of or default under any of the provisions of this Agreement shall not be effective unless in writing and the failure of a party to enforce any of the provisions of this Agreement or to exercise any right there under shall not be construed as a waiver of such right.

17. SEVERABILITY.

If any part of this Agreement shall be invalid or unenforceable under applicable law, such part shall be ineffective only to the extent of such invalidity or unenforceability, without in any way affecting the remaining parts of this Agreement. In addition, the part that is ineffective shall be reformed in a mutually agreeable manner so as to as most closely approximate, to the extent possible, the intent of the parties hereto.

18. SURVIVAL.

The provisions of this Agreement that may reasonably be interpreted or construed as surviving the expiration or termination of this Agreement (including, without limitation, confidentiality and governing law) shall so survive for the period specified, or if no such period, for the applicable statute of limitations.

19. **FORCE MAJEURE.**

The timely performance of either party will be excused, except any obligations to pay any amounts then owed to the other party hereunder, and shall not constitute a breach or grounds for termination or prejudice of any rights hereunder if the delay of the performance is the result of a force majeure event; provided that such party shall promptly provide written notice of such delay and the reason therefore to the other party, shall use its reasonable efforts to limit or resolve the cause of the force majeure, and shall resume performance immediately after the cause of the delay is removed.

20. **INDEPENDENT CONTRACTORS.**

The parties hereto are independent contractors and nothing in this Agreement will constitute the parties to be partners, nor constitute one party the agent of the other party, nor constitute the relationship to be a joint venture. Neither party shall have, or shall represent that it has, the authority or power to act for or to undertake or create any obligation or responsibility, express or implied, on behalf of, or in the name of the other party.

21. **GOVERNING LAW AND ARBITRATION; CLASS ACTION WAIVER.**

- (a) **Governing Law.** Subject to Section 21(e), this Agreement and any claims, disputes or causes of action relating to or arising out of this Agreement shall be construed, unless otherwise prohibited by law, in accordance with and governed by the laws of the State of Maryland without giving effect to the conflict of laws principles thereof. All claims under this Agreement which cannot be amicably settled shall be submitted to binding arbitration as set forth below.

(b) **Mandatory Binding Arbitration.** Prior to arbitration, the parties shall seek informal resolution of disputes. The process shall be initiated with written notice of one party to the other, describing the dispute with reasonable particularity. The other party shall respond within ten (10) calendar days. Each party shall promptly designate an executive with requisite authority to resolve the dispute, and the first meeting shall occur within 10 calendar days from the response described above. If the dispute is not resolved within 10 calendar days of the first meeting, either party may proceed to arbitration as set forth below.

i. The parties agree that any claim or dispute between them, and any claim by either of party against any agent, employee, successor, or assign of the other, related to this Agreement, including any dispute as to the validity or applicability of this arbitration clause, shall be resolved by binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, except where those rules are intentionally varied by the parties herein or pursuant to mutual agreement. The parties expressly agree that the arbitration shall be conducted in Washington, DC, in the English language, and under Maryland law, unless the parties mutually agree otherwise or the arbitrator determines that under applicable law, the arbitration is to take place in a location other than Washington, DC or that the laws of a State other than Maryland governs. To the extent permitted by applicable law, the prevailing party shall be entitled to a reimbursement of all of its reasonable attorney fees and arbitration costs by the other party. The arbitration award shall be final.

ii. The parties enter into this arbitration agreement in connection with a transaction involving interstate commerce. Accordingly, this arbitration agreement, and any proceedings thereunder, shall be governed by the Federal Arbitration Act ("FAA") 9 USC 1-16. Any award by the arbitrator may be entered as a judgment in any court having jurisdiction.

(c) **Class Action Waiver.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ARBITRATION SHALL PROCEED SOLELY ON AN INDIVIDUAL BASIS WITHOUT THE RIGHT FOR ANY CLAIMS OR DISPUTES TO BE ARBITRATED OR LITIGATED ON A CLASS ACTION BASIS OR ON BASES INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF OTHERS OR ANY GOVERNMENTAL BODY OR THE PUBLIC. DISPUTES MAY NOT BE JOINED OR CONSOLIDATED UNLESS AGREED TO IN WRITING BY ALL PARTIES.

TO THE EXTENT EITHER PARTY IS PERMITTED BY LAW OR COURT OF LAW TO PROCEED WITH A CLASS OR REPRESENTATIVE ACTION AGAINST THE OTHER, THE PARTIES AGREE THAT: THE PREVAILING PARTY SHALL NOT BE ENTITLED TO RECOVER ATTORNEYS' FEES OR COSTS ASSOCIATED WITH PURSUING THE CLASS OR REPRESENTATIVE ACTION (NOT WITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT); AND (II) THE PARTY WHO INITIATES OR PARTICIPATES AS A MEMBER OF THE CLASS WILL NOT SUBMIT A CLAIM OR OTHERWISE PARTICIPATE IN ANY RECOVERY SECURED THROUGH THE CLASS OR REPRESENTATIVE ACTION.

(d) **Waiver of Rights, Including Trial By Jury.** By agreeing to arbitration, the parties understand and agree that they are waiving their rights to maintain other available resolution processes, such as a court action or administrative proceeding, to settle their disputes. The rules in arbitration are different. There is no judge or jury, and review of an arbitrator's decision is very limited. EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL INVOLVING ANY CLAIMS OR DISPUTES.

(e) **Right to Seek Injunctive Relief.** This Agreement does not preclude either party from seeking injunctive relief in a court of law in accordance with applicable law.

22. TERMINATION FOR DEFAULT.

If either party shall default in a material manner with respect to its performance or obligations or covenants under this Agreement, (including without limitation, Customer's failure to pay), upon written notice to the defaulting party and without prejudice to any other rights the non-defaulting party may have, to terminate this Agreement. In the event of Customer's default, Customer shall owe Qiagen a fee for any order shortfalls at the time of termination, as set forth in Section 5 above.

23. TERMINATION FOR INSOLVENCY OR BANKRUPTCY.

Either party may, in addition to any other remedies available to it by law or in equity, terminate this Agreement by written notice to the other party in the event the other party shall become insolvent, make an assignment for the benefit of its creditors, or have any case or proceeding voluntarily initiated by or commenced against or other action taken by or against it in bankruptcy or seeking reorganization, liquidation, dissolution or winding-up or any other relief under any bankruptcy, insolvency, reorganization or other similar act or law of any jurisdiction now or hereafter in effect, and any such event shall have continued for sixty (60) days undismissed, unbonded and undischarged.

24. Use and Handling of Products.

Customer shall handle and use the results of the products in conformity with (a) good laboratory practice, (b) all applicable laws and regulations, guidelines and decisions of judicial or regulatory bodies, (c) any patent and other proprietary rights of third parties, or (d) its negotiated status or classification for each product purchased.

25. No Transfer or Resale. Unless otherwise expressly agreed to in writing by a duly authorized representative of QIAGEN,

25.1 The purchase of QIAGEN products or equipment conveys to Customer only the non-transferable right for Customer to use the quantity of products or equipment and components of products purchased in compliance with the applicable intended use statement, limited use statement or limited label license, and

25.2 Customer shall not transfer or resell, transfer, exchange, or otherwise assign the products or equipment, or any portion of them, without first obtaining the prior written consent of QIAGEN, which consent may be granted or withheld by QIAGEN in its sole discretion.

26. **Electronic Commerce (If Applicable).**

This Agreement will govern Customer's purchases from QIAGEN of products made through electronic business to business solutions, including but not limited to electronic ordering systems (collectively "B2B" or "eProcurement"). The parties will reasonably cooperate to establish B2B systems to facilitate direct shopping, sales and payment transactions between the parties.

27. **Counterparts and Signatures.**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which will together be deemed to constitute one agreement. The Parties agree that the execution of this Agreement by exchanging pdf signatures, and/or by industry standard electronic signature software, shall have the same legal force and effect as the exchange of original signatures. In any proceeding arising under or relating to this Agreement, each Party hereby waives any right to raise any defense or waiver based upon execution of this Agreement by means of such electronic signatures or maintenance of the executed agreement electronically.