



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: 06-17-2026

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 AGR2600000023 1	Change Order No:	Procurement Folder:	1957658
Document Name:	Automated Immunassay Analyzer	Reason for Modification:		
Document Description:	Automated Immunassay Analyzer			
Procurement Type:	Central Sole Source			
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:	000000186451	Requestor Name:	Zachary R Kuhl
BIOMERIEUX INC		Requestor Phone:	304-558-2227
100 RODOLPHE ST		Requestor Email:	zkuhl@wvda.us
DURHAM	NC	2026 FILE LOCATION _____	
US	27712		
Vendor Contact Phone:	999-999-9999		
Extension:			
Discount Details:			
	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

CR 6-18-26

Total Order Amount: \$62,380.55

Purchasing Division's File Copy

PURCHASING DIVISION AUTHORIZATION DATE: <i>Mark O'Connell - 6/18/2026</i> ELECTRONIC SIGNATURE ON FILE	ATTORNEY GENERAL APPROVAL AS TO FORM DATE: <i>6/25/2026</i> ELECTRONIC SIGNATURE ON FILE	ENCUMBRANCE CERTIFICATION DATE: <i>6-25-26</i> ELECTRONIC SIGNATURE ON FILE
--	--	---

Extended Description:

DIRECT AWARD PURCHASE
This Purchase Order constitutes the acceptance of contract made by and between the State of West Virginia for the Agency, the West Virginia Department of Agriculture and the Vendor, Biomerieux, Inc, of Durham, North Carolina for a contract to provide Automated Immonassay Analyzer, per the Vendor's quote and the terms and conditions as attached.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
2	41115819	0.00000		0.000000	62380.55
Service From	Service To	Manufacturer	Model No		

Commodity Line Description: Automated Immonassay Analyzer

Extended Description:

See attached quote and associated documentation.

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

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

Vendor: Biomerieux, Inc.

Contract/Lease Number ("Contract"): CPO AGR26*23

Commodity/Service: Automated Immonassay 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 ~~striketrough~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General's authorized representative expressly agree to and knowingly approve those alterations.

State: WVDA
By: *Laryssa Hoskins*
Printed Name: Laryssa Hoskins
Title: CFO/Director
Date: 06/09/2026

Vendor: bioMerieux
By: *Dana M Vitarelli*
Printed Name: Dana Vitarelli
Title: Strategic Business Manager
Date: 03/18/26

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 90 (ninety days) days. Upon completion of the work covered by the preceding sentence, the vendor agrees that:

☒ the contract will continue for 3 (three) 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: \$1,000,000.00 per occurrence.

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

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

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

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

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

☐

☐

☐

☐

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.

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.

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) Alan Virgen, Contract Coordinator

(Address) 1109 N Main Street, Lombard, IL 60148

(Phone Number) / (Fax Number) N/A

(email address) ML-US-LOM-CSO-SALESCNTRCTSMAMT@biomerieux.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.

bioMérieux Inc

(Company)

Dana M Vitarelli

(Signature of Authorized Representative)

Dana Vitarelli, Strategic Business Manager, 03/25/26

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

(609)458-4520

(Phone Number) (Fax Number)

dana.vitarelli@biomerieux.com

(Email Address)

BIOMÉRIEUX SERVICE TERMS AND CONDITIONS

By placing an order, the parties agree to these terms and conditions ("Terms"), which, together with any links or attachments incorporated by reference, constitute the entire agreement regarding the maintenance or repair service(s) described in the Service Coverage Level Details attached hereto and incorporated by reference, and/or as designated on the applicable service quote or provided estimate ("Service Quote") (collectively the "Service(s)"). These Terms supersede any prior or conflicting agreements or documents, including any terms and conditions contained in a purchase order or other document submitted to bioMérieux, Inc. ("bioMérieux") by Customer (as defined in the applicable Service Quote). bioMérieux reserves the right to reject any purchase order prior to acceptance for any reason. A purchase order is considered accepted by bioMérieux upon the earlier of: (a) bioMérieux providing written acknowledgment of acceptance to Customer or (b) the performance of the Services. "Agreement" means these Terms, the Service Quote, and any document signed by the parties referencing these Terms.

1. Term and Termination

This Agreement is effective from the start date listed in the Service Quote and continues for the term set forth therein (the "Term"). Either party may terminate this Agreement upon thirty (30) days prior written notice to the other party. Notice of termination by bioMérieux shall be sent to Customer's address listed on the Service Quote. Notice of termination by Customer shall be sent to: US.ServiceSales@biomerieux.com. In the event of termination, Customer will receive a refund for any prepaid Services attributable to periods beyond the then-current contract year. No refund will be issued for Services within the current contract year.

2. Instrument Eligibility

The Services provided under this Agreement apply only to the bioMérieux furnished instrument(s) listed in the applicable Service Quote (the "Instrument"). In the event there has been a period of more than thirty (30) days from the later of: (a) the last service event, (b) expiration of bioMérieux's Standard Limited Warranty, or (c) expiration of previous service agreement, bioMérieux shall have the right to conduct a pre-contract qualification inspection of the Instrument, billable at the prevailing list price for a Preventive Maintenance visit ("PM") plus any additional parts and labor required to bring the Instrument to manufacturer's specifications prior to Customer enrolling in a service agreement. Instrument(s) purchased more than seven (7) years prior to the date of the Service Quote may be subject to additional charges at bioMérieux's discretion which will be provided with Service Quote.

3. Payment Terms

Customer will pay for Services no later than thirty (30) days after the date of bioMérieux's invoice, which will include all applicable taxes. If Customer is tax-exempt, Customer will provide bioMérieux with certification of its status. Payments are deemed made by Customer when received by bioMérieux. Unless approved in writing in advance by bioMérieux, invoices shall be paid by cash, check, or ACH. bioMérieux reserves the right to reject or accept credit card payments on a case-by-case basis.

4. Remote Services

Where applicable, bioMérieux hereby grants Customer non-exclusive, non-transferable, and limited access to VILINK® ("VILINK") to assist with the following:

- A. Instrument Support. bioMérieux may remotely access the Instrument to (i) investigate, troubleshoot, diagnose, or resolve Instrument errors or performance issues, and (ii) provide training and assistance to Customer. Each VILINK remote access session can only be initiated upon Customer's express authorization.
- B. Operational Data Management. bioMérieux may collect technical, operational, and other non-personal data related to the use or performance of the Instrument to monitor performance and for other related analytical, statistical, or benchmarking purposes. bioMérieux may use such non-personal data for (i) improving and enhancing products or Services, (ii) research and development related to new products, features, or services, and (iii) other internal business and operational purposes.
- C. Software Updates. bioMérieux may deliver patches, modifications, enhancements, corrections, and/or security improvements to the Instrument software ("Software Updates"). Customer shall be responsible to install Software Updates on the Instrument upon being provided the same by bioMérieux.
- D. Fees. Customer acknowledges failing to implement VILINK may, at bioMérieux's discretion, result in an increase in Service costs, which will be detailed on the applicable Service Quote.

5. Customer Obligations

Customer shall:

- (a) when contacting bioMérieux's technical support center, provide a plain summary of any Instrument errors or performance issues leading to a service event and otherwise assist in providing error information as reasonably requested by bioMérieux;
- (b) allow bioMérieux personnel access to the Instrument and any attached equipment during the coverage hours listed on the Service Quote ("Coverage Hours");
- (c) follow bioMérieux's pre-service instructions, provided to Customer before Service performance;
- (d) perform verification procedures and routine maintenance consistent with the Instrument user manual, instructions for use, and bioMérieux instructions;

- (e) not introduce any malicious code, computer viruses, or similar bugs to the Instrument; if re-imaging of an Instrument's computer is required due to malicious code, viruses, and/or similar bugs not introduced by bioMérieux, additional charges may apply;
- (f) keep a copy of Instrument passwords; if re-imaging of an Instrument's computer is required due to a lost password, additional charges may apply;
- (g) not allow any third-party to perform service(s) over the Instrument, unless authorized to do so by bioMérieux;
- (h) clean and disinfect the Instrument according to the Instrument user manual and industry standards; and
- (i) install updates and critical operating system patches on the Instrument, including Windows OS updates and updates provided by bioMérieux, to minimize the risk of cyber threats.

bioMérieux may assess additional fees, if necessary, to remedy Instrument errors caused by Customer's failure to meet these obligations. Such fees will be provided to Customer beforehand and are subject to mutual agreement before any remedy is performed. If Customer declines the proposed fees, bioMérieux may terminate this Agreement.

6. Service Coverage Level Description

Each Service Quote shall identify the Service Coverage Level purchased by Customer: (i) Full-Service Agreement, (ii) Preventative Maintenance ("PM") + Agreement, or (iii) Repair Center Contract. bioMérieux shall perform the Services in accordance with the terms applicable to the selected Service Coverage Level, as further described in Exhibit A attached hereto.

All Service Coverage Levels include software and firmware updates as released by bioMérieux. The Preventative Maintenance ("PM") schedule for specific Instruments is set forth in Exhibit A. The Full-Service Agreement includes all labor, travel, expenses, and replacement parts necessary to repair the Instrument(s) and restore them to manufacturer specifications, subject to any Service Exclusions and Customer Obligations. Customers located in Alaska and Hawaii are subject to additional charges, which will be provided with the applicable Service Quote. Replacement parts may be new or refurbished of equivalent quality, at bioMérieux's discretion. All parts removed from the Instrument(s) become the property of bioMérieux.

7. Service Exclusions

The Services expressly exclude, and bioMérieux has no obligation to service or repair Instrument(s), due to any of the following:

- (a) neglect or abuse operating the Instrument;
- (b) use of the Instrument for purposes other than for which it was designed;
- (c) operation of the Instrument in a facility that does not meet Instrument user manual requirements, including but not limited to lack of air conditioning, lack of humidity control, or improper electrical power;
- (d) failure to complete routine maintenance and sanitation set forth in the Instrument user manual;
- (e) repair, service, or alterations made or attempted by anyone other than bioMérieux's authorized personnel, including changes to manufacturer's physical, mechanical, and/or electrical design of the Instrument;
- (f) devices or attachments mechanically, electrically, or electronically connected to the Instrument without bioMérieux's express consent;
- (g) software not supplied by bioMérieux, including any consequences of its use;
- (h) any damage caused by computer viruses, Trojan horses, malicious code, or similar elements, except where introduced by bioMérieux;
- (i) relocation of the Instrument not performed or authorized by bioMérieux; and
- (j) damage caused by fire, flood, water, wind, lightning, earthquake, termination of or surge in electric current, and/or similar accidents or disasters.

This Agreement does not include (i) service and/or support on any LIS interface (unless otherwise agreed to in writing), (ii) replacement of consumable parts (i.e. batteries, lamps, bulbs, nozzles, or printer cartridges); or (iii) replacement of Instrument(s) due to obsolescence. bioMérieux has no obligation to replace an Instrument installed more than five (5) years ago if it cannot be repaired. bioMérieux has no obligation to repair or replace computer hardware installed on Instrument(s) that are more than three (3) years old, including computer hardware requiring replacement due to the end of support of the applicable operating system.

8. Customer Onsite Safety Policies

While performing Services at Customer's premises, bioMérieux personnel will follow Customer's reasonable, written safety policies, provided such policies are supplied to bioMérieux in advance of the visit. Both parties will cooperate in good faith to maintain a safe working environment.

9. Warranty

During the Term, bioMérieux will perform Services in accordance with the Terms herein. If any covered repair or service is performed during the final thirty (30) days of the Term, bioMérieux warrants that specific repair or service for an additional thirty (30) days from the date it is performed, even if the Service Agreement Term has expired. Customer's sole and exclusive remedy for a breach of this warranty is repair or replacement of the Instrument by bioMérieux.

THE WARRANTIES AND REMEDIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES OF ANY NATURE WHATSOEVER. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, BIOMÉRIEUX MAKES NO FURTHER, AND HEREBY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, OR GUARANTEES WHATSOEVER, EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE REGARDING THE SUBJECT MATTER OF THIS AGREEMENT, ANY PRODUCT, INSTRUMENT, SOFTWARE, THIRD PARTY SOFTWARE, THIRD PARTY LICENSES, OR ANY SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY WITH RESPECT TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INTERFERENCE, OR WHICH MAY ARISE FROM COURSE OF DEALING OR USAGE OF TRADE, OR REGARDING THE COMPATIBILITY OR INTEROPERABILITY OF THE PRODUCT, INSTRUMENT, SOFTWARE, OR THIRD PARTY SOFTWARE WITH OTHER PERSONAL OR THIRD PARTY EQUIPMENT, LICENSES, DEVICES, PROPERTY OR ACCESSORIES WHICH CUSTOMER USES WITH OR CONNECTS TO THE INSTRUMENT(S).

10. Regulatory

Each party agrees to comply with all laws applicable to its business operations, in all material respects, including without limitation, all laws and regulations regarding the collection, use, and storage of health information, the Health Insurance Portability and Accountability Act of 1996, as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act, any regulations promulgated thereto, and all similar applicable state laws.

Each Party shall immediately notify the other after receipt of final notice of exclusion from any Federal Health Care Program. To the extent that Section 952 of the Omnibus Reconciliation Act of 1980 (the "Act") and the regulations promulgated thereunder are applicable to this Agreement, and until Agreement, and until the expiration of four (4) years after the end of the Term, bioMérieux shall make available, upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States or any of their duly authorized representatives, copies of the Terms and any books, documents, records, and other data of bioMérieux that are necessary to verify the nature and extent of the costs incurred by Customer under this Agreement. If bioMérieux carries out any of its duties under the Terms through a subcontract with a related organization involving a value or cost of ten thousand dollars (\$10,000) or more over a twelve-month period, bioMérieux shall cause such subcontract to contain a similar clause.

11. Limitation of Liability

- A. General Limitation. NOTWITHSTANDING ANYTHING IN THE TERMS, CUSTOMER DOCUMENTATION, SERVICE QUOTE, MASTER AGREEMENT OR ANY ANCILLARY AGREEMENT (COLLECTIVELY THE "DOCUMENTS") TO THE CONTRARY, BIOMÉRIEUX'S CUMULATIVE LIABILITY TO CUSTOMER, OR ITS EMPLOYEES, AGENTS, CUSTOMERS, OR INVITEES, OR ANY THIRD PARTIES, IN CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, ARISING OUT OF OR RELATED TO, WITHOUT LIMITATION, THE SERVICES, THE DOCUMENTS, OR PRODUCT PERFORMANCE (EXCEPT AS EXPRESSLY STATED IN SECTION IN SUBSECTION (c) SHALL BE EXPRESSLY LIMITED TO THE GREATER OF (I) THE TOTAL AMOUNT CUSTOMER PAID TO BIOMÉRIEUX UNDER THIS AGREEMENT IN THE 12 MONTHS IMMEDIATELY BEFORE THE EVENT GIVING RISE TO THE CLAIM; OR (II) TWENTY-FIVE THOUSAND DOLLARS (\$25,000).
- B. Indirect, Special, and Consequential Damages. NOTWITHSTANDING ANYTHING IN THE DOCUMENTS TO THE CONTRARY, BIOMÉRIEUX SHALL NOT BE LIABLE TO CUSTOMER, OR ITS EMPLOYEES, AGENTS, CUSTOMERS, OR INVITEES, OR ANY THIRD PARTIES, IN ANY INSTANCE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF GOODWILL OR OPPORTUNITY, OR ANY LOST PROFITS, LOSS OF ANY DATA OR USE, EVEN IF BIOMÉRIEUX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED WARRANTY MADE HEREIN.
- C. Exceptions to Limitations. The limitations set forth in this section shall not apply with respect to: (i) injury to person and/or tangible property arising from the willful misconduct or gross negligence of bioMérieux, (ii) fraud, or (iii) to the extent such disclaimer is prohibited under applicable law. Customer acknowledges and agrees bioMérieux has entered into this Agreement in reliance upon the disclaimers of warranties and limitations of liability in the Terms and that the same form an essential basis of the bargain between the parties.

12. Force Majeure

bioMérieux is not responsible for any failure to perform or delay attributable in whole or in part to any cause beyond its reasonable control, including but not limited to strike, war, fire, riot, accident, acts of God, hurricane, earthquake, severe weather, interruption of electrical supply to Customer's facilities, supplier-caused delays or shortages, pandemic, epidemic, or compliance with any law, regulation, embargo restrictions or order of any government body or instrumentality thereof. Performance shall be deemed suspended during said circumstances and extended for such time as said circumstances cause delay.

13. Miscellaneous Provisions

This Agreement may only be modified in a writing signed by the parties which expressly states the intent to modify this Agreement. This Agreement may not be transferred or assigned by Customer in whole or in part, to a third party, including an affiliate of Customer without bioMérieux consent. Any attempted assignment or transfer shall be null, void, and invalid. Each clause of this Agreement is distinct and severable. If any provision of this Agreement is declared unenforceable, the other provisions herein will remain in full force and effect. A waiver or modification by bioMérieux of any condition or obligation of Customer hereunder shall not be construed as a waiver or modification of any other condition or obligation and no such waiver or modification granted on any one occasion shall be construed as applying to any other occasion. Any provision of these Terms that by its nature is reasonably intended to survive beyond the termination or expiration of this Agreement shall survive. The United Nations Convention on the International Sales of Goods will not apply to the transactions contemplated by this Agreement.

EXHIBIT A - SERVICE COVERAGE LEVEL DETAILS

Service Contract Inquiries: US.ServiceSales@bioMerieux.com

	FULL-SERVICE AGREEMENT	PREVENTATIVE MAINTENANCE + AGREEMENT	REPAIR CENTER CONTRACT*
TECHNICAL SUPPORT - 1-800-682-2666			
Extended Hours - 24/7 telephone technical support, including during weekends and statutory holidays	✓	✓	✓
Remote diagnostics feature for troubleshooting instrumentation is included	✓	✓	
ONSITE SUPPORT			
Available between 7:00 AM – 7:00 PM local time in the Continental U.S., 7 days a week	✓		
24 Hours Response Time within commercially reasonable efforts	✓		
PREVENTATIVE MAINTENANCE (PM) – See Instrument Specifics Below			
Planned PM within twelve (12) months, during regular bioMérieux business hours, local time, Monday to Friday.	✓	✓	
SOFTWARE UPDATES			
Regular software updates for bug fixes or functionality improvements.	✓	✓	✓
Software upgrades for new functionalities.	✓	✓	✓
FIRMWARE UPDATES			
Firmware updates performed as required by bioMérieux.	✓	✓	✓

*RCC: Only Available for PREVICOLOR and Mycoplasma

- Replacements under RCC: Replacement Instrument shall be new standard or equivalent refurbished. Upon notification and authorization, bioMérieux will pay for all related transportation charges. bioMérieux will ship a replacement Instrument with all necessary parts and in turn the customer will return the malfunctioning Instrument and all parts provided per the return checklist, e.g. power cords, nozzles, dip tubes, and reagent trays. Customer is responsible for returning the malfunctioning Instrument, in its entirety, within 30 days of receipt of the replacement Instrument. Failure to return the malfunctioning Instrument, in its entirety, on time, will result in a penalty fee and/or this Agreement being terminated.

**PM DETAILS:

- All Instruments receive one (1) Preventative Maintenance visit ("PM") per year, except for the following Instruments, which receive two (2) PM's per year: VITEK 2 (120 or above), EASYMAG, and VITEK REVEAL.

ADDITIONAL CHARGES:

- Zone charges: Customers in AK and HI are subject to additional zone charges, which will be provided to Customer with the Service Quote.
- Remote access: Remote access denial may result in additional service charges for unnecessary dispatches.

BIOMÉRIEUX TERMS AND CONDITIONS

1. Orders

By placing an order, the parties agree to these terms and conditions ("Terms"), which, together with any links or attachments incorporated by reference, constitute the entire agreement regarding: (i) the sale of any consumables, instruments, software, services, or other items listed in the applicable Sales Quote ("Products"); and (ii) the purchase and use of the Products. These Terms supersede any prior or conflicting agreements or documents, including any terms and conditions contained in a purchase order or other document submitted to bioMérieux, Inc. ("Seller") by Customer (as defined in the applicable Sales Quote). Seller reserves the right to reject any purchase order prior to acceptance for any reason. A purchase order is considered accepted by Seller upon the earlier of: (a) Seller providing written acknowledgment of acceptance to Customer; or (b) delivery of the Products to the Customer. Orders may not be cancelled or modified without the Seller's prior written consent. "Agreement" means these Terms, the Sales Quote, and any document signed by the Parties referencing these Terms and a Sales Quote.

2. Price & Payment Terms

- 2.1. **Payment.** The price for the Products is in the applicable Sales Quote. Customer will pay for Products no later than thirty (30) days after the date of Seller's invoice. Payments are deemed made by Customer when received by Seller. Interest will accrue on any undisputed, unpaid balances due to Seller at a rate of 1.5% per month (or the maximum legal interest rate allowed by applicable law, if less) from and after the due date. Seller reserves the right to require full or partial payment in advance or provide other security to our satisfaction, if Seller reasonably believes that Customer's financial condition or payment history does not justify the payment terms otherwise specified. Unless approved in writing in advance by Seller, invoices shall be paid by cash, check, or ACH. Seller reserves the right to reject or accept credit card payments on a case-by-case basis. Customer is not entitled to abate or reduce payments, or to withhold, discount, or offset any amounts or charges against the amounts due to Seller under this Agreement for any reason.
- 2.2. **Taxes.** Customer Product prices do not include any taxes, duties, levies, or other government fees that may apply to Customer's order. If they apply, it will be Customer's responsibility to pay them. If Seller pays them, Seller will add them to Customer's invoice. If Customer is tax-exempt, Customer will provide Seller with a valid, signed certificate or letter of exemption for each respective jurisdiction.
- 2.3. **Other Costs.** Customer is responsible for all freight, insurance, handling fees, and other shipping costs, as applicable, and Product prices do not include such charges. If Seller pays such charges, Seller will add these to Customer's invoice.
- 2.4. **Discounts, Rebates, and Warranties.** The pricing for the Products may reflect or be subject to discounts, rebates, warranties or other price reductions, which Customer may be obligated under applicable laws to report to Medicare, Medicaid or other state, federal or private payers, and to make this information available to these entities for review. It is the parties' intent that any discounts, rebates, warranties or other price reductions received by Customer under these Terms comply with the federal Anti-Kickback Statute and other applicable federal and state law and, further, that any discounts provided under these Terms or any other discount purchase program satisfy the safe harbor regulations of the federal Anti-Kickback Statute (including, but not limited to, the warranties safe harbor and the discount safe harbor set forth in 42 C.F.R. §1001.952 (g) and (h), respectively). Seller will provide Customer with an invoice or statement detailing the applicable discounts, rebates, and warranties and will provide such other information that may be requested by Customer in order for Customer to meet its reporting obligations under applicable law.

3. Shipping

Customer shall be responsible for all freight, insurance, handling fees if applicable, and any other shipping-related costs incurred to the delivery point.

- 3.1. **Consumables and Instruments not requiring installation by Seller.** Seller ships these Products FOB Origin. Title and risk of loss or damage passes to Customer upon delivery to a carrier, at which point, Customer is responsible for all loss or damage to the Products. However, Seller's warranty coverage also begins when such Products are delivered to a carrier, and Customer may submit a warranty claim if Products are lost or damaged during shipment. No loss or damage will relieve Customer from its payment obligations under these Terms. After a warranty claim for loss or damage during shipping, any proceeds from insurance on the Products will be paid to Seller.
- 3.2. **Instruments requiring installation by Seller.** Seller ships these Instruments FOB Destination. Title and risk of loss or damage to such Products remain with Seller until the Products are delivered to Customer's designated location, at which point they pass to Customer.
- 3.3. Unless Customer requests that Products be shipped under its own account, Seller will deliver the Products to a common carrier for shipping, based upon Seller's standard shipping practices, to the address designated by Customer. Seller may ship in one or more lots, in which case, each lot will be deemed a separate sale. Seller will not be liable for any failure or delay in shipping. If applicable, Customer shall be responsible for obtaining all necessary import or export licenses or permits for the Products. In the event of a shortage, Seller reserves the right to allocate inventories and production in its sole discretion.

4. Returns and Claims

Seller must pre-authorize all Product returns. Customer shall, in the event of lost, damaged, or defective Products, notify Seller in writing within five (5) business days of delivery and Seller will authorize any return as applicable, provided such damage or defect has not been caused by Customer's improper storage, handling, misuse, failure to use reasonable care, or failure to adhere to the Product label. If Customer fails to notify Seller within the five (5) day period, Seller will deem the Products accepted. In such event, any further issues shall be governed by Customer's warranty rights listed herein.

5. Product Use

- 5.1. **Permitted Uses.** Customer shall: (i) use all Products leased, purchased, or sold hereunder in accordance with its instructions for use by end-users, as specified on Product labels or inserts affixed to, included digitally, or accompanying the Products, ("Permitted Uses"); (ii) maintain, use, and store the Products as provided in their labeling or other written instructions; and (iii) not misuse any Product. Customer is solely responsible for its and its authorized users' use of any Product and shall indemnify, defend, and hold Seller harmless from and against any claim, demand, cause of action, or liability asserted by any third party.

or government agency arising from or related to the use, possession, or operation of the Products inconsistent with their Permitted Uses or applicable laws.

- 5.2. **Applicable Law and Regulations.** Customer and its authorized users must always be and remain in full compliance with all applicable laws, rules and regulations, including, without limitation, those promulgated by state medical agencies and certification boards, relating to use of the Products and hold all such licenses, permits, or other authorizations that may be required for the purchase and operation of the Products. Customer shall ensure that all authorized users have the requisite training and skill required to use the Products, consistent with the Permitted Uses and any applicable law. Customer acknowledges that reagents or panels purchased by Customer ("Consumables") and equipment purchased by Customer ("Instruments") are specifically designed and manufactured to operate together. Customer agrees that it will only use bioMérieux Consumables with bioMérieux Instruments. Customer will store Consumables in accordance with Seller's storage and handling instructions (or, absent such instructions, in accordance with generally accepted industry customs and standards), including all temperature and climate control standards and other requirements under applicable laws.
- 5.3. **Third Party Purchases.** Customer represents that it (i) is not leasing or purchasing the Product on behalf of a third party, (ii) is not leasing or purchasing the Product to resell or distribute the Product to a third party, (iii) is not leasing or purchasing the Product to export the Product from the country to which Seller shipped the Product pursuant to the ship-to address designated by Customer at the time of ordering (the "Ship-To Country"), and (iv) will not export the Product out of the Ship-To Country.

6. Limited Warranty and Service

- 6.1. **BioFire Products.** Seller warrants the BioFire Products in accordance with the following applicable warranties:

- 6.1.1. **Limited Warranty:** <https://www.biomerieux.com/content/dam/biomerieux-com/03---our-offer/clinical/in-hospital--in-lab/products/biofire-filmarray/documents/Standard-Limited-Warranty-for-BioFire-Products-and-Associated-Consumables.pdf>
- 6.1.2. **Extended Warranty for Instruments:** <https://www.biomerieux.com/content/dam/biomerieux-com/03---our-offer/clinical/in-hospital--in-lab/products/biofire-filmarray/documents/Extended-Warranty-for-BioFire-Products-and-Associated-Consumables.pdf>

- 6.2. **Non-BioFire Products.** Seller warrants Non-BioFire Instruments and associated Consumables in accordance with the following applicable warranties:

- 6.2.1. **Instruments.** Seller warrants the Instruments to the Customer for a period of one (1) year after Products are installed at the Customer's site (the "Warranty Period") against defects in material and workmanship and failures to conform to Seller's specifications in effect on the date of installation. Installation includes Seller's issuance of a Proof of Installation, a written document signed by both parties confirming that the Instrument(s) has been delivered, installed at the designated site, and verified by Seller to be operating in accordance with applicable specifications.

Customer's sole and exclusive remedy for a breach of this warranty is, at Seller's sole discretion, the repair or replacement of any defect confirmed by Seller to have occurred under normal use and service during the Warranty Period, provided that Customer promptly notifies Seller in writing upon discovery of such defect.

- 6.2.2. **Consumables.** Seller warrants Consumables will conform with the specifications set forth in the applicable Product insert through the shelf-life expiration date listed on the applicable packaging or provided elsewhere. Customer shall promptly notify Seller of any Consumables which are found to be in breach of the above warranty. Upon verification by Seller, Customer's sole and exclusive remedy for said non-conforming Consumables shall be for Seller to either replace or, alternatively, in Seller's sole discretion, issue a credit note equal to the purchase value of the defective Consumables.

- 6.2.3. **Warranty Services.** Seller warrants that the maintenance or repair services ("Services") to be performed hereunder shall conform to Industry standards. If any covered repair is performed during the final thirty (30) days of the Warranty Period, bioMérieux warrants that specific repair or service for an additional thirty (30) days from the date it is performed, even if the Warranty Period has expired. Customer's sole and exclusive remedy for a breach of this warranty is repair or replacement of the Instrument by bioMérieux.

- 6.2.4. **Exclusions.** The above-mentioned warranties shall not apply to: (a) normal wear and tear; (b) accident, disaster, or any force majeure event; (c) misuse or negligence; (d) external causes, including but not limited to power failures or electrical surges; (e) products sold "as is"; (f) repair service, alteration, or modification of the Instrument by any person other than the authorized service representative of Seller; (g) operation outside stated environmental or use specifications; (h) operation with unapproved software, materials, or other products; or (i) failure to operate and maintain the Instrument in accordance with any Seller instruction or applicable law. Disposables and replacement items with a normal life expectancy of less than one (1) year such as batteries, lamps, bulbs, and card trays are excluded from this warranty.

- 6.2.5. **Service Agreement.** If Customer purchases a Service Agreement providing service coverage beyond the one (1) year standard warranty, or is requesting warranty services, said Services shall be governed by the additional Service Agreement Addendum available at: <https://www.biomerieux.com/content/dam/biomerieux-com/service-support/terms---conditions/2025-11-23-Service-Addendum.pdf>

The Warranty is facility specific and does not transfer if the Product is moved to another facility unless Seller conducts or authorizes such move in writing. Customer acknowledges and agrees Customer has not relied on any other statement, promise, representation, or warranty made by or on behalf of Seller which is not expressly set forth in the Terms.

THE WARRANTIES AND REMEDIES SET FORTH AND INCORPORATED BY REFERENCE IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES OF ANY NATURE WHATSOEVER. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, SELLER MAKES NO FURTHER, AND HEREBY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, OR GUARANTEES WHATSOEVER, EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE REGARDING THE SUBJECT MATTER OF THIS AGREEMENT, ANY PRODUCT, REAGENT, INSTRUMENT, SOFTWARE, THIRD PARTY LICENSES, OR ANY SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY WITH RESPECT TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INTERFERENCE, LACK OF INFRINGEMENT OF THIRD PARTY RIGHTS, OR WHICH MAY ARISE FROM COURSE OF DEALING OR USAGE OF TRADE, OR REGARDING THE COMPATIBILITY OR INTEROPERABILITY OF THE PRODUCT, INSTRUMENT, OR SOFTWARE WITH OTHER EQUIPMENT, LICENSES, DEVICES, PROPERTY, OR ACCESSORIES WHICH CUSTOMER USES WITH OR CONNECTS TO THE PRODUCTS, OR THAT PRODUCTS WILL MEET CUSTOMER'S REQUIREMENTS.

7. Software

- 7.1. **Scope.** The license below applies to application software incorporated into or embedded within the Instrument ("Application Software") and the related documentation provided by Seller to Customer ("Documentation"); provided that such Application Software is not subject to a third-party end user license agreement.

Customer and its authorized users obtain no right, title or interest in or to the Application Software or Documentation, except for the limited license granted hereunder, and Seller and its licensors reserve all rights not expressly granted.

- 7.2. **License.** Seller hereby grants to Customer a royalty-free, non-exclusive, non-transferable license without power to sublicense, to use Application Software and Documentation for Permitted Uses solely in connection with the Instrument, and only for Customer's own internal business purposes.
- 7.3. **Restrictions.** Customer agrees not to (i) sell, transfer, license, loan or otherwise make available Application Software or Documentation in any form to third-parties, (ii) disassemble, decompile or reverse engineer Application Software, (iii) copy, modify, alter or otherwise change or supplement Application Software or Documentation without Seller's prior written consent, or (iv) alter or remove any legal or proprietary notice in or on Application Software or Documentation.
- 7.4. **Termination.** Any violation of the restrictions in Section 7.3 or failure by Customer to comply with the software updates in Section 7.5 will, in Seller's sole discretion, void the license and all warranties granted herein in connection with the Products, Instruments, and Consumables. This license shall automatically terminate when Customer's lawful possession of the Instrument ceases, unless earlier terminated pursuant to contract or law. Immediately upon termination, Customer shall (i) cease all use of Application Software and Documentation, and (ii) return and/or permanently delete all Application Software and Documentation as well as any copies made.
- 7.5. **Software Updates.** Customer accepts full responsibility to manage and maintain: (i) all critical operating system patches to minimize risk of exposure of the Instrument to cyber threats; and (ii) the latest Software Updates, upon being provided with same by Seller or an applicable third party.
- 7.6. **Third Party Software.** The warranty provisions set forth in these Terms will not apply to third-party owned software products that Seller provides to Customer. Seller agrees, however, to assign to Customer any warranty rights Seller may receive from any third-party supplier to the extent the original developer or third-party supplier allows.

8. Remote Services

Where applicable, Seller hereby grants Customer non-exclusive, non-transferable, and limited access to VILINK ("VILINK") to assist with the following:

- 8.1. **Instrument Support.** Seller may remotely access the Instrument to (i) investigate, troubleshoot, diagnose, or resolve Instrument errors or performance issues and (ii) provide training and assistance to Customer. Each VILINK remote access session can only be initiated upon Customer's express authorization.
- 8.2. **Operational Data Management.** Seller may collect technical, operational, and other non-personal data related to the use or performance of the Instrument to monitor performance and for other related analytical, statistical, or benchmarking purposes. Seller may use such non-personal data for (i) improving and enhancing Products or Services, (ii) research and development related to new products, features, or services, and (iii) other internal business and operational purposes.
- 8.3. **Software Update Delivery.** Seller may deliver patches, modifications, enhancements, corrections, and/or security improvements to the Software ("Software Updates"). Seller's obligation under this Section is limited to the remote delivery of the Software Updates to the Instrument. Customer shall be responsible to install the Software Updates on the Instrument.
- 8.4. **Fees.** Customer acknowledges failing to implement VILINK may, at Seller's discretion, result in up to a 20% increase in Services or Extended Warranty costs. For VITEK MS PRIME, additional fees shall apply. Furthermore, if a service dispatch is required that could have otherwise been avoided with the implementation of VILINK, Seller reserves the right to charge a dispatch fee based on its then prevailing rates.

9. Limitation of Liability

- 9.1. **General Limitation.** NOTWITHSTANDING ANYTHING IN THE TERMS, CUSTOMER DOCUMENTATION, SALES QUOTE, PURCHASE ORDER, MASTER AGREEMENT OR ANY ANCILLARY AGREEMENT (COLLECTIVELY THE "DOCUMENTS") TO THE CONTRARY, SELLER'S CUMULATIVE LIABILITY TO CUSTOMER, OR ITS EMPLOYEES, AGENTS, CUSTOMERS, OR INVITEES, OR ANY THIRD PARTIES, IN CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, ARISING OUT OF OR RELATED TO, WITHOUT LIMITATION, THE DOCUMENTS, PRODUCTS, OR PRODUCT PERFORMANCE SHALL BE EXPRESSLY LIMITED TO THE PURCHASE PRICE PAID BY CUSTOMER IN CONNECTION WITH THE SPECIFIC PRODUCT(S) WHICH ARE THE PROXIMATE CAUSE OF ANY SUCH LIABILITY.
- 9.2. **Consequential Damages.** NOTWITHSTANDING ANYTHING IN THE DOCUMENTS TO THE CONTRARY, SELLER SHALL NOT BE LIABLE TO CUSTOMER, OR ITS EMPLOYEES, AGENTS, CUSTOMERS, OR INVITEES, OR ANY THIRD PARTIES, IN ANY INSTANCE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF BUSINESS, PROFITS, GOODWILL OR OPPORTUNITY, LOSS OF ANY DATA, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED WARRANTY MADE HEREIN.
- 9.3. **Exceptions to Limitations.** The limitations set forth in this section shall not apply with respect to: (i) injury to a person and/or tangible property arising from the willful misconduct or gross negligence of Seller; (ii) fraud or (iii) to the extent such disclaimer is prohibited under applicable law. Customer acknowledges and agrees Seller has entered into the arrangement in reliance upon the disclaimers of warranties and limitations of liability in these Terms and that the same form an essential basis of the bargain between the parties.
- 9.4. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, SELLER SHALL NOT BE LIABLE FOR ANY DAMAGES, COSTS, EXPENSES, OR OTHER LIABILITIES RELATED TO CUSTOMER'S USE OF THE PRODUCTS OUTSIDE ITS PERMITTED USES.

10. Termination

This agreement may be terminated by either party upon written notice of any of any material breach of these Terms, unless the breaching party cures said breach within thirty (30) days after the non-breaching party's receipt of written notice (or immediately upon written notice if such event is not curable). Upon the termination of this Agreement, Seller may (i) accelerate, and declare as immediately due and payable, the outstanding balance of all payments due under this agreement and (ii) Customer shall return any Seller owned Instrument to Seller unless otherwise agreed to in writing. Seller shall have the right to recover all reasonable and proximate damages suffered by reason of such termination, including reasonable attorneys' fees.

11. Export Controls

The Products, including hardware, application Software, Services, and any related technology, provided to the Customer may be subject to applicable export control laws and regulations including, without limitation, the United States Export regulations. Customer agrees that Products will not be used, in their entirety or in part,

directly or indirectly in support of activities, sectors and destinations restricted or prohibited by the United States, the European Union, or any other applicable jurisdiction, except as authorized under applicable laws and regulations. Products will only be used for clinical military use when authorized under applicable laws and regulations and with prior authorization of Seller. Products will not be used in activities relating to biological, chemical, or nuclear weapons or applications. Customer agrees that Products will not be used directly or indirectly, sold, re-exported or incorporated into products for the direct or indirect benefit of any person or entity named on any applicable government's denied or restricted party list.

12. Intellectual Property

Many of the Products are covered by U.S. patents, patents pending, or their foreign counterparts, owned or licensed by Seller or affiliates, which may be viewed at www.biomerieux-usa.com/patents. Notwithstanding anything to the contrary in this Agreement, nothing contained herein will be deemed, construed or interpreted as a grant, transfer, or conveyance to Customer or any third party, expressly or by inference, of any right, title or interest in, or license or right to use, any, all or any portions of Seller's inventions, patents, know-how, processes or procedures, technology, copyrights or trademarks, or other intellectual property, other than the right to use the Products for Permitted Uses only. Customer shall not: (i) have any ongoing right to be supplied with, or to manufacture or to have manufactured, any quantities of Products or Third Party Software beyond those ordered in accordance with the terms and conditions of this Agreement; (ii) modify, copy, translate, enhance, reverse engineer, decompile, disassemble, create derivative works based upon, sublicense, resell, or convey in any manner any Product or Third Party Software or any component thereof to any third party anywhere in the world; or (iii) remove, modify, change, cover, or otherwise obscure from the Products any labels, trademarks, copyright, or other proprietary notices or legends. Any breach by Customer of this section shall entitle Seller to terminate this agreement or any Purchase Order upon receipt of written notice to Customer.

13. Regulatory

Each party agrees to comply with all laws applicable to its business operations, in all material respects, including without limitation, all laws and regulations regarding the collection, use and storage of health information, the Health Insurance Portability and Accountability Act of 1996, as amended by (a) Subtitle D of the Health Information Technology for Economic and Clinical Health Act, any regulations promulgated thereto, and all similar applicable state laws. Each Party shall immediately notify the other after receipt of final notice of exclusion from any Federal Health Care Program. To the extent that Section 952 of the Omnibus Reconciliation Act of 1980 (the "Act") and the regulations promulgated thereunder are applicable to the Terms, and until the expiration of four (4) years after the last sale of the Products pursuant to the Terms, Seller shall make available, upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States or any of their duly authorized representatives, copies of the Terms and any books, documents, records and other data of Seller that are necessary to verify the nature and extent of the costs incurred by Customer in purchasing such Products. If Seller carries out any of its duties under the Terms through a subcontract with a related organization involving a value or cost of ten thousand dollars (\$10,000) or more over a twelve-month period, Seller shall cause such subcontract to contain a similar clause.

14. Miscellaneous Provisions

- 14.1. **PHI.** Customer agrees not to send any electronic protected health information (PHI) to Seller unless required by Seller. Customer shall ensure that to the extent that an Instrument contains PHI, Customer will remove such PHI from the Instrument prior to its return to Seller. Customer shall provide Seller with and shall assist Seller in obtaining all error and other information generated through use of the Products, as reasonably requested by Seller. Customer acknowledges and agrees that Seller shall have the right to use such information, provided that such use follows applicable laws and regulations.
- 14.2. **No Assignment.** This agreement may not be transferred or assigned by Customer in whole or in part, to a third party, including an affiliate of Customer. Any attempted assignment or transfer shall be null, void, and invalid. Seller may delegate, at its sole discretion, to any sales agent or distributor all of Seller's duties pertaining to distribution of Products or related activities under the Agreement, so long as any such sales agent or distributor is authorized by Seller.
- 14.3. **Governing Law.** These Terms will be interpreted according to the laws of the State of Utah without application of conflict of laws principles. Any legal action or proceeding related to this Agreement shall be brought exclusively in the state or federal courts located in Salt Lake City, Utah. The parties hereby consent to the personal jurisdiction and venue of such courts and waive any objections to the convenience of this forum. The United Nations Convention on the International Sales of Goods will not apply to the transactions under these Terms.
- 14.4. **Uncontrollable Circumstances.** Neither party will be responsible or liable for failing to perform any obligations under these Terms to the extent caused by circumstances beyond its reasonable control.
- 14.5. **Vision Suite.** Customer's purchase or use of FIREWORKS, TRENDS, CLARION, or MAESTRIA is subject to the BIOMÉRIEUX VISION SUITE General Terms & Conditions, as well as the Additional Terms applicable to the purchase or use of the specific software solution. All terms can be found at: <https://www.biomerieux.com/corp/en/our-offer/hospital-laboratory/specialty/connectivity-and-data/terms-and-conditions.html>
- 14.6. **No Waiver, Invalidity.** A waiver or modification by Seller of any condition or obligation of Customer hereunder shall not be construed as a waiver or modification of any other condition or obligation and no such waiver or modification granted on any one occasion shall be construed as applying to any other occasion.
- 14.7. **Confidentiality.** Customer shall keep confidential any non-public information, including commercial information (e.g. prices), or instructions received from Seller as a result of discussions, negotiations, and other communications between the parties in relation to Seller's Products or Services. All such confidential information shall remain Seller's exclusive property.
- 14.8. **Requirement to Reduce to Writing.** These Terms may only be modified in a writing signed by Customer and Seller which expressly states the intent to modify these Terms.
- 14.9. **Severability.** Each clause of these Terms is distinct and severable. If any provision under the Terms is declared unenforceable, the other provisions herein will remain in full force and effect. Any provision of these Terms that by its nature is reasonably intended to survive beyond termination or expiration shall survive.

PURCHASE AGREEMENT

This Purchase Agreement ("Agreement") is effective as of the date of the last signature below ("Effective Date") by and between bioMérieux, Inc., a Missouri corporation located at 515 Colorow Drive, Salt Lake City, Utah 84108 ("bioMérieux") and WEST VIRGINIA DEPT OF AGRICULTURE, a West Virginia entity located at 313 Gus R. Douglass Lane, Charleston, West Virginia, 25312 ("Customer"), each a "Party" and collectively the "Parties."

- 1. Products Covered.** This Agreement incorporates the applicable Instrument(s), Consumables, and/or Services (collectively, "Products") set forth in the attached Exhibit A ("Sales Quote"). Customer agrees to purchase the Products in accordance with the terms and conditions herein.
- 2. Term.** This Agreement becomes effective as of the date of the last signature below and, if applicable, shall continue for the period set forth in the Sales Quote ("Term").
- 3. Integration and Construction.** This Agreement, together with bioMérieux's Terms and Conditions available at <https://www.biomerieux-usa.com/biomerieux-terms-conditions> (the "Terms") and the applicable Sales Quote, collectively govern Customer's purchase of Products. By placing an order, Customer agrees to be bound by the Terms and this Agreement. In the event of any inconsistency between the Terms and this Agreement (including the Sales Quote), the terms of this Agreement shall control. Notwithstanding the foregoing, if the Parties have entered into a separate written master agreement or are subject to an applicable group purchasing organization agreement covering the same subject matter, such agreement shall govern Customer's purchase of Products to the extent it does not conflict with this Agreement.
- 4. Electronic Signature.** This Agreement may be executed and exchanged electronically and will have the same effect as physical delivery of the paper document bearing original signatures.

WE HAVE READ AND AGREE TO THE ABOVE.

bioMérieux, Inc.

Signature: Dana M Vitarelli
Name: Dana M. Vitarelli
Title: Strategic Business Manager
Date: 06/09/26

WEST VIRGINIA DEPT OF AGRICULTURE

Signature: Laryssa Hoskins
Name: Laryssa Hoskins
Title: CFO/Director
Date: 06/09/2026



EXHIBIT A

QUOTE: Q-111650

QUOTE EXPIRATION DATE: 05/29/2026

PREPARED FOR

WEST VIRGINIA DEPT OF AGRICULTURE

Customer Number: 0001027516

Ship To

WEST VIRGINIA DEPT OF AGRICULTURE
313 Gus R. Douglass Lane
Charleston West Virginia 25312 United States

CONTACT

Zach Kuhl

Assistant Director, Laboratory Services

zkuhl@wvda.us

+1 (304)558-2227

BIOMÉRIEUX SALES REPRESENTATIVE

Fatemeh ATAIE

fatemeh.ataei@biomerieux.com

+13147450764

Three additional years of service added for VIDAS KUBE 3 Modules at \$6,249.60/year included in this agreement; to be billed annually.

EQUIPMENT AND COMMERCIAL SERVICES

PART #	DESCRIPTION	QUANTITY	SALES PRICE	TOTAL
4707556	VC VIDAS KUBE INDUSTRY	1	\$15,035.00	\$15,035.00
423905	VIDAS KUBE INDUSTRY - 423905	2	\$13,000.00	\$26,000.00
2303801	CONNECTION SERVICE VILINK	1	\$0.00	\$0.00
	Equipment Tariff Surcharge	1	\$1,401.75	\$1,401.75
			TOTAL	\$42,436.75

SERVICES

SERVICE PACKAGE REFERENCE #	DESCRIPTION	COVERAGE (MONTHS)	QUANTITY	UNIT PRICE	ANNUAL TOTAL	TERM TOTAL
4707440	BUSINESS HOURS FULL SERVICE AGREEMENT VIDAS KUBE 3 MODULE	36	1	\$6,249.60	\$6,249.60	\$18,748.80
					TOTAL	\$18,748.80

Freight : \$1,195.00

Equipment and Service total agreement : \$62,380.55

Warranty is included for one (1) year from the date of installation on new equipment. Warranty is included for three (3) month from the date of installation on refurbish equipment. See Service Terms and Conditions for complete details.