



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: 11-17-2025

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 AGR2600000011 1	Change Order No:	Procurement Folder:	1782322
Document Name:	READ - Nitrogen Combustion Analyzer		Reason for Modification:	
Document Description:	READ - Combustion Oven Nitrogen Analyzer			
Procurement Type:	Central Purchase Order			
Buyer Name:	Larry D McDonnell			
Telephone:	304-558-2063			
Email:	larry.d.mcdonnell@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: VC0000101428 ELEMENTAR AMERICAS INC 119 COMAC STREET  RONKONKOMA NY 11779 US Vendor Contact Phone: 8567870022 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  <b>2026</b> 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

11-21-25

Total Order Amount: \$39,971.99

Purchasing Division's File Copy

PURCHASING DIVISION AUTHORIZATION

DATE: 11/12/25  
ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM

DATE: 12/5/2025  
ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION

DATE: 12-5-25  
ELECTRONIC SIGNATURE ON FILE

**Extended Description:**

The Vendor, Elementar Americas, Inc, agrees to enter into a one-time purchase with the West Virginia Department of Agriculture, to provide a combustion oven nitrogen analyzer, per the bid requirements, terms, conditions, specifications, Addendum No. 1 issued 09/26/2025, Addendum No. 2 issued 9/26/2025 and the vendor's bid dated 10/02/2025 all incorporated herein by reference and made apart of hereof.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
1	41113049	1.00000	EA	39971.990000	39971.99
Service From	Service To	Manufacturer	Model No		

**Commodity Line Description:** Nitrogen Combustion Analyzer - Shipping and Installation

**Extended Description:**

See attached documentation for further details.

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

State Agency, Board, or Commission (the "State"): [West Virginia Department of Agriculture](#)

Vendor: [Elementar Americas, Inc.](#)

Contract/Lease Number ("Contract"): [CPO 1400 AGR26\\*11](#)

Commodity/Service: [READ - Nitrogen Combustion Analyzer](#)

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 it 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 ~~strike through~~ 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: WVDA

By: Laryssa Hoskins

Printed Name: Laryssa Hoskins

Title: Director/CFO

Date: Nov 17, 2025

Vendor: Elementar Americas

By: Brian Lee

Printed Name: Brian Lee

Title: National Sales Manager

Date: 11/10/25

## **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 \_\_\_\_\_. 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 \_\_\_\_\_ 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.

☐ **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: \$1,000,000.00 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:

☐ \_\_\_\_\_ 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 [www.state.wv.us/admin/purchase/privacy](http://www.state.wv.us/admin/purchase/privacy).

**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.

**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](mailto: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 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) Brian Lee

(Address) 119 Comac Street Ronkonkoma, NY

(Phone Number) / (Fax Number) (email address) 415-238-9031 brian.lee@elementar.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.

Elementar Americas, Inc.  
(Company) Brian Lee  
(Signature of Authorized Representative)  
Brian Lee, National Sales Manager 11/11/2025  
(Printed Name and Title of Authorized Representative) (Date)  
415-238-9031 brian.lee@elementar.com  
(Phone Number) (Fax Number)

(Email Address)

## General terms & conditions

**I. Scope of application**

These General Terms and Conditions ("GTC") shall apply for all business relations between us, Elementar Americas, Inc., 119 Comac Street, Ronkonkoma, NY 11779 (hereinafter also referred to as "EAI" "we" or "us") and our customer (the "Customer"). Effective May 15, 2021. EAI reserves the right to revise these GTC at any time.

Individual agreements shall have priority over these GTC. The agreements are to be recorded in writing as proof.

Except in those instances where EAI and the Customer enter into a separate written contract for the purchase of products and/or services providing for separate terms of sale, these GTC apply exclusively. General Terms and Conditions of the Customer that deviate from or add to these shall only apply if and to the extent that we have expressly agreed their validity in advance, at least in text form. The General Terms and Conditions of the Customer shall also apply if we had knowledge of the General Terms and Conditions of the Customer and knowingly accepted the Customer's order without reservations.

Unless directly amended or excluded in these GTC, the applicable New Jersey law shall apply.

The GTC in their respective versions shall also apply to future contracts with the same customer, without us referring to them in each individual case.

**II. Order, conclusion of contract**

The Customer's purchase order shall constitute an offer for services and/or goods. EAI shall accept by sending a confirmation, and/or in the case of products considered consumables, alternatively by sending the delivery item. EAI's fulfillment of Customer's order does not constitute acceptance of any of the Customer's terms and conditions and does not serve to modify or amend these GTC.

**III. Delivery, default of acceptance**

Unless explicitly agreed otherwise, shipments are F.O.B point of shipment. Title and risk of loss for the Goods shall pass to the Buyer upon the transfer of the Goods to the freight carrier. EAI shall not be liable for any delays, loss or damage in transit. EAI may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Customer. Each shipment will constitute a separate sale, and Customer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Customer's purchase order. As collateral security for the payment of the purchase price of the Goods, Customer hereby grants to EAI a lien on and security interest in and to all of the right, title and interest of the Customer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing.

This excludes the commissioning at the premises of the Customer if EAI have agreed to this.

In case of delivery from our registered office, if the Customer does not collect the product on the delivery date agreed as binding or immediately after receipt of the notification that the product is ready for dispatch (default of acceptance), EAI shall be entitled to demand compensation for damages or any additional expenses (e.g. storage costs) incurred as a result of this

**IV. Delivery dates, product availability**

Delivery dates shall only be binding if EAI have confirmed the date with the Customer in writing (e.g. in the order confirmation) and confirmed that the products are readily available. If the delivery date has not been confirmed in writing, the delivery time is within a reasonable period of time from dispatch of the order confirmation or upon receipt of notification for payment of the applicable down payment.

EAI will do its best to keep the Customer informed, in writing, if the product is not available, deliverable or delivery is delayed. If the product is not available, deliverable or delivery is delayed due to a force majeure or other events beyond our control, the delivery period shall automatically be extended to a reasonable period of time. If the product is not available for the foreseeable future for any reason or otherwise is delayed more than thirty (30) days, EAI reserves the right to withdraw from the contract and EAI will refund any payments made by the Customer.

**V. Transfer of risk**

Risk shall be transferred to the Customer when the product leaves our registered office. This shall equally apply for entitled partial deliveries as well as for the acceptance of packaging, transport, shipping and / or insurance costs by us. COD shipments are not permitted.

In the event of default of acceptance, risk shall be transferred to the Customer upon the expiration of the contractually agreed delivery date / receipt of the notification that the deliverable is ready for dispatch.

**VI. Prices, other costs, terms of payment**

The price of Goods is defined by EAI's quotation and/or order confirmation provided to the Customer. Any prices referred to in or on the website are subject to change without notice. Quotations expire thirty (30) calendar days after the date of issue. All prices in USD unless otherwise stated. All prices are exclusive of all packaging, transport, shipping, insurance costs and / or sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any Governmental Authority on any amounts payable by the Customer. The Customer shall be responsible for all such charges, costs and taxes.

The Customer shall be responsible for the payment of all applicable sales tax, or for providing a valid sales tax exemption certificate. When sending the offer, the Customer shall indicate which products is tax exempt.

Payments are to be made within 30 days of the invoice date even if the products are late or partially delivered. If the Customer shall fail to make payment within 30 days of the invoice date, EAI may make all other invoices due and owing from the Customer to EAI immediately due and payable. The Customer shall reimburse EAI for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which EAI does not waive by the exercise of any rights hereunder), EAI shall be entitled to suspend the delivery of any Goods if the Customer fails to pay any amounts when due hereunder and such failure continues for thirty (30) calendar days following written notice thereof. The receipt by the Customer of any partial payment shall not constitute a waiver or modification of any of the Customer's rights set forth herein or provided by law, including the right to terminate performance. Any time after 30 days of the invoice date, without further notice, EAI shall charge interest on the outstanding amount at the lesser of: (i) the rate of two percentage points above the prime rate set forth by Citibank, N.A.; or (ii) the highest rate permissible under applicable law, calculated daily and compounded monthly. If the amounts owing are in a currency other than U.S. dollars, interest on past due accounts will be charged at the rate of interest customarily charged by EAI on credit sales to its customers in the currency specified. EAI also reserves that right to withdraw from the contract and demand the return of the delivery products or demand the assignment of any claims the Customer may have against

third parties. After taking back the products, EAI shall be entitled to dispose of them. The proceeds from the sale shall be offset against the Customer's liabilities, minus reasonable selling cost.

EAI reserves the right to assert further damages caused by delay.

#### **VII. Retention of title, software, resale**

Until our claims arising from a delivery contract or an ongoing business relationship with the Customer have been met in full, EAI shall remain the owner of all products. EAI shall retain an ongoing intellectual property right or rights in the products. Any commercial resale of any product shall require EAI's prior written consent.

Catalogues, product descriptions and information, assembly and operating instructions and quotation letters, in any form, shall remain our intellectual property even after transfer and/or providing to the Customer. EAI are entitled to any and all intellectual property rights of use for these exclusively and with no exception. The Customer shall need to obtain written consent from us in advances of distributing, sending and/or directing any person or entity links to our website, to use this in another way for its own purposes or to distribute any of the documents, either partially or wholly

#### **VIII. Quality and Defect Rights and Return Policy**

In general, a guarantee and/or warranty are not provided unless a warranty is explicitly stated in the order confirmation for the respective product. Further, EAI only provides products and services for use in business or government. Goods may constitute, contain, be contained in, incorporated into, attached to or packaged together with, products manufactured by a third party ("Third Party Product"). Third Party Products are not covered by the warranty set forth herein or under any warranty provided by EAI with a particular order or purchase. For the avoidance of doubt, EAI MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

Due to technical circumstances, products may deviate slightly from their descriptions and/or representations in catalogues and other documents (also in electronic form), for example in color and dimensions. Minor deviations do not constitute a material defect. EAI reserves the right to make quality improvements.

EAI shall be liable for material defects and defects of title in accordance with the applicable New Jersey law at the time of delivery of the product or completion of service. . If applicable, the warranty period and the limitation period shall be twelve (12) months from the time of delivery of the product or performance of the service. In case of an alleged defect, EAI shall inspect the Goods within five (5) business days of receipt (the "Inspection Period"). The Customer will be deemed to have accepted the Goods unless it notifies EAI in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as required by EAI.

"Nonconforming Goods" means only the following: (i) Goods shipped are different than identified in Buyer's purchase order; or (ii) Goods' label(s) or packaging incorrectly identifies its contents.

(b) If the Customer timely notifies EAI of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods. The Customer shall ship, at its expense, the Nonconforming Goods to EAI's facility. If EAI exercises its option to replace Nonconforming Goods, EAI shall, after receiving the Customer's shipment of Nonconforming Goods, ship to the Customer, at EAI's expense and risk of loss, the replaced Goods.

(c) Other than Nonconforming Goods, any Goods returned for the Customer's convenience will be subject to a twenty percent (20%) restocking fee (\$100 minimum) and with all shipping costs borne by the Customer. The Customer must contact EAI's customer support (via [info-us@elementar.com](mailto:info-us@elementar.com)) for a Return Authorization Number (RA #) within five (5) business days of receipt of shipment to be eligible for return credit. The Customer must return the Goods within ten (10) business days of receiving RA #. Goods must be in new and unused condition, packed in original packaging and container, and include all manuals, peripherals, and accessories.

For instrument orders, a cancellation fee of thirty percent (30%) shall apply.

**IX. Assignment**

Customer shall not assign any order, or any interest therein, without the prior written consent of EAI. Assignments will be limited to the extent that our interests are not unreasonably impaired by the assignment. Any actual or attempted assignment without EAI's prior written consent shall entitle EAI to cancel such order upon notice to Customer and is subject to restocking fees and other charges. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves the Customer of any of its obligations under these GTCs.

**X. Liability**

In the event of alleged strict liability, negligence and/or breach of implied warranty EAI shall only be liable for damages in accordance with the applicable New Jersey law, including but limited to, N.J.S.A. 2A:58C-1, et seq. All other liability and/or damages are hereby waived.

Jurisdictions have varying laws, codes and regulations governing construction, installation, and/or use of products for a particular purpose. Certain products may not be available for sale in all areas. EAI does not guarantee compliance or suitability of the products it sells with any laws, codes or regulations, nor does EAI accept responsibility for construction, installation and/or use of a product.

The Customer shall comply with all applicable laws, regulations and ordinances. The Customer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. The Customer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by the Customer. The Customer assumes all responsibility for shipments of Goods requiring any government import clearance. The Customer may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

Information about products in EAI's catalogs, website and/or brochures are for illustrative purposes only. EAI does not intend to misrepresent any information provided, however, this information cannot be relied on and may not be identical to the specifications and operations of the product. Contact EAI representatives for exact manufacturer specifications and product details. EAI is not liable for the Customer's misuse or reliance on the information provided about the products in EAI's catalogs, website and/or brochures.

If Customer should violate any of these GTC, the Customer must indemnify EAI for any losses or damages that EAI incurs as a result.

**XI. Force Majeure**

EAI shall not be liable or responsible to the Customer, nor be deemed to have defaulted or breached these GTCs and/or any other agreement, for any failure or delay in fulfilling or performing any term when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of EAI including, without limitation, acts of God, labor disruptions, acts of war, acts of terrorism (whether actual or threatened), governmental decrees, controls or acts of authority, terrorist threats or acts, riot, or other civil unrest, national emergency, states of emergency, insurrections, epidemics, pandemics, quarantines, shortages, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), communication or power failures, fires, accidents, explosions, inability to procure or ship product or obtain permits and licenses, inability to procure supplies or raw materials, severe weather conditions, catastrophic events, or any other circumstance or cause beyond the reasonable control of EAI in the conduct of its business.

**XIII. Dispute Resolution – Arbitration and Choice of Law**

Any controversy or claim arising out of or relating to this contract, or the breach thereof, including any matters or disputes relating to or arising from the purchase or use of any product, service, or information offered or made available through EAI, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Customer acknowledges and agrees that it is waiving the right to sue or go to court to secure relief. These GTC and all legal relationships between us and the Customer are subject to the laws of the State of New Jersey. EAI and Customer agree that all transactions for products and services shall be governed by the laws of the State of New Jersey. However, EAI shall also be entitled to make claims for damages against the Customer in the general legal venue of the Customer.

**There is no judge or jury in arbitration, and court review of an arbitration award is limited. However, an arbitrator can award on an individual basis the same damages and relief as a court (including injunctive and declaratory relief or statutory damages).**

To begin an arbitration proceeding, Customer must send a letter requesting arbitration and describing its claim to EAI registered office.

Payment for all filing, administration and arbitrator fees will at the Customer's expense. EAI will reimburse those fees for claims totaling less than \$5,000 unless the arbitrator determines the claims are frivolous. Likewise, EAI will not seek attorneys' fees and costs in arbitration unless the arbitrator determines the claims are frivolous. For claims totaling less than \$5,000, Customer may choose to have the arbitration conducted by telephone, or based on written submissions. For all other claims, the proceeding will be conducted in person. EAI and Customer both agree that either party may bring suit in court to enjoin infringement or other misuse of intellectual property rights.

**XIII. Final provisions**

Unless otherwise stipulated in these GTC, declarations that have to be issued after conclusion of the contract (e.g. reminders, setting of deadlines, notifications of defects, declarations of withdrawal) require at least written notice from the Customer to be effective.

The Customer hereby waives the right to withhold payments, to recoup monies or to set off any amount due and owing based on any alleged defaults and/or breaches of this contract. Any warranty rights according to Section VIII remain unaffected hereby.

For any reason, the Customer may contact EAI as follows:

**Phone:** 856 787 0022

**e-mail:** info-us@elementar.com

For EAI's privacy policy please see [insert hyperlink to privacy policy]

EAI may modify or update this GTC from time to time to reflect the changes in our business and practices, and you should review this page periodically. EAI will update the 'last modified' date at the bottom of this page when we post changes to the GTC. If you object to any changes, you may close your account. Continuing to use our website, catalogs and/or brochures after EAI publish changes to this GTC means that you are consenting to the changes.

If any portion of these terms and conditions is found to be invalid or unenforceable, the invalid or unenforceable term shall be severed from these terms and conditions, and the remaining terms and conditions shall be valid and fully enforceable as written.



REQUEST FOR QUOTATION  
Combustion Oven Nitrogen Analyzer  
CRFQ AGR26\*13

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**SPECIFICATIONS**

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of West Virginia Department of Agriculture to establish a contract for the one-time purchase of one (1) combustion oven nitrogen analyzer which includes all shipping, and installation.
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 Nitrogen Combustion Analyzer, which includes shipping and installation, as more fully described by these specifications.
  - 2.2 **“Pricing Page”** means the pages, contained in 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.
3. **GENERAL REQUIREMENTS:**
  - 3.1 **Mandatory Contract Item Requirements:** Contract Item must meet or exceed the mandatory requirements listed below.
    - 3.1.1 **One (1) Combustion Oven Nitrogen Analyzer minimum specifications**
      - 3.1.1.1 Combustion oven Nitrogen Analyzer must be able to use both helium and argon as a carrier gas.
      - 3.1.1.2 The awarded vendor must offer on-site training for a maximum of two (2) days with a maximum of 8 hours each day for the instrument upon installation shall include proper placement, sampling line connections, and calibration pre the manufacturer’s manual for a minimum of two (2) people.
      - 3.1.1.3 Autosampler for the combustion oven nitrogen analyzer must be able to run at least 30 samples prior to needing reloaded.
      - 3.1.1.4 The combustion oven must weigh less than 300 pounds.
      - 3.1.1.5 The combustion oven must be able to run samples with a mass of at least 1.0 grams.



REQUEST FOR QUOTATION  
Combustion Oven Nitrogen Analyzer  
CRFQ AGR26\*13

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- 3.1.1.6 The combustion oven must fully complete analysis of sample in 5 minutes or less.
- 3.1.1.7 The combustion oven must use at least one (1) Thermal Conductivity Detector.
- 3.1.1.8 The combustion oven must not use consumable chromatograph columns.
- 3.1.1.9 The combustion oven must log data in such a manner that it complies with ISO 17025:2017 (International Organization for Standardization) audit requirements.
- 3.1.1.10 The combustion oven must have the capacity to perform localized leak checks.

**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 Exhibit A - Pricing Page by entering information in each column for unit price and extended amount. Vendor should complete the Exhibit A - 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 Exhibit A - 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.

**6. DELIVERY AND RETURN:**

REQUEST FOR QUOTATION  
Combustion Oven Nitrogen Analyzer  
CRFQ AGR26\*13

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**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 – Building 11.

**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 that 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.

**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.

**REQUEST FOR QUOTATION**  
**Combustion Oven Nitrogen Analyzer**  
**CRFQ AGR26\*13**

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**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.

**Exhibit A - Pricing Page**  
**Combustion Oven Nitrogen Analyzer**  
**CRFQ AGR26\*13**

Section No.	Description	Model #/Brand Name	Quantity	Unit Price	Extended Amount
3.1.1	Nitrogen Combustion Analyzer, Shipping and Installation	rapid N exceed/Elementar	1	\$ 39,971.99	\$ 39,971.99
	Failure to use this form may result in disqualification			<b>GRAND TOTAL</b>	\$ 39,971.99
	<b>Bidder / Vendor Information</b>				
Name:	Valerie Conforti				
Address:	119 Comac Street				
	Ronkonkoma, NY 11520				
Phone:	5167782933				
Email Address:	<a href="mailto:valerie.conforti@elementar.com">valerie.conforti@elementar.com</a>				
Authorized Signature:					



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

State of West Virginia  
Centralized Request for Quote  
Laboratory

Proc Folder: 1782322

Doc Description: READ - Combustion Oven Nitrogen Analyzer

Reason for Modification:

To post Addendum No. 01

Proc Type: Central Purchase Order

Date Issued	Solicitation Closes	Solicitation No	Version
2025-09-26	2025-10-02 13:30	CRFQ 1400 AGR2600000013	2

**BID RECEIVING LOCATION**

BID CLERK  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION  
2019 WASHINGTON ST E  
CHARLESTON WV 25305  
US

**VENDOR**

Vendor Customer Code:

Vendor Name :

Address :

Street :

City :

State :

Country :

Zip :

Principal Contact :

Vendor Contact Phone:

Extension:

**FOR INFORMATION CONTACT THE BUYER**

Larry D McDonnell  
304-558-2063  
larry.d.mcdonnell@wv.gov

Vendor  
Signature X

FEIN#

DATE

All offers subject to all terms and conditions contained in this solicitation

**ADDITIONAL INFORMATION**

Addendum No. 01

To post answers to vendor questions.

The bid opening date and time still remains 10/02/2025 at 1:30PM EST/EDT

No other changes

**INVOICE TO**AGRICULTURE  
DEPARTMENT OF  
ADMINISTRATIVE SERVICES

1900 KANAWHA BLVD E

CHARLESTON WV  
US**SHIP TO**AGRICULTURE  
DEPARTMENT OF  
REGULATORY PROTECTION  
DIVISION313 GUS R DOUGLAS LN,  
BLDG 11CHARLESTON WV  
US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Nitrogen Combustion Analyzer - Shipping and Installation	1.00000	EA		

**Comm Code****Manufacturer****Specification****Model #**

41113049

**Extended Description:**

See attached documentation for further details.

**SCHEDULE OF EVENTS**

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Vendor questions due by 2:00PM EST/EDT	2025-09-25

# SOLICITATION NUMBER: CRFQ AGR26\*13

## Addendum Number: 1

---

The purpose of this addendum is to modify the solicitation identified as ("Solicitation") to reflect the change(s) identified and described below.

### Applicable Addendum Category:

- ☐ Modify bid opening date and time
- ☐ Modify specifications of product or service being sought
- ☒ Attachment of vendor questions and responses
- ☐ Attachment of pre-bid sign-in sheet
- ☐ Correction of error
- ☐ Other

### Description of Modification to Solicitation:

To post answers to vendor questions.

The bid opening date and time still remains 10/02/2025 at 1:30PM EST/EDT

No other changes

**Additional Documentation:** Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

### Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

Question/Answers

CRFQ AGR26\*13 Combustion Oven Nitrogen Analyzer

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Q1: Additionally, would CO2 carrier gas be acceptable?

A1: CO would be an acceptable carrier gas

Q2: Our Instrument (ElemeNtS) will be in compliance with ASTM D4629. Is this enough for your scope or do you need compliance with another Method? If yes, please specify which ASTM method.

A2: We do not use ASTM methods for the analysis of nitrogen. We utilize AOAC methods for the determination of nitrogen/protein in Animal Feed, Pet Food, Fertilizers, Food, and Related Commodities. The referenced method would not meet our needs.

Q3: Point 3.1.1.7 mentions “the combustion oven must use at least one (1) Thermal Conductivity Detector”. Question: Instead of a Thermal Conductivity Detector, can we use a Nitrogen Chemiluminescence Detector?

A3: It must meet or exceed the mandatory requirement listed in section 3.1.1.7 The combustion oven must use at least one (1) Thermal Conductivity Detector.

Q4: Our Nitrogen Combustion analyzer can run liquid, solid and gas samples. And it comes in different configuration based on the sample's phase. Which kind of samples are you running and in which phase are they?

Liquid	Matrix:
Solid	Matrix:
Gas	Matrix:
LPG	Matrix:

A4: Nearly all of our samples in the solid phase. We do occasionally analyze liquid fertilizer, milk, and other fluid matrices.





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

**State of West Virginia**  
**Centralized Request for Quote**  
**Laboratory**

**Proc Folder:** 1782322

**Doc Description:** READ - Combustion Oven Nitrogen Analyzer

**Reason for Modification:**

To post Addendum No. 02

**Proc Type:** Central Purchase Order

**Date Issued**

**Solicitation Closes**

**Solicitation No**

**Version**

2025-09-26

2025-10-02 13:30

CRFQ 1400 AGR2600000013

3

**BID RECEIVING LOCATION**

BID CLERK

DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

2019 WASHINGTON ST E

CHARLESTON WV 25305

US

**VENDOR**

**Vendor Customer Code:**

**Vendor Name :**

**Address :**

**Street :**

**City :**

**State :**

**Country :**

**Zip :**

**Principal Contact :**

**Vendor Contact Phone:**

**Extension:**

**FOR INFORMATION CONTACT THE BUYER**

Larry D McDonnell

304-558-2063

[larry.d.mcdonnell@wv.gov](mailto:larry.d.mcdonnell@wv.gov)

**Vendor  
Signature X**

**FEIN#**

**DATE**

**All offers subject to all terms and conditions contained in this solicitation**

**ADDITIONAL INFORMATION**

Addendum No. 02

To post answers to vendor questions received prior to the vendor question deadline but inadvertently left out of Addendum No. 01.

The bid opening date and time still remains 10/02/2025 at 1:30PM EST/EDT

No other changes

**INVOICE TO**AGRICULTURE  
DEPARTMENT OF  
ADMINISTRATIVE SERVICES

1900 KANAWHA BLVD E

CHARLESTON  
US

WV

**SHIP TO**AGRICULTURE  
DEPARTMENT OF  
REGULATORY PROTECTION  
DIVISION313 GUS R DOUGLAS LN,  
BLDG 11CHARLESTON  
US

WV

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Nitrogen Combustion Analyzer - Shipping and Installation	1.00000	EA		

**Comm Code****Manufacturer****Specification****Model #**

41113049

**Extended Description:**

See attached documentation for further details.

**SCHEDULE OF EVENTS**

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Vendor questions due by 2:00PM EST/EDT	2025-09-25

# SOLICITATION NUMBER: CRFQ AGR26\*13

## Addendum Number: 2

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The purpose of this addendum is to modify the solicitation identified as ("Solicitation") to reflect the change(s) identified and described below.

### Applicable Addendum Category:

- ☐ Modify bid opening date and time
- ☐ Modify specifications of product or service being sought
- ☒ Attachment of vendor questions and responses
- ☐ Attachment of pre-bid sign-in sheet
- ☐ Correction of error
- ☐ Other

### Description of Modification to Solicitation:

To post answers to vendor questions received prior to the vendor question deadline but inadvertently left out of Addendum No. 01.

The bid opening date and time still remains 10/02/2025 at 1:30PM EST/EDT

No other changes

**Additional Documentation:** Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

### Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

Question/Answers – Addendum No. 2  
CRFQ AGR26\*13 Combustion Oven Nitrogen Analyzer

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Q5: Am I able to submit more than 1 response? We have 2 instruments to offer.

A5: A vendor / supplier / manufacturer may submit more than one bid response provided the bid response contains a single response. If a vendor has the ability to bid multiple manufacturer products, models, etc. Each must be contained in a separate bid response and will be evaluated independently and awarded to the lowest responsible bidder.

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: CRFQ AGR26\*13**

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

(Check the box next to each addendum received)

<input checked="" type="checkbox"/> Addendum No. 1	<input type="checkbox"/> Addendum No. 6
<input checked="" type="checkbox"/> Addendum No. 2	<input type="checkbox"/> Addendum No. 7
<input type="checkbox"/> Addendum No. 3	<input type="checkbox"/> Addendum No. 8
<input type="checkbox"/> Addendum No. 4	<input type="checkbox"/> Addendum No. 9
<input type="checkbox"/> Addendum No. 5	<input type="checkbox"/> Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

---

Company: elementar Americas Inc.

---

Authorized Signature: *Brian Lee*

---

Date 11/10/25

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.



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

State of West Virginia  
Solicitation Response

**Proc Folder:** 1782322  
**Solicitation Description:** READ - Combustion Oven Nitrogen Analyzer  
**Proc Type:** Central Purchase Order

Solicitation Closes	Solicitation Response	Version
2025-10-02 13:30	SR 1400 ESR10012500000002395	1

**VENDOR**  
VC0000101428  
ELEMENTAR AMERICAS INC

**Solicitation Number:** CRFQ 1400 AGR2600000013

**Total Bid:** 39971.98999999999796273186802 **Response Date:** 2025-10-02 **Response Time:** 10:26:04

**Comments:**

**FOR INFORMATION CONTACT THE BUYER**

Larry D McDonnell  
304-558-2063  
larry.d.mcdonnell@wv.gov

Vendor  
Signature X

FEIN#

DATE

All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	Nitrogen Combustion Analyzer - Shipping and Installation	1.00000	EA	39971.990000	39971.99

Comm Code	Manufacturer	Specification	Model #
41113049			

**Commodity Line Comments:** unit price \$58,649.21 with 35% discount  
\$1850 shipping charges.

**Extended Description:**

See attached documentation for further details.

Elementar Americas Inc. | 119 Corniac Street | Ronkonkoma | NY 11779

## Quote

Mr. Larry McDonnell  
 Buyer  
 West Virginia Department of Agriculture  
 313 GUS R DOUGLASS LN BLDG 11  
 CHARLESTON WV 25312-6968  
 USA

**Number** 17985  
**Date** Oct 1, 2025  
**Reference**  
**Valid from** Oct 1, 2025  
**Valid to** Dec 30, 2025  
**Account ID** 1063807

### Shipping address

West Virginia Department of Agriculture  
 313 GUS R DOUGLASS LN BLDG 11  
 CHARLESTON WV 25312-6968  
 USA

**Name** Valerie Conforti  
**E-Mail** valerie.conforti@elementar.com

### Conditions:

Terms of payment: Within 30 days without deduction  
 Terms of delivery: Free on Board Destination  
 Further informations

### Weights - Volume:

Net weight: 85.202 KG Gross weight: 85.202 KG

Pos.	Product No.	Description	Quantity	Value
1000	200011512	rNex	1.0 Piece	58,649.21 USD
rapid N exceed – Elemental analyzer for nitrogen determination. Includes initial outfit kit (all items necessary for installation and operation) and starter kit (all necessary consumables for installation and initial operation).				

Sum of positions	58,649.21 USD
Special discount	-20,527.22 USD
Freight charges	1,850.00 USD
<b>Total Amount</b>	<b>39,971.99 USD</b>

Unless agreed in writing elsewhere, the General Terms and Conditions of Elementar Americas, Inc. apply in the latest version. These can be found here:

<https://www.elementar.com/en-us/general-terms-conditions>



The rapid N exceed uses CO<sub>2</sub> carrier gas which is more affordable and easier to procure than Helium or Argon.

The rapid N exceed analyzes 100% of the combusted gases of the sample, unlike Leco which uses gas splitting. This allows for smaller sample sizes, better precision, and lower detection limits.

In our method, oxygen is dosed directly onto the sample using an oxygen lance. It is turned on for a short time during combustion, at a flow dictated by the method chosen in the software. Other manufacturers mix oxygen into the carrier gas stream for less effective combustion and higher oxygen use. We use less than 0.3L of oxygen per analysis.

The rapid N exceed utilizes Regainer/Reductor patented technology. The Regainer will absorb any excess oxygen from combustion and allow longer lifetime of the Reductor, our preppacked reduction tube. This way, we can get up to 2000 runs out of the Reductor.

The rapid N exceed does not require the furnace to be cooled down for maintenance. You may do maintenance with the furnace hot to reduce downtime. The Velp NDA 702 requires cool down.

The furnace rolls completely out for easy tube exchange- unlike other instruments which require removal of the auto sampler to perform maintenance. The Leco and Velp instruments require autosampler removal.

All connections for maintenance in the rapid N exceed are ball and pan fittings held together by clamp connections. These are very easy to remove and quickly do maintenance. For other manufacturers, you will need to use tools to do maintenance.

The rapid N exceed uses durable steel tubes in the furnace, which can be emptied and reused a few times. Other manufacturers like Velp use a ceramic combustion tube which is fragile.

The rapid N exceed can utilize a standard 120V outlet, which makes deployment easier. The Velp and Leco units require 230V.

We can run our instrument using a standard desktop computer and the software is compatible with Windows 11.

# rapid N exceed®

Analyzer for fast and absolutely safe measurement of nitrogen or protein according to the Dumas combustion method with samples sizes up to 1 g. Novel EAS REGAINER® technology ensures binding of excess oxygen without reduction metals. The EAS REDUCTOR® tube lifetime is approx. 2000 samples\*\*. The rapid N exceed is the most compact high performance elemental analyzer for real organic macro samples with a measuring range of up to 500 mg N absolute.



## Elemental combustion analyzer

### Analyzer

Concentration analysis of	Nitrogen
Operating modes	N
Design	Compact benchtop with single power supply
Sample introduction	Zero blank patented ball valve system with nickel flap
Furnace design	Triple furnace system, 10 years warranty
Detector type	High sensitivity thermal conductivity detector
Control	Fully digital via external PC (no additional control panel required)

### Sample Introduction

Construction	One block, auto-aligned sample introduction system with integrated carousel
Access	Inert gas free easy access, no purging of sample carousel required
Movement control	Fully electrical
Carousel type	Non-stacked 60, 80* or 120* position sampler
Solid sampling system	Compact integrated patented ball valve with nickel flap

### Furnace

Type	Slide-out, triple vertical furnace system for usage of both 28 mm inner diameter steel reaction tubes
Furnace	Resistive heater element with 1200 °C maximum temperature
Electrical supply	48 Volt safety design for entire instrument including furnaces
Control	Automatic power output adjustment (no hardware change required)
Combustion/reduction reactor	Separated straight steel and EAS REDUCTOR® tube
Oxygen binding	EAS REGAINER® to remove excess oxygen metal free from gas stream
Post-combustion reactor**	Straight steel tube with copper oxide, platinum catalyst and EAS REGAINER® filling
Ash removal	Steel, easy-removal ash crucible
Reactor stability	No need for cooling down during routine maintenance
Carrier gas	Carbon dioxide
Connections	Quick swap clamp connections for fast changing with no tools required

### Gas Separation

Type	Chromatography-free, aliquot-free whole gas analysis
Operating principle	Chemical separation and physical water removal with chemical fine drying
CO <sub>2</sub> scrubber	Not required
Water removal	3 step gas drying utilizing condensor, gas membrane drying and chemical fine drying

# rapid N exceed®

## Detectors / Electronics

Type	Thermal Conductivity Detector (TCD)
Design	Thermistor, oxygen proof, imbalanced flow, double channel
Detection limit**	< 20 ppm (TCD)
Calibration	Multipoint, multirange, matrix-independent calibration
Analysis time**	~3-4 min
Electronics	Fully digital, fully integrated in unit, no external control panels
Security norms	EU machinery directive 2006/42/EG

## Software

Operating system	Windows® 10 Pro Multi-Language or higher
Analyzer software	Winvar proprietary software
Features	Automatic leak finding software Intelligent error indicator with sophisticated self-diagnostics Auto sleep and wake-up Statistical calculations Indication service cycle LIMS integration 21 CFR part 11 compliant* Comprehensive documentation for fast part identification
Data Storage	Non manipulated storage of experimental raw data and peak graphics
Balance	Automatic read out of weighing data*

\* requires optional configuration \*\*depending on sample type, analysis mode and configuration

## Measuring Range and Technical Specifications

nitrogen:	0 – 500 mg absolute (0 – 100%)
standard deviation**:	< 0.05% absolute (250 mg aspartic acid)
weight:	approx. 80 kg
electrical connections:	100/110/200/230 V, 50/60 Hz, 1.8 kW
oxygen consumption**:	approx. 0.4 l / analysis
required gases:	carbon dioxide and oxygen only
dimensions:	48 x 55 x 57 cm (W x D x H)

# TECHNICAL NOTE



## *Easy maintenance for reliable operation of Elementar's N/protein analyzers*

### *Introduction*

Traditionally, combustion instruments use heated metals such as copper or tungsten to bind excess oxygen and reduce formed nitrogen oxides to  $N_2$ . This method results in typical lifetimes of the reduction metal of only 200 – 300 samples for whole gas analysis.

Elementar's patented EAS REGAINER® technology, utilized in the N/protein analyzers rapid N exceed® and rapid MAX N exceed, increases the lifetime of the reduction metal, which clearly reduces and simplifies the maintenance of the instruments. The benefit of the EAS REGAINER technology is that the EAS REDUCTOR®, which reduces nitrogen oxides formed during combustion to  $N_2$ , is regenerated continuously during the operation of the instrument by the inexpensive EAS REGAINER. The proprietary EAS REGAINER is a non-toxic, non-hazardous material specifically reacting with oxygen. As a by-product reducing gases are formed, which are purged into the EAS REDUCTOR and regenerate metal oxides (formed via the reduction of  $NO_x$  to  $N_2$ ) back to the active metal. This enables the analysis of more than 2000 samples (depending on the instrument and sample type) before the reduction metal has to be exchanged.

For a trouble-free operation of the rapid N exceed and rapid MAX N exceed with a long lifetime of the EAS REDUCTOR, it is important to maintain the instrument correctly. This Technical Note demonstrates the few easy maintenance steps which should be carried out regularly to assure a long lifetime of the EAS REDUCTOR.

#### N/PROTEIN ANALYZERS

rapid N exceed®  
rapid MAX N exceed



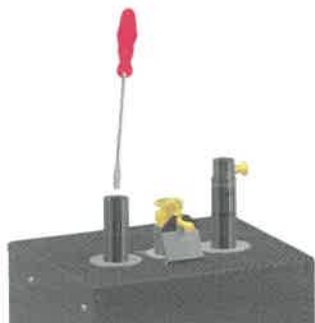
## Simple steps for maintaining the EAS REGAINER

For a long lifetime of the EAS REDUCTOR it is crucial to properly check and refill the EAS REGAINER regularly. During operation of the instrument, the EAS REGAINER will be consumed and this process happens at a certain height in the post-combustion tube. This may result in the formation of air pockets, if the remaining regainer material does not fall down to fill the void. For this reason, we recommend checking the EAS REGAINER every 250 measurements. It does not suffice to just check the height of the remaining EAS REGAINER by sight. It is essential to thoroughly poke into the remaining EAS REGAINER to ensure that no air pockets remain before re-filling.

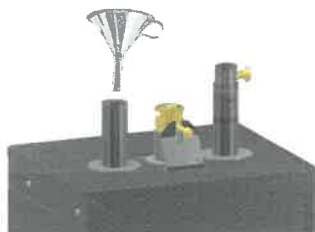
### *rapid N exceed*

For the rapid N exceed, we recommend to check the EAS REGAINER along with cleaning the nickel flap and emptying the ash crucible. The following steps will guide you through this 3-fold maintenance for the rapid N exceed instrument:

1. Slide out the furnace and remove the post-combustion tube plug.
2. Thoroughly poke into the EAS REGAINER remaining in the post-combustion tube with a screwdriver or similar tool to ensure there are no air pockets.



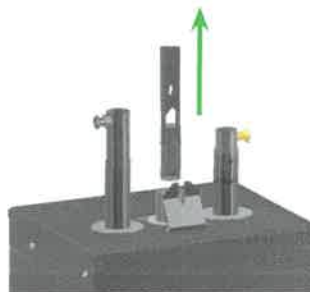
3. Fill up the EAS REGAINER using a metal funnel. The post-combustion tube should be left with a gap at the top large enough for the plug to be reinserted (about 4 cm or 1.5 inch).



4. Check the brass wool in the post-combustion tube plug. If necessary, replace the brass wool.

5. Clean and grease the O-rings of the plug and reinsert the plug into the top of the post-combustion tube.

6. Remove the combustion tube plug and use the gripper tongs to remove the ash crucible from the combustion tube.



7. Remove the oxygen lance and clean the nickel flap with an appropriate brush, such as a brass brush.

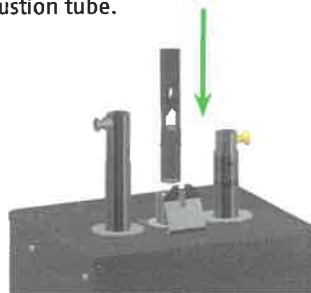


8. Clean and grease the O-rings for the plug.

9. Reinsert the oxygen lance or use a new one if necessary.

10. Scrape out the ash crucible using a screwdriver or similar tool.

11. Use the gripper tongs to gently place the new crucible in the combustion tube.



12. Reinsert the plug into the top of the combustion tube. Be sure the O-ring atop the plug is in place.

## *rapid MAX N exceed*

For the rapid MAX N exceed, maintenance of the EAS REGAINER should also be done every 250 measurements. Carry out the following steps for re-filling the EAS REGAINER:

1. Wait for the sample holder to exit the combustion tube and come to a stop. Remove the sample cover as instructed.
2. Prepare to pull out the furnace by removing the two thumb screws holding the combustion tube flange in place and removing the eight indicated ball-pan connection clamps.
3. Gently slide the furnace out on its rails and remove the top plug from the post-combustion tube.
4. Thoroughly poke through the remaining EAS REGAINER to ensure that no air pockets have formed.



5. Using a metal funnel, re-fill the EAS REGAINER to the appropriate height. Then reinsert the top plug into the post-combustion tube.



6. Push the furnace back in and reconnect the ball-pan connections and the combustion tube flange screws.



## *Troubleshooting made easy*

If you are experiencing a problem with your instrument, perform the following actions in the listed sequence to identify the problem as quick and efficient as possible:

1. Check the instrument status
2. Check the quality of blanks
3. Check standard samples

The following link to Elementar's online training website, will direct you to a PDF file which will guide you through each of the above-mentioned steps and give you measures to help solve your problem. Additionally, you will find two videos showing the simple steps on how to re-fill the EAS REGAINER for the rapid N exceed and the rapid MAX N exceed. Log in or sign up for an account to Elementar's eLearning website to get full access to all materials.

<https://training.elementar.de/mod/page/view.php?id=7646>



## Identifying the end of the lifetime of the EAS REDUCTOR

Correct maintenance of the EAS REGAINER is essential for a long lifetime of the EAS REDUCTOR. Expected lifetimes of the EAS REDUCTOR with correct maintenance are up to 2000 and 1000 analyses for the rapid N exceed and the rapid MAX N exceed, respectively.

The following features are indications of a consumed EAS REDUCTOR and signify that it needs to be replaced:

1. Instable baseline
2. Double peak
3. Breakthrough

Please note that when only one of these features is observed, it does not automatically mean that the EAS REDUCTOR is consumed. There may be a different reason for its occurrence which you can read about in more detail under the link to Elementar's online training website mentioned above.

Below you can find a measurement sequence of the rapid N exceed which shows the end of the lifetime of the EAS REDUCTOR. At first, a normal measurement is shown with a flat baseline at around 100 (Figure 1a). A second peak slowly appears (b and c) and can be seen distinctly (d) when the EAS REDUCTOR is consumed in addition with an instable baseline. If the EAS REDUCTOR is not replaced and measurements are continued, you will eventually see a breakthrough of the signal (e).

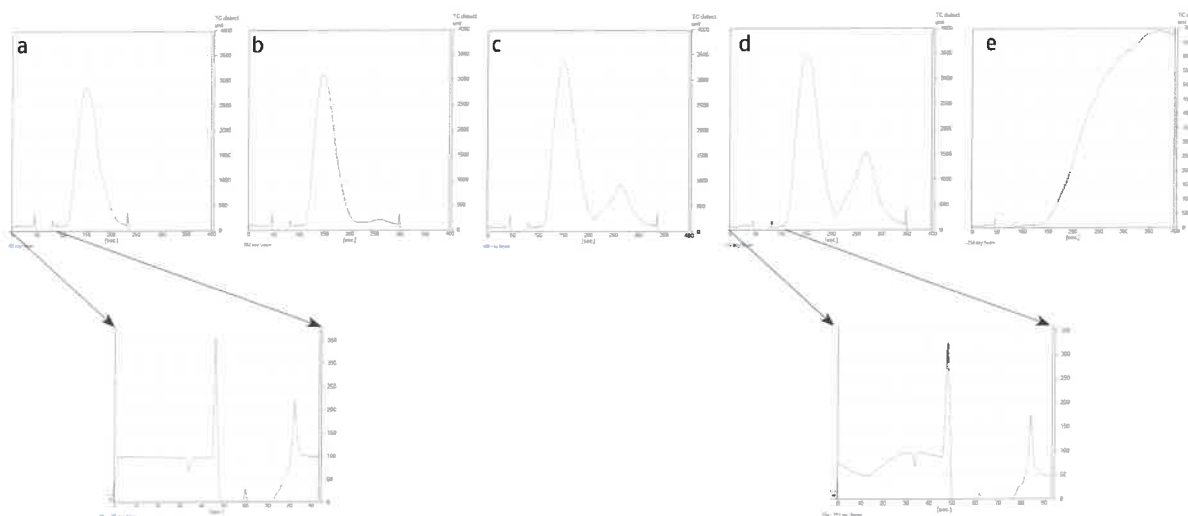


Figure 1. Measurement sequence showing the effect of a consumed EAS REDUCTOR: (a) normal measurement with flat baseline, (b) slight tailing, (c) double peak appears, (d) distinct double peak and instable baseline, (e) breakthrough of oxygen.

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