



Type Bid
Project Name Liquid Chromatograph/mass Spectrometer/mass
Submittal Date 2/17/2011 1:30 PM



Pre-Bid Mandatory No
Owner West Virginia Department of Administration
Owner Address West Virginia
Location Charleston, WV 25302
Sector State/Municipal
Buyer Roberta Wagner
Buyer Department Purchasing
Buyer Address 2019 Washington Street, East
Post Office Box 50130
Charleston, West Virginia 25305
Buyer Phone (304) 558-0067
Buyer Fax (304) 558-4115
Buyer Email roberta.a.wagner@wv.gov
Bid Number LBS11091
Onvia Reference Number BID:13791773
Publication Date 1/21/2011



To view an interactive map of the location(s) for this project, [click here](#)

RFQ NO. : LBS11091 RE-BID OF LBS11009; A LIQUID CHROMATOGRAPH/MASS SPECTROMETER/MASS

SPENDING UNIT : HEALTH AND HUMAN RESOURCES SPECTROMETER (LC/MS/MS) BID OPENING : 02/17/2011

RECEIVED

FEB -3 A 10:39

PROCURING DIVISION
STATE OF WV



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

Request for Quotation

RFQ NUMBER
LBS11091

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
ROBERTA WAGNER
304-558-0067

RFQ COPY

TYPE NAME/ADDRESS HERE

VENDOR
 Thermo Electron North America LLC
 1400 Northpoint Pkwy, Ste 10
 West Palm Beach, FL 33407

SHIP TO
 HEALTH AND HUMAN RESOURCES
 ENVIRONMENTAL CHEMISTRY LAB

4710 CHIMNEY DRIVE
 CHARLESTON, WV
 25302 304-558-3530

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
01/13/2011	NET 30 DAYS	TRUCK	DESTINATION	PREPAID

BID OPENING DATE: 02/17/2011 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	EA		490-55		
LIQUID CHROMATOGRAPH/MASS SPECTROMETER/MASS SPECTROMETER (LC/MS/MS) INSTRUMENT TO MEET THE REQUIREMENTS OF THE PUBLIC HEALTH EMERGENCY PREPAREDNESS COOPERATIVE AGREEMENT WITH THE CENTER FOR DISEASE CONTROL AND PREVENTION (CDC). THE TECHNOLOGY OF THE LC/MS/MS MUST BE CONFIGURED SPECIFICALLY FOR THE STATE DEPARTMENT OF HEALTH LABORATORIES WHO ARE MEMBER OF THE US CENTERS FOR DISEASE CONTROL LRN-C PROGRAM. THE RESOLUTION AND SENSITIVITY CAPABILITY MUST BE ABLE TO MEET OR EXCEED THE LIMITS OF DETECTION AND MINIMUM REPORTING LEVELS REQUIRED FOR THESE AGENTS AS STIPULATED UNDER THE LABORATORY RESPONSE NETWORK - CHEMICAL, QUALITY ASSURANCE PROGRAM, VALIDATION GUIDELINES. THIS INSTRUMENT IS TO BE INSTALLED IN THE THREAT PREPAREDNESS LABORATORY IN THE BLK OFFICE CENTER BUILDING LOCATED AT 4710 CHIMNEY DRIVE, SUITE G, CHARLESTON, WV 25302, PER THE ATTACHED DETAILED SPECIFICATIONS. >> PLEASE SEE ATTACHED SPECIFICATIONS/COST SHEET. << PLEASE NOTE THIS IS A RE-BID OF LBS11009. CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
<i>William J. ...</i>	800-532-4752	1/28/11
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE
Order Entry Administrator	43-19922001	

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

**GENERAL TERMS & CONDITIONS
REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)**

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
4. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods this Purchase Order/Contract becomes void and of no effect after June 30.
5. Payment may only be made after the delivery and acceptance of goods or services.
6. Interest may be paid for late payment in accordance with the *West Virginia Code*.
7. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
8. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
9. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
10. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern the purchasing process.
11. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
12. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
13. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at www.state.wv.us/admin/purchase/vrc/hipaa.htm and is hereby made part of the agreement. Provided that the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
14. **CONFIDENTIALITY:** The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.
15. **LICENSING:** Vendors 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, and the West Virginia Insurance Commission. The vendor must provide all necessary releases to obtain information to enable the director or spending unit to verify that the vendor is licensed and in good standing with the above entities.
16. **ANTITRUST:** In submitting a bid to any agency for the State of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will 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 the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, or person or entity submitting a bid for the same material, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division. Complete all sections of the quotation form.
2. Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Unit prices shall prevail in case of discrepancy. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
4. All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130
5. Communication during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited (W.Va. C.S.R. §148-1-6.6).



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

Request for Quotation

RFQ NUMBER:
LBS11091

PAGE:
2

ADDRESS CORRESPONDENCE TO ATTENTION OF:
**ROBERTA WAGNER
 304-558-0067**

RFQ COPY

TYPE NAME/ADDRESS HERE

Thermo Electron North America LLC
 1400 Northpoint Pkwy, Ste 10
 West Palm Beach, FL 33407

HEALTH AND HUMAN RESOURCES
 ENVIRONMENTAL CHEMISTRY LAB
 4710 CHIMNEY DRIVE
 CHARLESTON, WV
 25302 304-558-3530

DATE PRINTED: 01/13/2011	TERMS OF SALE: Net 30 Days	SHIP VIA: TRUCK	F.O.B. DESTINATION	FREIGHT TERMS: PREPAID
BID OPENING DATE: 02/17/2011		BID OPENING TIME 01:30PM		

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.</p> <p>INQUIRIES: WRITTEN QUESTIONS SHALL BE ACCEPTED THROUGH CLOSE OF BUSINESS ON 2/1/2011. QUESTIONS MAY BE SENT VIA USPS, FAX, COURIER OR E-MAIL. IN ORDER TO ASSURE NO VENDOR RECEIVES AN UNFAIR ADVANTAGE, NO SUBSTANTIVE QUESTIONS WILL BE ANSWERED ORALLY. IF POSSIBLE, E-MAIL QUESTIONS ARE PREFERRED. ADDRESS INQUIRIES TO:</p> <p>ROBERTA WAGNER DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25311</p> <p>FAX: 304-558-4115 E-MAIL: ROBERTA.A.WAGNER@WV.GOV</p> <p>PLEASE NOTE: PROOF OF WORKER'S COMPENSATION INSURANCE IS REQUIRED.</p> <p>THE MODEL/BRAND/SPECIFICATIONS NAMED HEREIN ESTABLISH THE ACCEPTABLE LEVEL OF QUALITY ONLY AND ARE NOT INTENDED TO REFLECT A PREFERENCE OR FAVOR ANY PARTICULAR BRAND OR VENDOR. VENDORS WHO ARE BIDDING ALTERNATES SHOULD SO STATE AND INCLUDE PERTINENT LITERATURE AND SPECIFICATIONS. FAILURE TO PROVIDE INFORMATION FOR ANY ALTERNATES MAY BE GROUNDS FOR REJECTION OF THE BID. THE STATE RESERVES THE RIGHT TO WAIVE MINOR IRREGULARITIES IN BIDS OR SPECIFICATION</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Robert Wagner</i>	TELEPHONE 800-532-4752	DATE 1/28/11
TITLE Order Entry Administrator	FEIN 43-1992201	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'



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

Request for Quotation

RFQ NUMBER
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304-558-0067

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 1400 Northpoint Pkwy, Ste 10
 West Palm Beach, FL 33407

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 ENVIRONMENTAL CHEMISTRY LAB

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 25302 304-558-3530

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B	FREIGHT TERMS
01/13/2011	Net 30 Days	Truck	Destination	Prepaid

BID OPENING DATE: **02/17/2011** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>IN ACCORDANCE WITH SECTION 148-1-4 (F) OF THE WEST VIRGINIA LEGISLATIVE RULES AND REGULATIONS. VENDOR PREFERENCE CERTIFICATE</p> <p>THIS TEAM EXHIBIT HAS BEEN REPLACED BY THE ONLINE VERSION WHICH IS AVAILABLE HERE: HTTP://WWW.STATE.WV.US/ADMIN/PURCHASE/VRC/VENPREF.PDF</p> <p>NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p>DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130</p> <p>PLEASE NOTE: A CONVENIENCE COPY WOULD BE APPRECIATED.</p> <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> <p>BUYER:-----RW/FILE 22-----</p> <p>RFQ. NO.:-----LBS11091-----</p> <p>BID OPENING DATE:---2/17/2011---</p> <p>BID OPENING TIME:---1:30 PM-----</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Valma F...</i>	TELEPHONE 800-532-4752	DATE 1/28/11
TITLE Order Entry Administration	FEIN 43-1992201	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'



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

Request for Quotation

RFQ NUMBER
LBS11091

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4

ADDRESS-CORRESPONDENCE TO ATTENTION OF
ROBERTA WAGNER 304-558-0067

RFQ COPY

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Thermo Electron North America LLC
 1400 Northpoint Pkwy, Ste 10
 West Palm Beach, FL 33407

HEALTH AND HUMAN RESOURCES
 ENVIRONMENTAL CHEMISTRY LAB

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01/13/2011	Net 30 Days	Truck	Destination	Prepaid

BID OPENING DATE: 02/17/2011 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID: <p style="text-align: center;">----- 561-688-8731 -----</p> CONTACT PERSON (PLEASE PRINT CLEARLY): <p style="text-align: center;">----- Vilma Fermin -----</p>						
***** THIS IS THE END OF RFQ LBS11091 ***** TOTAL:						<u>\$233,840.60</u>

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Vilma Fermin</i>	TELEPHONE 800-532-4752	DATE 1/28/11
TITLE Order Entry Administrator	FEIN 43-1992201	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

Liquid Chromatograph– Mass Spectrometer/Mass Spectrometer Bid

SPECIFICATIONS AND REQUIREMENTS

The Threat Preparedness and Response Section, Chemical Threats, of the Office of Laboratory Services (CT) is requesting to purchase a Liquid Chromatograph/Mass Spectrometer/Mass Spectrometer (LC/MS/MS).

1. A LC/MS/MS instrument is needed by CT to meet the requirements of the Public Health Emergency Preparedness cooperative agreement with the Center for Disease Control and Prevention (CDC), Atlanta, Georgia.
2. The technology of this LC/MS/MS instrument must be configured specifically for the State Department of Health laboratories who are members of the US Centers for Disease Control LRN-C Program. The resolution and sensitivity capability must be able to meet the limits of detection and minimum reporting levels required for these agents as stipulated under the Laboratory Response Network – Chemical, Quality Assurance Program, Validation Guidelines.
3. The LC/MS/MS instrument must come equipped with a triple quadrupole mass spectrometer, workstation PC and printer, software with 2 data analysis licenses, installation, and familiarization and on-site operator training for two analysts.
4. The LC/MS/MS instrument must have an electrospray ionization (ESI) and atmospheric pressure chemical ionization (APCI) source with spray chamber, corona discharge needle, nebulizer, APCI vaporizer, and test calibration kit.
5. The LC/MS/MS instrument must have a nitrogen gas generator and a maintenance kit.
6. The LC/MS/MS instrument must have a binary pump system with solvent cabinet, 2 solvent bottles, connecting capillaries, and CAN cable. It must also contain a maintenance kit, active seal option, and solvent selection valve option.

7. The LC/MS/MS instrument system package must have a micro degasser which includes a 4-channel micro-vacuum, degasser, remote control cable, and connecting tubing.
8. The LC/MS/MS instrument must be fully compatible with a system controlled auto sampler with a 100uL injection loop, tray for two well plates, 10x 2mL vials, 2x54- vial plates, Rheodyne injection valve (600 bar), and 05 m CAN cable.
9. The LC/MS/MS instrument system must have a Peltier type device to control the temperature of the auto samplers/fraction collectors.
10. For rapid resolution LC, the column compartment temperature must maximize to 100°C and pressures up to 600 bar.
11. The LC/MS/MS instrument must come with a high pressure liquid chromatograph (HPLC) column oven with a temperature tolerance of +/- 2°C.
12. All consumables required to complete the installation must arrive with the LC/MS/MS instrument.
13. The LC/MS/MS instrument must be fully automated for analysis with a system controller that is loaded with the necessary software. System controller software must be able to export data to the existing Laboratory Information Management System (LIMS).
14. The LC/MS/MS instrument system controller software must be able to fulfill all of the analytical and quality control requirements stated in the Laboratory Response Network – Chemical, Quality Assurance Program, Validation Guidelines.

Installation Requirements:

1. Vendor must install the LC/MS/MS instrument system in the Threat Preparedness Laboratory in the Elk Office Center building at 4710 Chimney Drive, Suite G, Charleston, WV, 25302.

2. Vendor must provide to the Threat Preparedness (TP) Program Manager all relevant information concerning the installation in a documented form at least 2 weeks prior to the scheduled installation.
3. At the time of the LC/MS/MS instrument installation, Vendor must provide to the TP Program Manager: All relevant system manuals for hardware components: system and application software documentation: and a parts, supplies, and accessories catalog.
4. Vendor must include all necessary cables and fittings and other costs for installation in the submitted bid price.
5. Installation and on-site training must be completed within 90 days of delivery date.

Training Requirements

1. Vendor must provide, upon completion of installation, two days of on-site training for the Threat Preparedness personnel on the operation and user maintenance requirements of the LC/MS/MS instrument system.
2. All costs incurred by the Vendor including travel, lodging, and living expenses necessary to provide this basic training shall be included in the bid price.

Warranty Requirements

1. Vendor must include in the total price of the equipment with at least an one-year factory warranty covering all system components.
2. Software must have a 90-day warranty.
3. Warranty must include on-site service including labor, travel time, and expenses with a 72-hour on-site response time at no extra cost to maintain the specifications listed in the bid and the Vendor's product specifications. Vendor must provide a copy of the warranty.
4. Warranty must begin upon acceptance of the completed installation and training.

Delivery Requirements

1. The LC/MS/MS instrument and its components must be shipped for “inside delivery” by a freight delivery company and must be delivered within 90 days of receipt of order.
2. The LC/MS/MS instrument and its components must be shipped “F O B Destination” unless otherwise stated in quote by Vendor. Any shipping and handling requirements must be stated in Vendor’s quote.

RFQ COST SHEET

Bidders shall provide a cost for the following:

Liquid Chromatograph/Mass Spectrometer/Mass Spectrometer

(LC/MS/MS)

\$ 231,340.60

On-Site User Training (at installation of equipment)


\$ 2,500.00

Freight/Shipping Charge

\$ INCLUDED

Total Cost \$ 233,840.60

The award will be made to the vendor with the lowest overall total cost of the equipment which meets all requested specifications and requirements. Payment will be made in arrears.



Vendor Signature

1/28/11

Date

RFQ No. LBS 11091

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

West Virginia Code §5A-3-10a states: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

EXCEPTION: The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

Under penalty of law for false swearing (*West Virginia Code §61-5-3*), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

WITNESS THE FOLLOWING SIGNATURE

Vendor's Name: Thermo Electron North America LLC

Authorized Signature: *Wilma Fernus* Date: 1/28/11

State of FLORIDA

County of Palm Beach, to-wit:

Taken, subscribed, and sworn to before me this 28 day of January, 2011.

My Commission expires _____, 20____.

AFFIX SEAL HERE

NOTARY PUBLIC

Angela D. Harvey

NOTARY PUBLIC - STATE OF FLORIDA
Angela D. Harvey
Commission #DD652427
Expires: MAR. 19, 2011
BONDED THRU ATLANTIC BONDING CO., INC.

WV-96
Rev. 10/07

AGREEMENT ADDENDUM

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** - Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Payment will be in arrears.
6. **INTEREST** - Should the agreement include a provision for interest on late payments, the Agency agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted.
7. **RECOUPMENT** - Any language in the agreement waiving the Agency's right to set-off, counterclaim, recoupment, or other defense is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **ATTORNEY FEES** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** - Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

ACCEPTED BY:

STATE OF WEST VIRGINIA

Spending Unit: _____

Signed: _____

Title: _____

Date: _____

VENDOR

Company Name: Thermo Electron North America LLC

Signed: Wilmer Thomas

Title: Order Entry Administrator

Date: 1/31/11

ATTACHMENT
P.O.# LBS11091

This agreement constitutes the entire agreement between the parties, and there are no other terms and conditions applicable to the licenses granted hereunder.

Agreed
Vikram J. Jindal / 28 / 11
Signature Date

Order Entry Administrator
Title

Thermo Electron North America LLC
Company Name

Signature Date

Title

Agency/Division

Thank you for your interest in Thermo Scientific instrumentation.

Attached is a quotation from your local sales representative. Please do not hesitate to contact us if you have any questions regarding this quotation.

Please note the following information to facilitate placing an order:

Vendor Name: Thermo Electron North America LLC
Phone: 800-532-4752

FEIN: 43-1992201
D&B: 13-838-8090
Cage Code: 3WXJ7

PO Address: 1400 Northpoint Parkway, Suite 10
West Palm Beach, FL 33407
Fax #561-688-8731

OR

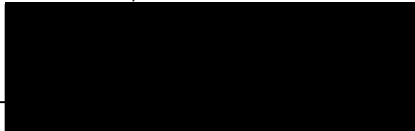
5225 Verona Road
Madison, WI 53711
Fax #608-273-6882

Remittance Information:

Accounts Receivable phone: 561-688-8755

Lockbox/Check Payments

Electronic Payments

Thermo Electron North America LLC PO Box 712102 Cincinnati, OH 45271-2102	Thermo Electron North America LLC Bank of America New York, NY 
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Please include the following with your PO:

Payment terms: Net 30 days

Freight terms: FOB Destination, Prepaid

Tax Status: Taxable or Tax Exempt

Your standard PO terms & conditions if applicable

Sales Quotation

Thermo Electron North America LLC

1400 Northpoint Pkwy Ste 50,
West Palm Beach, FL 33407-1976

Quote No.	Create Date	Exp. Delivery Time	Page
20179041	01/31/2011	60-90 Days ARO	1 / 7
Contact Info	Phone No.	Payment Terms	Valid To
GIOVANNI PALLANTE	330-273-9788	NET 30 DAYS UPON INVOICE DATE	03/17/2011
Inco 1	Inco 2	Shipping Method	
DEST. PREPAID	PREPAY	Pilot Economy 5 Day	

Submitted To: 1041939

ROBERTA WARNER
STATE OF WEST VIRGINIA
DEPT OF ADMINISTRATION
PURCHASING DIVISION, BLDG 15
RFQ NO LBS11091/DUE 2/17/11 @ 1:30PM
2019 WASHINGTON STREET, EAST
CHARLESTON WV 25311

REF: RFQ LBS11091
DUE DATE: 2/17/11 @ 1:30 PM
FEIN: 43-1992201
D&B: 13-838-8090

"GSA Contract Number GS-24F-0026L and all applicable pricing & terms have been applied to this quotation"

To place an order

Call: 800-532-4752
Fax: 561-688-8731
eMail: uspal.orderprocessing@thermofisher.com

This order is subject to instructions and Thermo Fisher's terms & conditions on the last page

Item	Material No.	Description	Qty	Unit Price	Total Price
10	TSQ-40500	TSQ QUANTUM ACCESS MAX SYSTEM	1 EA		

TSQ MS/MS high performance triple stage-quadrupole mass spectrometer TSQ Quantum Access MAX Triple Stage Quadrupole MS/MS System

- ~ High performance Ion Max API inlet source housing (probes sold separately).
- ~ Analyzer includes stabilized analyzer control board, integrated vacuum manifold with two RF only square quadrupole ion optics, two 250 mm hyperbolic quadrupole mass analyzers, ninety degree square quadrupole collision cell, and 10 kV dynode and off axis electron multiplier detection system for positive and negative ion detection.
- ~ Vacuum system includes single three-port turbo molecular pump, and one rotary vacuum pump.
- ~ System also features an integrated single barrel syringe pump, integrated electronically activated injector/divert valve, 10-3000 amu mass range, 5000 amu/sec scan speed, 3000 Timed-SRMs, 195 kHz digital sampling rate and Polarity switching time ≤ 25 ms.
- ~ Note: API probes sold separately as HESI-II Probe (Opton-20037) and APCI probe (Opton-20012)
- ~ Includes one-year warranty, installation, basic instrument operator training, and a comprehensive on-site TSQ Quantum Access MAX training class.

20	OPTON-20037	HESI PROBE,MARK 2,WITH 32G METAL NEED	1 EA		
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30	60057-60110	PUMP, UHPLC, ACCELA 600 GSA Contract Item	1 EA		
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Sales Quotation

Thermo Electron North America LLC

Quote No.	Create Date	Exp. Delivery Time	Page
20179041	01/31/2011	60-90 Days ARO	2 / 7
Contact Info	Phone No.	Payment Terms	Valid To
GIOVANNI PALLANTE	330-273-9788	NET 30 DAYS UPON INVOICE DATE	03/17/2011
Inco 1	Inco 2	Shipping Method	
DEST. PREPAID	PREPAY	Pilot Economy 5 Day	

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West Palm Beach, FL 33407-1976

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 Call: 800-532-4752
 Fax: 561-688-8731
 eMail: uspal.orderprocessing@thermofisher.com

Item	Material No.	Description	Qty	Unit Price	Total Price
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Pump, UHPLC, Accela 600

- ~ The Accela 600 Pump is a quaternary low-pressure mixing solvent delivery system capable of flow rates from 0.1 to 5000 uL/min.
- ~ Flow rate resolution is 0.1uL/min.
- ~ This pump can delivers solvents at conventional LC pressures up to 600 bar.
- ~ The Thermo Scientific Accela™ 600 Pump provides accurate and precise flow and gradients under all operating pressure conditions with minimum pulsation.
- ~ A delay volume of only 90 µL reduces pump equilibration and system cycle times.
- ~ The Accela 600 pump is the ideal quaternary solvent delivery solution for analyses using 2.1-4.6 mm internal diameter columns packed with 3 and 5 µm particles.
- ~ An extremely low pulsation (lower than 0.5 bar amp.) without the need of a pulse dampener guaranties smooth detector baselines.
- ~ The unique technology incorporates an innovative Force Feedback Control (FCC), enabling the delivery of accurate and precise flow and gradients under all operating conditions by continuously calibrating valve timing and efficiency based on the measured compressibility of the actual solvents providing the flexibility of a quaternary pump with the best possible performance.

40	60057-60020	AUTOSAMPLER, UHP, ACCELA GSA Contract Item	1	EA
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50	60057-60060	KIT, SYSTEM, ACCELA UHP GSA Contract Item	1	EA
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60	TSQ1-VOUCHER	VOUCHER-TSQ DISCOVERY/ULTRA TRAINING	1	EA
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TSQ QUANTUM ACCESS MAX SYSTEM Sub-Total:	284,127.00 USD
Promotion Disc:	91,727.00 - USD

Sales Quotation

Thermo Electron North America LLC

Quote No.	Create Date	Exp. Delivery Time	Page
20179041	01/31/2011	60-90 Days ARO	3 / 7
Contact Info	Phone No.	Payment Terms	Valid To
GIOVANNI PALLANTE	330-273-9788	NET 30 DAYS UPON INVOICE DATE	03/17/2011
Inco 1	Inco 2	Shipping Method	
DEST. PREPAID	PREPAY	Pilot Economy 5 Day	

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West Palm Beach, FL 33407-1976

To place an order
Call: 800-532-4752
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eMail: uspal.orderprocessing@thermofisher.com

Item	Material No.	Description	Qty	Unit Price	Total Price
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TSQ QUANTUM ACCESS MAX SYSTEM Total: 192,400.00 USD

70 OPTON-20012 APCI PROBE FOR ION MAX-GSA
GSA Contract Item 1 EA

APCI PROBE FOR ION MAX-GSA Total: 8,456.60 USD

80 OPTON-10000 NITROGEN GENERATOR 1 EA

NITROGEN GENERATOR Total: 15,979.00 USD

90 60057-60140 DETECTOR, ACCELA, PDA/80 Hz, 1CM LP-GS
GSA Contract Item 1 EA

DETECTOR, ACCELA, PDA/80 Hz, 1CM LP-GSA Sub-Total 14,039.00 USD

Promotion %: 1,439.00 - USD

DETECTOR, ACCELA, PDA/80 Hz, 1CM LP-GSA Total: 12,600.00 USD

100 OPTON-21731 HP LASERJET 3015D PRINTER, 110V 1 EA

HP LASERJET 3015D PRINTER, 110V Total: 1,905.00 USD

110 701-524800 EXTENDED ORIENTATION TRAINING 1 EA

TWO DAY EXTENDED ORIENTATION TRAINING

Sales Quotation

Thermo Electron North America LLC

Quote No.	Create Date	Exp. Delivery Time	Page
20179041	01/31/2011	60-90 Days ARO	4 / 7
Contact Info	Phone No.	Payment Terms	Valid To
GIOVANNI PALLANTE	330-273-9788	NET 30 DAYS UPON INVOICE DATE	03/17/2011
Inco 1	Inco 2	Shipping Method	
DEST. PREPAID	PREPAY	Pilot Economy 5 Day	

1400 Northpoint Pkwy Ste 50,
West Palm Beach, FL 33407-1976

To place an order
 Call: 800-532-4752
 Fax: 561-688-8731
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Item	Material No.	Description	Qty	Unit Price	Total Price
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EXTENDED ORIENTATION TRAINING Total: 2,500.00 USD

Quotation Sub-total: 327,006.60 USD

Promotion Disc: 91,727.00 - USD

Promotion %: 1,439.00 - USD

Quotation Total: 233,840.60 USD

THERMO ELECTRON NORTH AMERICA LLC TERMS AND CONDITIONS OF SALE
UNLESS OTHERWISE EXPRESSLY AGREED IN WRITING, ALL SALES ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. **GENERAL.** THERMO ELECTRON NORTH AMERICA LLC ("Seller") hereby offers for sale to the buyer named on the face hereof ("Buyer") the products listed on the face hereof (the "Products") on the express condition that Buyer agrees to accept and be bound by the terms and conditions set forth herein. Any provisions contained in any document issued by Buyer are expressly rejected and if the terms and conditions in this Agreement differ from the terms of Buyer's offer, this document shall be construed as a counter offer and shall not be effective as an acceptance of Buyer's document. Buyer's receipt of Products or Seller's commencement of the services provided hereunder will constitute Buyer's acceptance of this Agreement. This is the complete and exclusive statement of the contract between Seller and Buyer with respect to Buyer's purchase of the Products. No waiver, consent, modification, amendment or change of the terms contained herein shall be binding unless in writing and signed by Seller and Buyer. Seller's failure to object to terms contained in any subsequent communication from Buyer will not be a waiver or modification of the terms set forth herein. All orders are subject to acceptance in writing by an authorized representative of Seller.

2. **PRICE.** All prices published by Seller or quoted by Seller's representatives may be changed at any time without notice. All prices quoted by Seller or Seller's representatives are valid for thirty (30) days, unless otherwise stated in writing. All prices for the Products will be as specified by Seller or, if no price has been specified or quoted, will be Seller's price in effect at the time of shipment. All prices are subject to adjustment on account of specifications, quantities, raw materials, cost of production, shipment arrangements or other terms or conditions which are not part of Seller's original price quotation.

3. **TAXES AND OTHER CHARGES.** Prices for the Products exclude all sales, value added and other taxes and duties imposed with respect to the sale, delivery, or use of any Products covered hereby, all of which taxes and duties must be paid by Buyer. If Buyer claims any exemption, Buyer must provide a valid, signed certificate or letter of exemption for each respective jurisdiction.

4. **TERMS OF PAYMENT.** Seller may invoice Buyer upon shipment for the price and all other charges payable by Buyer in accordance with the terms on the face hereof. If no payment terms are stated on the face hereof, payment shall be net thirty (30) days from the date of invoice. If Buyer fails to pay any amounts when due, Buyer shall pay Seller interest thereon at a periodic rate of one and one-half percent (1.5%) per month (or, if lower, the highest rate permitted by law), together with all costs and expenses (including without limitation reasonable attorneys' fees and disbursements and court costs) incurred by Seller in collecting such overdue amounts or otherwise enforcing Seller's rights hereunder. Seller reserves the right to require from Buyer full or partial payment in advance, or other security that is satisfactory to Seller, at any time that Seller believes in good faith that Buyer's financial condition does not justify the terms of payment specified. All payments shall be made in U.S. Dollars.

5. **DELIVERY; CANCELLATION OR CHANGES BY BUYER.** The Products will be shipped to the destination specified by Buyer, F.O.B. Seller's shipping point. Seller will have the right, at its election, to make partial shipments of the Products and to invoice each shipment separately. Seller reserves the right to stop delivery of Products in transit and to withhold shipments in whole or in part if Buyer fails to make any payment to Seller when due or otherwise fails to perform its obligations hereunder. All shipping dates are approximate only, and Seller will not be liable for any loss or damage resulting from any delay in delivery or failure to deliver which is due to any cause beyond Seller's reasonable control. In the event of a delay due to any cause beyond Seller's reasonable control, Seller reserves the right to terminate the order or to reschedule the shipment within a reasonable period of time, and Buyer will not be entitled to refuse delivery or otherwise be relieved of any obligations as the result of such delay. Products as to which delivery is delayed due to any cause within Buyer's control may be placed in storage by Seller at Buyer's risk and expense and for Buyer's account. Orders in process may be canceled only with Seller's written consent and upon payment of Seller's cancellation charges. Orders in process may not be changed except with Seller's written consent and upon agreement by the parties as to an appropriate adjustment in the purchase price therefor. Credit will not be allowed for Products returned without the prior written consent of Seller.

6. **TITLE AND RISK OF LOSS.** Notwithstanding the trade terms indicated above and subject to Seller's right to stop delivery of Products in transit, title to and risk of loss of the Products will pass to Buyer upon delivery of possession of the Products by Seller to the carrier; provided, however, that title to any software incorporated within or forming a part of the Products shall at all times remain with Seller or the licensor(s) thereof, as the case may be.

7. **WARRANTY.** Seller warrants that the Products will operate or perform substantially in conformance with Seller's published specifications and be free from defects in material and workmanship, when subjected to normal, proper and intended usage by properly trained personnel, for the period of time set forth in the product documentation, published specifications or package inserts. If a period of time is not specified in Seller's product documentation, published specifications or package inserts, the warranty period shall be one (1) year from the date of shipment to Buyer for equipment and ninety (90) days for all other products (the "Warranty Period"). Seller agrees during the Warranty Period, to repair or replace, at Seller's option, defective Products so as to cause the same to operate in substantial conformance with said published specifications; provided that Buyer shall (a) promptly notify Seller in writing upon the discovery of any defect, which notice shall include the product model and serial number (if applicable) and details of the warranty claim; and (b) after Seller's review, Seller will provide Buyer with service data and/or a Return Material Authorization ("RMA"), which may include biohazard decontamination procedures and other product-specific handling instructions, then, if applicable, Buyer may return the defective Products to Seller with all costs prepaid by Buyer. Replacement parts may be new or refurbished, at the election of Seller. All replaced parts shall become the property of Seller. Shipment to Buyer of repaired or replacement Products shall be made in accordance with the Delivery provisions of the Seller's Terms and Conditions of Sale. Consumables are expressly excluded from this warranty.

Notwithstanding the foregoing, Products supplied by Seller that are obtained by Seller from an original manufacturer or third party supplier are not warranted by Seller, but Seller agrees to assign to Buyer any warranty rights in such Product that Seller may have from the original manufacturer or third party supplier, to the extent such assignment is allowed by such original manufacturer or third party supplier.

In no event shall Seller have any obligation to make repairs, replacements or corrections required, in whole or in part, as the result of (i) normal wear and tear, (ii) accident, disaster or event of force majeure, (iii) misuse, fault or negligence of or by Buyer, (iv) use of the Products in a manner for which they were not designed, (v) causes external to the Products such as, but not limited to, power failure or electrical power surges, (vi) improper storage and handling of the Products or (vii) use of the Products in combination with equipment or software not supplied by Seller. If Seller determines that Products for which Buyer has requested warranty services are not covered by the warranty hereunder, Buyer shall pay or reimburse Seller for all costs of investigating and responding to such request at Seller's then prevailing time and materials rates. If Seller provides repair services or replacement parts that are not covered by this warranty, Buyer shall pay Seller therefor at Seller's then prevailing time and materials rates. ANY INSTALLATION, MAINTENANCE, REPAIR, SERVICE, RELOCATION OR ALTERATION TO OR OF, OR OTHER TAMPERING WITH, THE PRODUCTS PERFORMED BY ANY PERSON OR ENTITY OTHER THAN SELLER WITHOUT SELLER'S PRIOR WRITTEN APPROVAL, OR ANY USE OF REPLACEMENT PARTS NOT SUPPLIED BY SELLER, SHALL IMMEDIATELY VOID AND CANCEL ALL WARRANTIES WITH RESPECT TO THE AFFECTED PRODUCTS.

THE OBLIGATIONS CREATED BY THIS WARRANTY STATEMENT TO REPAIR OR REPLACE A DEFECTIVE PRODUCT SHALL BE THE SOLE REMEDY OF BUYER IN THE EVENT OF A DEFECTIVE PRODUCT. EXCEPT AS EXPRESSLY PROVIDED IN THIS WARRANTY STATEMENT, SELLER DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE PRODUCTS, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. SELLER DOES NOT WARRANT THAT THE PRODUCTS ARE ERROR-FREE OR WILL ACCOMPLISH ANY PARTICULAR RESULT.

8. **INDEMNIFICATION.**

8.1 By Seller. Seller agrees to indemnify, defend and save Buyer, its officer, directors, and employees from and against any and all damages, liabilities, actions, causes of action, suits, claims, demands, losses, costs and expenses (including without limitation reasonable attorney's fees) ("Indemnified Items") for (i) injury to or death of persons or damage to property to the extent caused by the negligence or willful misconduct of Seller, its employees, agents or representatives or contractors in connection with the performance of services at Buyer's premises under this Agreement and (ii) claims that a Product infringes any valid United States patent, copyright or trade secret; provided, however, Seller shall have no liability under this Section to the extent any such Indemnified Items are caused by either (i) the negligence or willful misconduct of Buyer, its employees, agents or representatives or contractors, (ii) by any third party, (iii) use of a Product in combination with equipment or software not supplied by Seller where the Product would not itself be infringing, (iv) compliance with Buyer's designs, specifications or instructions, (v) use of the Product in an application or environment for which it was not designed or (vi) modifications of the Product by anyone other than Seller without Seller's prior written approval. Buyer shall provide Seller prompt written notice of any third party claim covered by Seller's indemnification obligations hereunder. Seller shall have the right to assume exclusive control of the defense of such claim or, at the option of the Seller, to settle the same. Buyer agrees to cooperate reasonably with Seller in connection with the performance by Seller of its obligations in this Section.

Notwithstanding the above, Seller's infringement related indemnification obligations shall be extinguished and relieved if Seller, at its discretion and at its own expense (a) procures for Buyer the right, at no additional expense to Buyer, to continue using the Product; (b) replaces or modifies the Product so that it becomes non-infringing, provided the modification or replacement does not adversely affect the specifications of the Product; or (c) in the event (a) and (b) are not practical, refund to Buyer the amortized amounts paid by Buyer with respect thereto, based on a five (5) year amortization schedule. THE FOREGOING INDEMNIFICATION PROVISION STATES SELLER'S ENTIRE LIABILITY TO BUYER FOR THE CLAIMS DESCRIBED HEREIN.

THERMO ELECTRON NORTH AMERICA LLC TERMS AND CONDITIONS OF SALE

8.2 By Buyer. Buyer shall indemnify, defend with competent and experienced counsel and hold harmless Seller, its parent, subsidiaries, affiliates and divisions, and their respective officers, directors, shareholders and employees, from and against any and all damages, liabilities, actions, causes of action, suits, claims, demands, losses, costs and expenses (including without limitation reasonable attorneys' fees and disbursements and court costs) to the extent arising from or in connection with (i) the negligence or willful misconduct of Buyer, its agents, employees, representatives or contractors; (ii) use of a Product in combination with equipment or software not supplied by Seller where the Product itself would not be infringing; (iii) Seller's compliance with designs, specifications or instructions supplied to Seller by Buyer; (iv) use of a Product in an application or environment for which it was not designed; or (v) modifications of a Product by anyone other than Seller without Seller's prior written approval.

9. SOFTWARE. With respect to any software products incorporated in or forming a part of the Products hereunder, Seller and Buyer intend and agree that such software products are being licensed and not sold, and that the words "purchase", "sell" or similar or derivative words are understood and agreed to mean "license", and that the word "Buyer" or similar or derivative words are understood and agreed to mean "licensee". Notwithstanding anything to the contrary contained herein, Seller or its licensor, as the case may be, retains all rights and interest in software products provided hereunder.

Seller hereby grants to Buyer a royalty-free, non-exclusive, nontransferable license, without power to sublicense, to use software provided hereunder solely for Buyer's own internal business purposes on the hardware products provided hereunder and to use the related documentation solely for Buyer's own internal business purposes. This license terminates when Buyer's lawful possession of the hardware products provided hereunder ceases, unless earlier terminated as provided herein. Buyer agrees to hold in confidence and not to sell, transfer, license, loan or otherwise make available in any form to third parties the software products and related documentation provided hereunder. Buyer may not disassemble, decompile or reverse engineer, copy, modify, enhance or otherwise change or supplement the software products provided hereunder without Seller's prior written consent. Seller will be entitled to terminate this license if Buyer fails to comply with any term or condition herein. Buyer agrees, upon termination of this license, immediately to return to Seller all software products and related documentation provided hereunder and all copies and portions thereof.

Certain of the software products provided by Seller may be owned by one or more third parties and licensed to Seller. Accordingly, Seller and Buyer agree that such third parties retain ownership of and title to such software products. The warranty and indemnification provisions set forth herein shall not apply to software products owned by third parties and provided hereunder.

10. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE LIABILITY OF SELLER UNDER THESE TERMS AND CONDITIONS (WHETHER BY REASON OF BREACH OF CONTRACT, TORT, INDEMNIFICATION, OR OTHERWISE, BUT EXCLUDING LIABILITY OF SELLER FOR BREACH OF WARRANTY (THE SOLE REMEDY FOR WHICH SHALL BE AS PROVIDED UNDER SECTION 7 ABOVE)) SHALL NOT EXCEED AN AMOUNT EQUAL TO THE LESSER OF (A) THE TOTAL PURCHASE PRICE THERETOFORE PAID BY BUYER TO SELLER WITH RESPECT TO THE PRODUCT(S) GIVING RISE TO SUCH LIABILITY OR (B) ONE MILLION DOLLARS (\$1,000,000). NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF USE OF FACILITIES OR EQUIPMENT, LOSS OF REVENUE, LOSS OF DATA, LOSS OF PROFITS OR LOSS OF GOODWILL), REGARDLESS OF WHETHER SELLER (a) HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR (b) IS NEGLIGENT.

11. EXPORT RESTRICTIONS. Buyer acknowledges that each Product and any related software and technology, including technical information supplied by Seller or contained in documents (collectively "Items"), is subject to export controls of the U.S. government. The export controls may include, but are not limited to, those of the Export Administration Regulations of the U.S. Department of Commerce (the "EAR"), which may restrict or require licenses for the export of Items from the United States and their re-export from other countries. Buyer shall comply with the EAR and all other applicable laws, regulations, laws, treaties, and agreements relating to the export, re-export, and import of any Item. Buyer shall not, without first obtaining the required license to do so from the appropriate U.S. government agency; (i) export or re-export any Item, or (ii) export, re-export, distribute or supply any Item to any restricted or embargoed country or to a person or entity whose privilege to participate in exports has been denied or restricted by the U.S. government. Buyer shall, if requested by Seller, provide information on the end user and end use of any Item exported or to be exported by Buyer. Buyer shall cooperate fully with Seller in any official or unofficial audit or inspection related to applicable export or import control laws or regulations, and shall indemnify and hold Seller harmless from, or in connection with, any violation of this Section by Buyer or its employees, consultants, or agents.

12. MISCELLANEOUS. (a) Buyer may not delegate any duties nor assign any rights or claims hereunder without Seller's prior written consent, and any such attempted delegation or assignment shall be void. (b) The rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Seller's manufacturing location, without reference to its choice of law provisions. Each party hereby irrevocably consents to the exclusive jurisdiction of the state and federal courts located in the county and state of Seller's manufacturing location, in any action arising out of or relating to this Agreement and waives any other venue to which it may be entitled by domicile or otherwise. (c) In the event of any legal proceeding between the Seller and Buyer relating to this Agreement, neither party may claim the right to a trial by jury, and both parties waive any right they may have under applicable law or otherwise to a right to a trial by jury. Any action arising under this Agreement must be brought within one (1) year from the date that the cause of action arose. (d) The application to this Agreement of the U.N. Convention on Contracts for the International Sale of Goods is hereby expressly excluded. (e) In the event that any one or more provisions contained herein shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall remain in full force and effect, unless the revision materially changes the bargain. (f) Seller's failure to enforce, or Seller's waiver of a breach of, any provision contained herein shall not constitute a waiver of any other breach or of such provision. (g) Unless otherwise expressly stated on the Product or in the documentation accompanying the Product, the Product is intended for research only and is not to be used for any other purpose, including without limitation, unauthorized commercial uses, in vitro diagnostic uses, ex vivo or in vivo therapeutic uses, or any type of consumption by or application to humans or animals. (h) Buyer agrees that all pricing, discounts and technical information that Seller provides to Buyer are the confidential and proprietary information of Seller. Buyer agrees to (1) keep such information confidential and not disclose such information to any third party, and (2) use such information solely for Buyer's internal purposes and in connection with the Products supplied hereunder. Nothing herein shall restrict the use of information available to the general public. (i) Any notice or communication required or permitted hereunder shall be in writing and shall be deemed received when personally delivered or three (3) business days after being sent by certified mail, postage prepaid, to a party at the address specified herein or at such other address as either party may from time to time designate to the other.

To place your order and expedite shipment, please fax or e-mail your Purchase Order with all associated terms and conditions (and tax exemption certificate, if applicable).

All purchase orders must show the vendor name of Thermo Electron North America LLC at one of the addresses below:

Thermo Electron North America LLC
5225 Verona Road
Madison, WI 53711

Thermo Electron North America LLC
1400 Northpoint Parkway, Ste 50
West Palm Beach, FL 33407

Complete System Orders
Fax: 608-273-6882
E-mail: usmadorderprocessing@thermofisher.com

Complete System Orders
Fax #561-688-8731
E-mail: uspal.orderprocessing@thermofisher.com

Parts Orders
Fax #608-273-5045
E-mail: fseserviceorders@thermofisher.com

Parts Orders
Fax #561-688-8731
E-mail: fseserviceorder2@thermofisher.com

Please reference our quotation number on your purchase order and on any correspondence regarding the quotation.


Items marked with an asterisk (*) on the face of the quotation are non-Thermo Electron North America LLC products. Thermo Electron North America LLC is not responsible for the installation, operation or warranty of any of these products. Thermo Electron North America LLC manufacturers may provide their own warranties to you.


SEE THE WARRANTY STATEMENT IN THE PRODUCT DOCUMENTATION FOR THE COMPLETE WARRANTY, AND THE WARRANTY AND EXCLUSIONS INCLUDED ON THIS FORM.

Prices, warranty, installation and service on the items quoted herein are available only in the United States, and may not be otherwise assigned.

Buyer shall pay federal, state and local taxes in addition to the price stated on this order unless buyer gives Thermo Electron North America LLC a signed exemption certificate or direct pay permit. You may fax these documents to us. Your purchase order should also indicate the sales tax status of your order.

Buyer shall not export or re-export technical data or products supplied by Thermo Electron North America LLC in violation of applicable export regulations. Buyer who exports from the U.S. products purchased hereunder assumes all responsibility for obtaining any required export authorization and payment of applicable fees.


Signature _____


Date _____

April 22, 2005

Dear Colleague;

Thermo continues to reorganize around the way you, our customer, does business. Many customers buy combinations of our leading Thermo brand mass spectrometry, elemental analysis, molecular spectroscopy and chromatography offerings, and have asked for the ability to buy those products from a single entity.

We're working hard to deliver by combining two of our largest legal entities – this means that the many customers who interact with both entities today will more conveniently be able to deal with us as a single supplier.

On May 2, 2005, our spectroscopy, chromatography, mass spectrometry instrumentation and service businesses will effectively interact with you through one, new legal name: **Thermo Electron North America LLC.**

You can still find us as at the same email address and telephone number as before – but the supplier entities, remittance address, and Federal Tax ID you've used for purchasing will become one. Instead of:

- Thermo Finnigan LLC with Federal Tax ID 04-3535157, and
- Thermo Electron Scientific Instruments Corporation with Federal Tax ID 39-1085016

You'll use Thermo Electron North America LLC with Federal Tax ID 43-1992201 and send invoices to the address indicated in the gray box above.

Please take the time to update this key information about us in your supplier database, and ensure that your Finance department updates your purchasing and accounts payable systems.

We'll continue working on changes like this one to make it easier for you to do business with us, and apologize for any inconvenience. We remain dedicated to providing you with state-of-the-art scientific solutions and technological expertise. If you have any questions, please contact us at 1-800-532-4752. We'll be happy to work with you and your organization as need be to facilitate this change.

Sincerely,

Greg Herrema
President, Scientific Instruments

Thermo Finnigan LLC
and
Thermo Electron Scientific Instruments Corp.
will sell under a new, single legal entity of
Thermo Electron North America LLC
Effective May 2, 2005

- Direct contact information (person, email, phone, FAX) remain the same
- Remittance address for invoices dated May 2 or later changes to:
Thermo Electron North America LLC
PO Box 712102
Cincinnati, OH 45271-2102
Federal Tax ID # (FEIN) changes to: 43-1992201

We'll continue to market products from these legal entities under our Thermo brand name.

