



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

Solicitation

NUMBER
WEH13094

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF
ROBERTA WAGNER 304 558 0067

VENDOR

*709002256 02 724-714-2912
 OLYMPUS AMERICA INC
 3500 CORPORATE PKWY
 CENTER VALLEY PA 18034

SHIP TO

HEALTH AND HUMAN RESOURCES
 WELCH COMMUNITY HOSPITAL
 454 MCDOWELL STREET
 WELCH, WV 24801 304-436-8710

DATE PRINTED
03/07/2013

BID OPENING DATE: 03/07/2013 BID OPENING TIME: 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	EA	493-99	OLYMPUS ITEM #CV-180: EVIS EXERA II VIDEO SYSTEM OR	\$18,213.50	\$18,213.50
0002	1	EA	493-99	OLYMPUS ITEM #CLV-180: EVIS EXERA II HIGH INTENSITY	\$10,402.50	\$10,402.50
0003	1	EA	493-99	OLYMPUS ITEM #OEP-4: OLYMPUS HD COLOR PRINTER OR	\$4,380.00	\$4,380.00
0004	1	EA	493-99	OLYMPUS ITEM #OEV-261H: OLYMPUS 26" FULL HD LCD	\$6,669.00	\$6,669.00
0005	1	EA	493-99	OLYMPUS ITEM #OTV-S7ROH-HD-12E: VISERA PRO	\$15,330.00	\$15,330.00

*Per Quote # 138303-12, attached.
 Please note Demo & CPO Equipment
 has been quoted per specifications.

03/07/13 09:33:42 AM
 West Virginia Purchasing Division

SIGNATURE	TELEPHONE	DATE
	800-848-9024	03/05/2013
TITLE	FBN	ADDRESS CHANGES TO BE NOTED ABOVE
Executive Vice-President, MSG	11-2416961	

WHEN RESPONDING TO SOLICITATION, 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

Solicitation

NUMBER
 WEH13094

PAGE
 2

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

PROPERTY
 *709002256 02 724-714-2912
 OLYMPUS AMERICA INC
 3500 CORPORATE PKWY
 CENTER VALLEY PA 18034

SHIP TO
 HEALTH AND HUMAN RESOURCES
 WELCH COMMUNITY HOSPITAL
 454 MCDOWELL STREET
 WELCH, WV
 24801 304-436-8710

DATE PRINTED
 02/07/2013
 BID OPENING DATE: 03/07/2013

BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0006	1	EA	493-99	OLYMPUS ITEM #WA03210A: LIGHT GUIDE NO LESS THAN 4	\$630.00	\$630.00
0007	1	EA	493-99	OLYMPUS ITEM #K10021769: WM-NP2 WORKSTATION GI CO2,	\$4,704.00	\$4,704.00
0008	1	EA	493-99	OLYMPUS ITEM #UHI-3 HIGH FLOW INSUFFLATOR OR EQUAL	\$7,300.00	\$7,300.00
0009	1	EA	493-99	OLYMPUS ITEM #MAJ-884 PRINTER CABLE SET A: OR EQUAL	\$418.00	\$418.00
0010	1	EA	493-99	OLYMPUS ITEM #55556L25-1: 25 FOOT BNC CABLE OR EQUAL	\$31.64	\$31.64

*Per Quote # 138303-12, attached.
 Please note Demo & CPO Equipment
 has been quoted per specifications.

SIGNATURE  TELEPHONE 800-848-9024 DATE 03/05/2013
 TITLE Executive Vice-President, MSG FEN 11/2416961 ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO SOLICITATION, 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

Solicitation

NUMBER	PAGE
WEH13094	3

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

VENDOR
 *709002256 02 724-714-2912
 OLYMPUS AMERICA INC
 3500 CORPORATE PKWY
 CENTER VALLEY PA 18034

SHIP TO
 HEALTH AND HUMAN RESOURCES
 WELCH COMMUNITY HOSPITAL
 454 MCDOWELL STREET
 WELCH, WV 24801 304-436-8710

DATE PRINTED
 02/07/2013

BID OPENING DATE: 03/07/2013 BID OPENING TIME: 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0011	1	EA		493-99 PC CARD ADAPTER SET /1GB CF CARD OR EQUAL	\$136.00	\$136.00
0012	1	JB		962-46 OTV-S7H-FA-E INSTALLATION Included	\$1,500.00	\$1500.00
0013	1	EA		493-99 MANUAL/CD'S Included		N/A
0014	1	EA		493-99 WARRANTY Included		N/A
0015	1	JB		962-24 DELIVERY		\$566.46

*Per Quote # 138303-12, attached.
 Please note Demo & CPO Equipment
 has been quoted per specifications.

SIGNATURE:  TELEPHONE: 800-848-9024 DATE: 03/05/2013
 TITLE: Executive Vice-President, MSG FEIN: 11-2416961 ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO SOLICITATION, 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

Solicitation

NUMBER
 WEH13094

PAGE
 4

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

*709002256 02 724-714-2912
 OLYMPUS AMERICA INC
 3500 CORPORATE PKWY
 CENTER VALLEY PA 18034

HEALTH AND HUMAN RESOURCES
 WELCH COMMUNITY HOSPITAL
 454 MCDOWELL STREET
 WELCH, WV 24801
 304-436-8710

DATE PRINTED

02/07/2013
 BID OPENING DATE

03/07/2013

BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0016	1	JB		924-35		N/A
				In-SERVICE TRAINING		
<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 SPECIFICATIONS IN ACCORDANCE WITH SECTION 148-1-4(F) OF THE WEST VIRGINIA LEGISLATIVE RULES AND REGULATIONS.</p>						
***** THIS IS THE END OF RFQ WEH13094 ***** TOTAL:						\$67,281.10

*Per Quote # 138303-12, attached.
 Please note Demo & CPO Equipment has been quoted per specifications.

SIGNATURE

TELEPHONE

800-848-9024

DATE

03/05/2013

TITLE
 Executive Vice-President, MSG

FEIN
 11-2416961

ADDRESS CHANGES TO BE NOTED ABOVE

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



Your Vision, Our Future

Olympus America Inc.
3500 Corporate Parkway
P.O. BOX 610
Center Valley, PA 18034-0610

TEL: (800) 848 9024
FAX: (800) 228 4963

Timothy.vincent@olympus.com
www.olympusamerica.com

Quote Number: 138303-12

Please refer to this number on all correspondence

Quote Name: Welch OR Video 180 Tower Upgrade

Effective Date: February 27, 2013

Expiration Date: April 27, 2013

Customer Information

Contact Name: Debbie Altizer
Contact Email:

Account Name: WELCH EMERGENCY HOSPITAL
Customer Address: 454 MCDOWELL ST.
WELCH, WV 24801
Customer Number: 103219

Olympus Representative Information

Name: Timothy Vincent
Phone: (304) 816 7440
Email: Timothy.vincent@olympus.com

Payment Terms: Net 30 days subject to Olympus credit approval
F.O.B. Shipping Point

Comments

Additional Notes Model Description Unit Price Installation No Charge Manual/CD's No Charge Warranty No Charge line #15 Delivery Added as freight on page 2 of quote in total pricing line #16 In-Service Training No Charge

Quoted Products

Table with 8 columns: #, Item Type, Model and Description, Qty, List Price, Contract Price, Unit Price, Total Price. Contains 11 rows of product data including items like CV-180 video system center, CLV-180 light source, OEP-4 printer, etc.

* DENOTES OPEN MARKET ITEM
Pricing may be based on a local agreement or the following contract(s):
Premier PPOR/778 Surg-Video T1
Premier PP-OR-778 GI Tier 1

Quoted "CPO" item(s) reflect Certified Pre-Owned equipment and pricing. CPO items are subject to limited availability.
"Demo" item(s) reflect demo pricing and are subject to limited availability.



Your Vision, Our Future

Olympus America Inc.
3500 Corporate Parkway
P.O. BOX 610
Center Valley, PA 18034-0610

TEL: (800) 848 9024
FAX: (800) 228 4963

Timothy.vincent@olympus.com
www.olympusamerica.com

Quote Number: 138303-12

Please refer to this number on all correspondence

Quote Name: Welch OR Video 180 Tower Upgrade

Effective Date: February 27, 2013

Expiration Date: April 27, 2013

Trade-In Terms and Conditions (If Applicable)

1. Trade-In equipment must originate from the facility purchasing the new equipment and must have original serial number tags intact.
2. Trade-In credits are offered exclusively on a one-for-one basis toward the simultaneous purchase of a like-kind product from any product category (i.e. video/fiber GI, SIG, Pulmonary, ENT, Intubation) and listed in or identified under the quoted products section. Olympus reserves the right in its sole discretion to make the final determination of what constitutes like-kind product categories.
3. Trade-In credits will be issued to the customer facility upon Olympus receipt and inspection of the Trade-In equipment to verify its condition and value. Trade-In equipment must be received by the Olympus facility in San Jose, CA within 30 days from the customers receipt of the like-kind product. Olympus reserves the right to cancel the associated credits to the customer if the Trade-In equipment is not received within the 30-day timeframe.
4. Trade-In equipment will be accepted by Olympus for credit only, and under no circumstances will Trade-In equipment be exchanged for cash.
5. Olympus reserves the right to modify the list of qualified models for trade-in or the stated value for any qualified model from time to time, based on then current market conditions and needs. Trade-in values are valid until the expiration date of this quote.

Trade-In Products

#	Model	Serial Number	Qty	Trade Amount(ea)	Trade Total
12	OTV-S7H-FA-E: OTV-S7H-FA-E, VISERA AUTOCLAVA BLE, FOCUS FREE C.H.INTRGTD "E"	7500376	1	\$1,500.00	\$1,500.00

WELCH EMERGENCY HOSPITAL

Signature: _____

Name: _____

Title: _____

Effective Date: _____

Purchase Order #: _____

Total List Price: \$91,956.30
 Total Selling Price: \$68,214.64
 Total Trade-In(s): \$1,500.00
 Sub Total: \$66,714.64
 Freight: \$566.46
Total: \$67,281.10

- I. Olympus Standard Terms and Conditions apply to this quote, unless otherwise mutually agreed upon in writing.
- II. Errors & Omissions Excepted. Price quotes and the total package prices are for the quoted items only.
- III. Changes and additions to, or deletions from this quote may cause pricing adjustments.
- IV. Service manuals and additional operator manuals are not included and may be ordered by contacting the Customer Care Center at (800) 848 9024.
- V. If freight charge is included, the freight charge may not necessarily reflect the exact charge paid by Olympus to the carrier due to the volume incentive discount agreements entered into between Olympus and carrier, unless otherwise mutually agreed upon in writing.

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.
2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

A pre-bid meeting will not be held prior to bid opening.

A **NON-MANDATORY PRE-BID** meeting will be held at the following place and time:

A **MANDATORY PRE-BID** meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required

information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

- 4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline:

Submit Questions to:

Fax:

Email:

- 5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

- 6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The bid delivery address is:

Department of Administration, Purchasing Division
 2019 Washington Street East
 P.O. Box 50130,
 Charleston, WV 25305-0130

The bid should contain the information listed below on the face of the envelope or the bid may not be considered:

SEALED BID
 BUYER: Roberta Wagner
 SOLICITATION NO.: WEH13094
 BID OPENING DATE: March 7, 2013
 BID OPENING TIME: 1:30 PM
 FAX NUMBER: 304-558-4115

In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE: Technical
 Cost

7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by the official Purchasing Division time clock.

Bid Opening Date and Time:

Bid Opening Location: Department of Administration, Purchasing Division
 2019 Washington Street East
 P.O. Box 50130,
 Charleston, WV 25305-0130

8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

In the event of a conflict, the Terms and Conditions of the Premier - Olympus America Inc. Contract # PP-OR-778 will be applicable, under which the facility is shown as a Participating Member.

GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** Issuance of a Purchase Order signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid 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 "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods and services requested in the Solicitation.
 - 2.3 "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.
 - 2.4 "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.
 - 2.5 "Purchase Order" 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 successful bidder and Contract holder.
 - 2.6 "Solicitation" means the official solicitation published by the Purchasing Division and identified by number on the first page thereof.
 - 2.7 "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
 - 2.8 "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.

4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Purchase Order will be considered notice to proceed
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 are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.
 - Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.
 - Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.
 - One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.
6. **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.
7. **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.
8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.
- BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

| | **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of [] The performance bond must be issued and received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

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

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable.

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

| ✓ | **WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide proof thereof upon request.

| | **INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award:

| | **Commercial General Liability Insurance:**
[] or more.

| | **Builders Risk Insurance:** builders risk - all risk insurance in an amount equal to 100% of the amount of the Contract.

The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

- LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

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

- 9. LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.
- 10. ALTERNATES:** Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.
- 11. EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or

other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. LIQUIDATED DAMAGES: Vendor shall pay liquidated damages in the amount

	for	

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. Not applicable.

13. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.

14. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee if applicable.

15. COMMUNICATION LIMITATIONS: In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

16. 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.

17. PAYMENT: Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To."

18. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

19. DELIVERY: All quotations are considered freight on board ~~destination~~ ("F.O.B. ~~destination~~^{shipping point}") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification. Delivery is F.O.B. Shipping point, freight costs prepaid and added to customer invoice.

20. INTEREST: Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.

21. PREFERENCE: Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Resident Vendor Certification form has been attached hereto to allow Vendor to apply for the preference. Vendor's

failure to submit the Resident Vendor Certification form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.

- 22. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid on or after July 1, 2012, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to submission of its bid to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.
- 23. 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.
Tax exemption certificate to be provided to Vendor prior to order placement if not already on file.
- 24. 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 cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-7.16.2. Contract may be cancelled prior to order shipment. Upon shipment of product, the Vendor Return Goods Policy is applicable as attached herein.
- 25. WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.
- 26. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
- 27. 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.
- 28. COMPLIANCE:** Vendor shall comply with all applicable federal, ^{and} state, ~~and local~~ laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.
- 29. PREVAILING WAGE:** On any contract for the construction of a public improvement, Vendor and any subcontractors utilized by Vendor shall pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages (prevailing wage), as established by the West Virginia Division of Labor under West Virginia Code §§ 21-5A-1 et seq. and available at <http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx>. Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage

requirements are applicable. The required contract provisions contained in West Virginia Code of State Rules § 42-7-3 are specifically incorporated herein by reference.

- 30. 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.
- 31. 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). **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.**
- 32. 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.
- 33. 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.
- 34. 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. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.
- 35. 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.
- 36. 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.
- 37. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

- 38. HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at <http://www.state.wv.us/admin/purchase/vrc/hipaa.html> and is hereby made part of the agreement provided that the Agency meets the definition of a Covered entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the Vendor. Not applicable to specified product.
- 39. CONFIDENTIALITY:** The ^{parties} Vendor ^{they} agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the ^{other party} 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 ^{party's} Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>, to the extent that such requirements do not conflict with the Vendor's own policies.
- 40. DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.

If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.

- 41. LICENSING:** In accordance with West Virginia Code of State Rules §148-1-6.1.7, 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. 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.

~~42. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Purchase Order 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.~~

43. **VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid for the same material, supplies, equipment or services; (2) that its bid is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this RFQ in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

The individual signing this bid on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

44. **PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.

Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

45. **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.

46. 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.~~

Vendor's Indemnification policy is applicable as attached herein.

47. PURCHASING AFFIDAVIT: In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.

48. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE: This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner. Vendor does not extend this Contract for utilization by other agencies, spending units, or political subdivisions of the State of West Virginia.

49. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire any 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.

50. 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.requisitions@wv.gov.

51. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

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.

52. 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.

The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

- a. 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

- b. 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.

53. 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.

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of West Virginia Department of Health and Human Resources/West Virginia Bureau for Behavioral Health and Health Facilities/Welch Community Hospital to establish a contract for the one time purchase of a certified pre-owned or demo laparoscopic system with a manufactured date within 2012.
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
 - 2.1 **“Contract Item”** means one (1) Olympus Item #CV-180:,EVIS EXERA II video system center or equal, one (1) Olympus Item #CLV-180: EVIS EXERA II high intensity 300W xenon light source or equal, one (1) Olympus Item #OEP-4: Olympus HD color printer or equal, one (1) Olympus Item #OEV-261H: Olympus 26” full HD LCD Monitor or equal, one (1) Olympus Item #OTV-S7PROH-HD-12E: Visera Pro High-Definition, autoclavable camera head, 1.2X, eye-piece type or equal, one (1) Olympus Item #WA03210A: Light guide no less than 4 millimeter (mm) no greater than 7 millimeter (mm) x 3 meter (m) autoclavable without condenser or equal, one (1) Olympus Item #K10021769: WM-NP2 workstation GI CO2, standard set or equal, one (1) Olympus Item #High flow insufflator 35 L or equal, one (1) Olympus Item #MAJ-884 Printer cable Set A: Connects CV-160/180 with Mavigraph containing RS-232C terminal; Includes MH-984 RGB cable, MH-995 remote cable for RS-232C terminal, MB-677 BNC cable or equal, one (1) Olympus Item #55556L25-1: 25 foot BNC cable, and one (1) Olympus Item #N3808200: PC Card adapter set w/1GB CF Card or equal by Welch Community Hospital.
 - 2.2 **“Pricing Page”** means the pages upon which Vendor should list its proposed price for the Contract Items in the manner requested. The Pricing Page is either included on the last page of this RFQ or attached hereto as Exhibit A.
 - 2.3 **“RFQ”** means the official request for quotation published by the Purchasing Division and identified as WEH13094.
3. **GENERAL REQUIREMENTS:**
 - 3.1 **Mandatory Contract Item Requirements:** Contract Item must meet or exceed the mandatory requirements listed below.
 - 3.1.1 One (1) Olympus Item #CV-180:,EVIS EXERA II video system center or equal.

REQUEST FOR QUOTATION
WEH13094 Laparoscopy System

- 3.1.1.1 Must be equipped with high-resolution high definition television (HDTV) and Narrow Band Imaging (NBI) capabilities.
- 3.1.1.2 Must have at least two (2) types of structure enhancement. One (1) for larger mucosal structures with high contrast and one (1) for smaller structures, such as capillaries.
- 3.1.1.3 Must have electronic magnification that enlarges moving images at the touch of a button on the scope and on the keyboard.
- 3.1.1.4 Must have High Definition (HD)/Secure Digital (SD) serial digital interface (SDI) output for high-quality video image transfer.
- 3.1.1.5 Must have digital-to-digital recording of both the still and moving images.
- 3.1.1.6 Must have automatic Iris that eliminates the need for switching between peak and average.
- 3.1.1.7 Must have convenient index display for documentation.
- 3.1.1.8 Must have picture-in-picture display for different combination of images.
- 3.1.1.9 Must have HDTV signal output.
- 3.1.1.10 Must have SDTV signal output.
- 3.1.1.11 Must have white balance adjustment.
- 3.1.1.12 Must have color tone adjustment.
- 3.1.1.13 Must have automatic gain control (AGC).
- 3.1.1.14 Must have image enhancement setting.
- 3.1.1.15 Must have switching for enhancement modes.

REQUEST FOR QUOTATION
WEH13094 Laparoscopy System

- 3.1.1.16 Must have image size selection.
- 3.1.1.17 Must have image "freeze" capability.
- 3.1.1.18 Must have ability to control ancillary equipment from the front panel, keyboard, and endoscopes remote switches
- 3.1.1.19 Must have ability to display patient data on monitor by keyboard.
- 3.1.1.20 Must have ability to perform advance registration of patient data of at least 40 patients.
- 3.1.1.21 Must have personal computer (PC) card capability.
- 3.1.1.22 Must have ability to memorize select settings
- 3.1.2 One (1) Olympus Item #CLV-180: EVIS EXERA II high intensity 300W xenon light source or equal.
 - 3.1.2.1 Must be equipped with specially coated filters for Narrow Band Imaging (NBI).
 - 3.1.2.2 Must have lamp that can be turned on/off without turning off the equipment.
 - 3.1.2.3 Must automatically adjust light intensity to achieve ideal illumination for observation of the gastrointestinal tract.
 - 3.1.2.4 Must have at least 300 watt (w) lamp.
 - 3.1.2.5 Must have backlit front panel indicators and controls to improve operability.
 - 3.1.2.6 Must have automatic brightness control.
 - 3.1.2.7 Must have air feeding pump with pressure switching at four (4) levels (off, low, mid, and high).

REQUEST FOR QUOTATION
WEH13094 Laparoscopy System

24

- 3.1.2.8 Must have water feeding with air pressurization or detachable water container.
- 3.1.2.9 Must have indicators on front panel that reports absence of emergency lamp, disconnection and use of emergency lamp.
- 3.1.2.10 Must have indicators on front panel that indicates normal observation and when under NBI observation. correct
- 3.1.2.11 Must have indicator on control panel that indicates if a special filter is installed in the light source.
- 3.1.2.12 Must leave memory settings even when the light source is off.
- 3.1.2.13 Must have examination lamp.
- 3.1.2.14 Must have ignition method with switching regulator.
- 3.1.2.15 Must have brightness adjustment.
- 3.1.2.16 Must have forced-air cooling.
- 3.1.2.17 Must have color conversion capability.
- 3.1.2.18 Must have emergency lamp.
- 3.1.2.19 Must have a voltage (v) of 120.
- 3.1.2.20 Voltage (v) fluctuation Must be within +/- ten (10) percent (%).
- 3.1.2.21 Must have frequency of 50/60 hertz (Hz).
- 3.1.2.22 Frequency fluctuation must be within +/- one Hz.

REQUEST FOR QUOTATION
WEH13094 Laparoscopy System

- 3.1.3 One (1) Olympus Item #OEP-4: Olympus HD color printer or equal.
- 3.1.4 One (1) Olympus Item #OEV-261H: Olympus 26" full HD LCD Monitor or equal.
- 3.1.5 One (1) Olympus Item #OTV-S7PROH-HD-12E: Visera Pro High-Definition, autoclavable camera head, 1.2X, eye-piece type or equal.
- 3.1.6 One (1) Olympus Item #WA03210A: Light guide at least 4 mm no greater than 7mm x 3 m autoclavable without condenser or equal.
- 3.1.7 One (1) Olympus Item #K10021769: WM-NP2 workstation GI CO2, standard set or equal.
- 3.1.8 One (1) Olympus Item #UHI-3: High flow insufflator 35 L or 40 L or equal.
- 3.1.9 One (1) Olympus Item #MAJ-884 Printer cable Set A: Connects CV-160/180 with Mavigraph containing RS-232C terminal; Includes MH-984 RGB cable, MH-995 remote cable for RS-232C terminal, MB-677 BNC cable or equal.
- 3.1.10 One (1) Olympus Item #55556L25-1: 25 foot BNC cable or equal.
- 3.1.11 One (1) Olympus Item #N3808200: PC Card adapter set w/1GB CF Card or equal.
- 3.1.12 Installation.
 - 3.1.12.1 Must include all hardware necessary for installation, (cords and cables). Vendor shall install within ten (10) days after receiving a purchase order or notice to proceed.

3.1.13 Must include manual/CDs for trouble shooting equipment problems. Must have ability to buy parts for repair from bid winner.

3.1.14 Warranty.

3.1.14.1 Equipment valued over \$1,000.00 must have pricing for one (1) year warranty. Items valued under \$1,000.00 will be sufficient with manufacturer ninety (90) day Warranty.

3.1.15 Delivery.

3.1.15.1 Vendor shall deliver within ^{thirty to forty-five (30-45)} ~~ten (10)~~ days after receiving a purchase order ~~or notice to proceed.~~

3.1.15.2 Must include all hardware necessary for installation, (cords and cables).

3.1.16 In-Service Training

3.1.16.1 Vendor shall provide in-house staff training and education of equipment for up to fifteen (15) users to include all surgical personnel including surgeons, nurses, and central sterile on use, cleaning, and care of the product within ten (10) days after receiving a purchase order or notice to proceed.
Arrangements to be made upon mutual agreement of facility and Olympus Sales Representative.

4. CONTRACT AWARD:

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

4.2 Pricing Page: Vendor should complete the Pricing Page by inserting a purchase price for the desired items. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

REQUEST FOR QUOTATION
WEH13094 Laparoscopy System

27

5. PAYMENT:

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

Payment terms are Net 30 days from date of invoice.

6. DELIVERY AND RETURN:

6.1 **Shipment and Delivery:** Vendor shall ship the Contract Items ~~immediately~~ ^{promptly} after being awarded this Contract and receiving a purchase order or notice to proceed. Vendor shall deliver the Contract Items within ~~ten (10) working days~~ ^{30-45 days} after receiving a purchase order or notice to proceed. Contract Items must be delivered to Agency at Welch Community Hospital, 454 McDowell Street, Welch, WV 24801. ARO.

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

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

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

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

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

REQUEST FOR QUOTATION
WEH13094 Laparoscopy System

28

~~be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.~~ in accordance with the Vendor's Return Goods Policy, herein attached.

Description/Equipment	Quantity	Cost Per Unit	Total Cost
1. Olympus Item #CV-180:,EVIS EXERA II video system center or equal	1	\$18,213.50	\$18,213.50
2. Olympus Item #CLV-180: EVIS EXERA II high intensity 300W xenon light source or equal	1	\$10,402.50	\$10,402.50
3. Olympus Item #OEP-4: Olympus HD color printer or equal	1	\$4,380.00	\$4,380.00
4. Olympus Item #OEV-261H: Olympus 26" full HD LCD Monitor or equal	1	\$6,669.00	\$6,669.00
5. Olympus Item #OTV-S7PROH-HD-12E: Visera Pro High-Definition, autoclavable camera head, 1.2X, eye-piece type or equal,	1	\$15,330.00	\$15,330.00
6. Olympus Item #WA03210A: Light guide no less than 4 millimeter (mm) no greater than 7 millimeter (mm) x 3 meter (m) autoclavable without condenser or equal	1	\$630.00	\$630.00
7. Olympus Item #K10021769: WM-NP2 workstation GI CO2, standard set or equal	1	\$4,704.00	\$4,704.00
8. Olympus Item # UHI-3: High flow insufflator 35 L or equal	1	\$7,300.00	\$7,300.00
9. Olympus Item #MAJ-884 Printer cable Set A: or equal	1	\$418.00	\$418.00
10. Olympus Item #55556L25-1: 25 foot BNC cable or equal	1	\$31.64	\$31.64
11. PC Card adapter set w/1GB CF Card or equal	1	\$136.00	\$136.00
12. Installation OTV-S7H-FA-E, VISERA AUTOCLAVABLE FOCUS FREE C.H. INTRGD "E"	1	\$1,500.00	\$1,500.00
13. Manual/CDs & Installation - Included	1		N/A
14. Warranty Included	1		N/A
15. Delivery F.O.B Shipping Point, prepaid and added to invoice.	1		\$566.46
16. In-service and Training Included	1		N/A
Total Per Olympus Quote # 138303-12, attached.			\$67,281.10

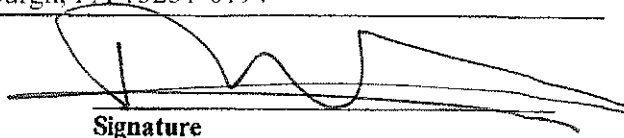
Evaluation and Award Criteria: Contract shall be awarded to the Vendor that provides the Desired Items meeting the required specifications for the lowest overall total cost.

Olympus America Inc.
Vendor Name (Printed)

3500 Corporate Parkway, Center Valley, PA 18034
Purchase Order Address

Olympus America Inc., Box 200194, Pittsburgh, PA 15251-0194
Vendor Remit-To Address:

Executive Vice-President, MSG
Vendor Authorized Representative (Printed)
Date 3/5/2013



Signature

800-848-9024
Telephone

800-228-4963
Fax

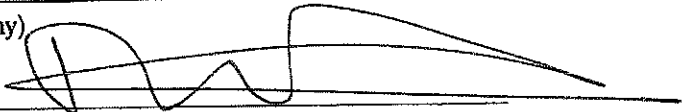
RFPS@olympus.com
E-mail

CERTIFICATION AND SIGNATURE PAGE

By signing below, I certify that I have reviewed this Solicitation in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this bid or proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

Olympus America Inc.

(Company)


(Authorized Signature)

Executive Vice-President, MSG

(Representative Name, Title)

800-848-9024

(Phone Number)

800-228-4963

(Fax Number)

03/05/2013

(Date)

ADDENDUM ACKNOWLEDGEMENT FORM**SOLICITATION NO.:** WSH13094

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

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

Addendum Numbers Received:

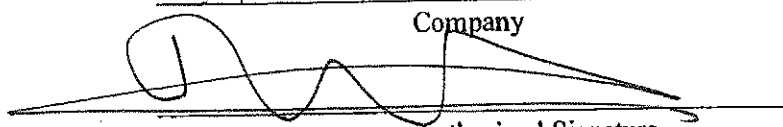
(Check the box next to each addendum received)

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

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

Olympus America Inc.

Company


 Authorized Signature
03/05/2013

Date

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

SOLICITATION NUMBER: WEH13094
Addendum Number: 01

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

Applicable Addendum Category:

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

Description of Modification to Solicitation:

1. To provide answer to questions regarding the original RFQ.
2. To provide Addendum Acknowledgment.

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

Terms and Conditions:

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

ATTACHMENT A

Addendum 1
WEH13094 Laparoscopy System

Q.1 I am working on a bid for the RFQ for a Laparoscopy system. The RFQ requests every part for a rigid or flexible set-up, but does not have scopes for either one. Does the facility already have the necessary scopes to complete the system?

A.1 Yes, scopes are not required as part of this RFQ.

Q.2. I need your help on this please. It says pretty clearly that I must complete the bid in a electronic format or risk being disqualified. I am trying to work on this with my boss and I want to be sure we have everything right. Is there any some way you can get this for me.

A.2. We do not have an electronic file.

Q.3. Thank you for sending out the information for the tower bid. I was reading through the paper work for the Welch Community Hospital Pre-owned Olympus Tower Bid and it ask for the paperwork to be typed. I wanted to ask for an electronic copy of that so I can put that together for you. Is that something you can send over for me?

A.3. This is not currently in an alterable electronic version. It is only in a pdf.

OLYMPUS

LIMITED WARRANTY

Olympus America Inc. ("Olympus") warrants that the enclosed Olympus products (individually a "Product" and collectively the "Products") will conform to current Olympus-published specifications and will be free from defects in materials and workmanship under normal use and service for a period of one (1) year from the date of invoice. (See *Annex A* for certain Product warranty periods and terms, which augment and/or differ from the foregoing standard one-year limited warranty.) If any Product proves to be non-conforming or defective within such warranty periods, the customer must return such Product to Olympus. Olympus, at its sole discretion, will repair or replace the non-conforming or defective Product, provided that Olympus investigation and factory inspection disclose that (a) such non-conformity or defect developed under normal and proper use and (b) the Product is covered under this limited warranty. Repair or replacement of non-conforming or defective Products shall be Olympus's sole obligation and the customer's exclusive remedy hereunder. The customer is liable and shall pay for shipment of the Products to and from the authorized Olympus service facility. Olympus shall not be obligated to perform preventive maintenance, installation, deinstallation, relocation, or maintenance. Olympus reserves the right to (i) use reconditioned, refurbished, and/or serviceable used parts (that meet Olympus's quality assurance standards) for warranty or any other repairs and (ii) make any internal or external design and/or feature changes on or to its products without any liability to incorporate such changes on or to the Products. The use of reconditioned, refurbished, or serviceable used parts may include, without limitation, replacing or exchanging major components of the Products such as a control unit or light guide tube.

Excluded from this limited warranty and not warranted by Olympus in any fashion, either express, implied, or by statute, are:

- (a) products and accessories not manufactured by Olympus and/or not bearing the "OLYMPUS" brand label (the warranty coverage for products and accessories of other manufacturers, which may be distributed by Olympus, is the responsibility of the manufacturers of such products and accessories in accordance with the terms and duration of such manufacturers' warranties);
- (b) any Product which has been disassembled, repaired, tampered with, altered, changed, or modified by persons other than Olympus's own authorized service personnel unless repair by others is made with the written consent of Olympus;
- (c) defects or damage to the Products resulting from wear, tear, misuse, abuse, negligence, impact, improper storage, non-performance of scheduled operator and maintenance items, or use of non-OLYMPUS brand

- accessories, consumables, or supplies, or non-approved reprocessing methods;
- (d) software programs;
 - (e) supplies and consumables (including but not limited to lamps and cables);
 - (f) testing or certification of the Products' leakage current;
 - (g) thermal head printers;
 - (h) Products which do not contain a validly placed and recorded Olympus serial number; and/or
 - (i) any other exclusions applicable to those Products listed and as described on Annex A.

EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE, OLYMPUS MAKES NO AND DISCLAIMS ALL OTHER REPRESENTATIONS, GUARANTIES, CONDITIONS, AND WARRANTIES CONCERNING THE PRODUCTS, WHETHER DIRECT OR INDIRECT, EXPRESS OR IMPLIED, OR ARISING UNDER ANY STATUTE, ORDINANCE, COMMERCIAL USAGE OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OR REPRESENTATION AS TO SUITABILITY, DURABILITY, DESIGN, OPERATION, OR CONDITION OF THE PRODUCTS (OR ANY PART THEREOF), OR THE MERCHANTABILITY OF THE PRODUCTS OR THEIR FITNESS FOR A PARTICULAR PURPOSE, OR RELATING TO THE INFRINGEMENT OF ANY PATENT, COPYRIGHT, OR OTHER PROPRIETARY RIGHT USED OR INCLUDED THEREIN. IF ANY IMPLIED WARRANTIES APPLY AS A MATTER OF LAW, THEY ARE LIMITED IN DURATION TO THE LENGTH OF THIS LIMITED WARRANTY. SOME STATES MAY NOT RECOGNIZE A DISCLAIMER OR LIMITATION OF WARRANTIES AND/OR LIMITATION OF LIABILITY SO THE ABOVE DISCLAIMER AND EXCLUSIONS MAY NOT APPLY. THE CUSTOMER MAY ALSO HAVE DIFFERENT AND/OR ADDITIONAL RIGHTS AND REMEDIES THAT VARY FROM STATE TO STATE.

THE CUSTOMER ACKNOWLEDGES AND AGREES THAT OLYMPUS SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES THAT THE CUSTOMER MAY INCUR FROM DELAYED SHIPMENT, PRODUCT FAILURE, PRODUCT DESIGN, SELECTION, OR PRODUCTION OR FROM ANY OTHER CAUSE, WHETHER LIABILITY IS ASSERTED IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT PRODUCT LIABILITY) OR OTHERWISE. IN NO EVENT SHALL OLYMPUS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS OR LOSS OF USE), WHETHER OR NOT OLYMPUS SHALL BE OR SHOULD BE AWARE OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

In compliance with OSHA blood borne pathogen regulations and other applicable federal, state, and local regulations, Products that come into contact with potentially infectious

material must be decontaminated before being returned to Olympus under this limited warranty. Products must also be returned to Olympus in adequate packaging materials. Representations and warranties made by any person, including but not limited to representatives, salespersons, or agents of Olympus, which are inconsistent or in conflict with or in addition to the terms of this limited warranty, shall not be binding upon Olympus unless reduced to writing and approved by an expressly authorized officer of Olympus.

This limited warranty is the complete and exclusive statement of warranty which Olympus agrees to provide with respect to the Products and it shall supersede all prior and contemporaneous oral or written agreements, understandings, proposals, and communications pertaining to the subject matter hereof.

This limited warranty is exclusively for the benefit of the original Olympus customer (who has purchased the Products directly from Olympus or from an expressly authorized Olympus distributor) and cannot be transferred or assigned.

Annex A

- Laparoscopic hand instruments are warranted for a period of 90 days from the date of invoice.
- Olympus's Goldtip endoscope products, listed immediately below by model number, will be warranted against damage caused exclusively by autoclave sterilization for a period of five (5) years from the date of invoice. Olympus's Goldtip endoscope products are:

A1931A, A1932A, A1933A, A1934A, A1935A, A2021A, A2023A, A2027A, A2030A, A2031A, A2032A, A2033A, A2034A, A2035A, A20917A, A20918A, A20919A, A22001A, A22002A, A22003A, A22004A, A22005A, A2940A, A2941A, A2942A, A2943A, A2944A, A2946A, A2948A, A2949A, A3336A, A37025A, A37026A, A37027A, A3725A, A3726A, A3764A, A3765A, A4629A, A46700A, A4672A, A4673A, A4674A, A4675A, A4676A, A4677A, A4801A, A4803A, A4805A, A4884A, A4885A, A4941A, A4943A, A50372A, A50373A, A50374A, A52000A, A52001A, A5281A, A5282A, A5290A, A5291A, A5292A, A5294A, A5295A, A5296A, A5297A, A5298A, A5299A, A5372A, A5373A, A5374A, A70940A, A70941A, A70942A, A70960A, A70961A, A70962A, A70963A, A7500A, A7501A, A7504A, A7505A, A7506A, A7507A, A7594A, A7595A, A7597A, WA02943A, WA02944A, WA02946A, WA50295L, WA50296L, WA50372B, WA50373B, WA50374B.

In addition to the exclusions set forth in the main text of the limited warranty statement, excluded from this special five-year warranty are those of Olympus's Goldtip endoscope products which: (a) are purchased prior to April 1, 1998; (b) have been sterilized by a method other than steam autoclave or EtO gas sterilization; and/or (c) have experienced any kind of accelerated cooling methods after steam sterilization.

- Lifetime warranty against thermal damage for the ceramic beak of the Olympus products listed immediately below by model number:

Hysteroscopy: A4741, A4725, A42011A.

Urology: A22040A, A22040T, A22041A, A22041T, A22042A, A22042T, A22043A, A22043T, A2601, A2602, A2603, A2611, A2612, A2613, A2614, A2615, 2611(T), A2612(T), A2613(T), A2614(T), A2615(T), A2641, A2642, A2643, A2641(T), A2642(T), A2643(T), A2660, A2660(T), A2666, A2666(T).

In addition to the exclusions set forth in the main text of the limited warranty statement, this special lifetime warranty does not cover damage other than thermal damage and/or use of the aforementioned hysteroscopy and urology products in conjunction with non-Olympus equipment (including but not limited to electrodes).

OLYMPUS

OLYMPUS CREDIT/RETURN POLICY

All products are carefully packaged for shipment to prevent damage in transit. Olympus must be promptly notified (within 14 calendar days) after receipt of damaged products.

Olympus is not responsible for lost or damaged products once delivered to the carrier; however, Olympus/ will assist the purchaser in any reasonable manner in filing claims with the carrier for damages or lost products.

All returns for credit or warranty review must have prior Return Merchandise Authorization (RMA) from Olympus before shipment.

All authorized returns must be sent prepaid to Olympus and the RMA number must be prominently displayed on the shipping carton and all paperwork.

Merchandise returned with proper RMA identification, that is undamaged in the original packaging with all accompanying items and manuals (as shipped from Olympus), up to 30 days from invoice date, shall be credited at the original customer's purchase price. Credits will be given against buyer's account; no cash refunds will be issued.

Merchandise returned between days 31 and 90 shall be credited at original customers purchase price minus a restocking fee, calculated at 5% of list price. The restocking fee on returns between days 31 and 90 shall not exceed \$3,000 per item returned. All sales over 90 days are considered final.

Discontinued Products will not be accepted for return credit unless received by Olympus within 30 days of delivery.

Any sterile merchandise returned that is obsolete, discontinued, not on the current price list, beyond its specified expiration date, defaced, altered, damaged, has come into contact with body tissue or fluids, or is in an otherwise non-saleable condition are not eligible for return or credit. Sterile merchandise must be returned in full-box quantities with the outer seals and shrink-wrap intact. Sterile products with broken seals, over labeling, special/custom devices, lamps and obsolete merchandise not listed in Olympus' current price list are not returnable.

To comply with OSHA Bloodborne Pathogen Standard 29 CFR 1910.1030 regulations and U.S. Postal and Transportation law, all used medical devices returned for repair or replacement must be properly decontaminated with chemical germicide that has been cleared for use as a "Hospital Disinfectant." To ensure that the product has been properly decontaminated, a signed Decontamination Certificate should be enclosed in the package.

Merchandise returned that does not meet Olympus' policy will be returned to you at your expense.

OLYMPUS

INDEMNIFICATION

Infringement Indemnity.

(a) Should any product supplied hereunder become the subject of a United States patent, copyright, or other intellectual property right infringement suit or proceeding, OLYMPUS will endeavor (at OLYMPUS's option) to: (i) obtain a license that would permit CUSTOMER to continue to use the product, or (ii) modify the product to render it non-infringing, or (iii) refund the product's purchase price to CUSTOMER on a straight-line five-year amortization basis.

(b) OLYMPUS shall defend any suit or proceeding brought against CUSTOMER based on a third party's claim that any product supplied hereunder infringes a United States patent, copyright, or other intellectual property right, provided OLYMPUS is (i) notified promptly in writing of any such claim, (ii) given authority to control fully any such suit or proceeding, and (iii) in receipt of information and reasonable assistance and cooperation from CUSTOMER in preparation of the defense of any such suit or proceeding. Provided CUSTOMER complies with the above requirements, OLYMPUS shall pay all damages, costs, and expenses, including reasonable attorneys' fees of third parties (excluding CUSTOMER and affiliates of CUSTOMER), that CUSTOMER shall be legally required to pay on the basis of such infringement suit or proceeding and shall reimburse CUSTOMER for any authorized expense it incurs at OLYMPUS's written request.

(c) Notwithstanding subsections (a) and (b) hereof, OLYMPUS shall not be liable to CUSTOMER to the extent the patent, copyright, or other intellectual property infringement claim is based on or arises out of: (i) the use of equipment or materials not manufactured by OLYMPUS and/or not bearing the "OLYMPUS" brand label; (ii) any product which has been disassembled, repaired, tampered with, altered, changed, or modified by persons other than OLYMPUS's own authorized service personnel; (iii) failure of CUSTOMER or the end-user to use updated components provided by OLYMPUS for avoiding such infringement; (iv) use of the products in combination with apparatus or software not furnished by OLYMPUS except for those expressly approved in writing by OLYMPUS; (v) processes or methods allegedly performed by the products; (vi) use of the products in the manner for which they were neither designed nor contemplated; (vii) the negligence, omissions, or other misconduct of CUSTOMER; (viii) representations and warranties regarding the products made by CUSTOMER or any agents, salespersons, or representatives of OLYMPUS or CUSTOMER; (ix) a patent, copyright, or other intellectual property right in which CUSTOMER or an affiliate of CUSTOMER has a direct or indirect interest by license or otherwise; or (x) contributory or inducing infringement. THE FOREGOING SETS FORTH CUSTOMER'S EXCLUSIVE REMEDY AND OLYMPUS'S SOLE OBLIGATION WITH RESPECT TO INFRINGEMENT OF ANY PROPRIETARY RIGHT OF ANY OTHER PARTY BY THE PRODUCTS SUPPLIED HEREUNDER. IN NO EVENT SHALL

OLYMPUS BE RESPONSIBLE, WHETHER UNDER THIS SECTION, IN CONTRACT, TORT, OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL LOSSES OR DAMAGES INCURRED BY CUSTOMER, WHETHER OR NOT OLYMPUS SHALL BE OR SHOULD BE AWARE OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

Product Liability Indemnity.

(a) OLYMPUS shall defend any products liability suit or proceeding brought against CUSTOMER based on a third party's claim for bodily injury or property damage arising from the products or services provided hereunder, provided OLYMPUS is (i) notified promptly in writing of any such claim; (ii) given authority to control fully any such suit or proceeding; and (iii) in receipt of information and reasonable assistance and cooperation from CUSTOMER in preparation of the defense of any such suit or proceeding. Provided CUSTOMER complies with the above requirements, OLYMPUS shall pay all damages, costs, and expenses, including reasonable attorneys' fees of third parties (excluding CUSTOMER and affiliates of CUSTOMER), that CUSTOMER shall be legally required to pay on the basis of bodily injury or property damage and shall reimburse CUSTOMER for any authorized expense it incurs at OLYMPUS's written request. Notwithstanding the foregoing, OLYMPUS's liability to CUSTOMER or the aforementioned damages, costs, and expenses shall not exceed \$50,000.00 per occurrence and \$250,000.00 for all occurrences combined.

(b) Notwithstanding subsection (a) hereof, OLYMPUS shall not be liable to CUSTOMER to the extent the bodily injury or property damage claim is based on or arises out of: (i) the use of products not manufactured by OLYMPUS and/or not bearing the "OLYMPUS" brand label; (ii) any product which has been disassembled, repaired, tampered with, altered, changed, or modified by persons other than OLYMPUS's own authorized service personnel; (iii) the negligence, omissions, or other misconduct of CUSTOMER; (iv) representations and warranties regarding the products or services made by CUSTOMER or any agents, salespersons, or representatives of OLYMPUS or CUSTOMER; (v) the improper storage, usage, service, or maintenance of the products; (vi) failure of CUSTOMER or the end-user to use updated components provided by OLYMPUS for avoiding such injury or damage; or (vii) use of the products in a manner for which they were neither designed nor contemplated. THE FOREGOING SETS FORTH CUSTOMER'S EXCLUSIVE REMEDY AND OLYMPUS'S SOLE OBLIGATION WITH RESPECT TO ANY CLAIMS OF BODILY INJURY OR PROPERTY DAMAGE RELATING TO THE PRODUCTS OR SERVICES SUPPLIED HEREUNDER. IN NO EVENT SHALL OLYMPUS BE RESPONSIBLE, WHETHER UNDER THIS SECTION, IN CONTRACT, TORT, OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER OR NOT OLYMPUS SHALL BE OR SHOULD BE AWARE OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.