



All using Agencies of the Commonwealth, Participating Political
Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 408689

Supplier Name/Address:

Illumina Inc
5200 Illumina Way
San Diego CA 92122-4616 US

Supplier Phone Number: 800-809-4566

Supplier Fax Number: 858-736-8410

Contract Name:

Nucleic Acid Analytical Equip & Supply

FULLY EXECUTED - CHANGE 3 - REPRINT

Contract Number: 4400020005

Original Contract Effective Date: 09/24/2018

Contract Change Date: 05/06/2024

Valid From: 09/01/2018 To: 11/30/2024

Purchasing Agent

Name: Dunn Stephanie

Phone: 717-346-3840

Fax: 717-783-6241

Please Deliver To:

To be determined at
the time of the Purchase Order
unless specified below.

Payment Terms

NET 30

Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
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*** Validity Period Changed ***

1	Nucleic Acid Analytical Equip & Supply	0.000	Each	0.00	1	0.00
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General Requirements for all Items:

Information:

Supplier's Signature _____

Printed Name _____

Title _____

Date _____

**FULLY EXECUTED - CHANGE 3 - REPRINT**

Contract Number: 4400020005

Original Contract Effective Date: 09/24/2018

Contract Change Date: 05/06/2024

Valid From: 09/01/2018 To: 11/30/2024

Supplier Name:

Illumina Inc

Header Text

5/6/2024 - EP38147 approved to extend contract 6 months to ensure no lapse in coverage as the sole source procurement is being processed. - SLD

9/26/2023 - EP 37111 approved to extend contract 6 months to ensure no lapse in coverage as the sole source procurement is being processed. -SLD

5/8/2023 - The three-month extension option per the Terms & Conditions section IV.3 is being used on this contract, extending it through 11/30/2023. - SLD

This is a Sole Source contract with Illumina Inc. for the supply of Nucleic Acid Analytical Equipment and Supplies. The award will result in a statewide contract for all using state agencies.

Submit purchase orders online to: My.ILLumina.com or email to Customer Service at customerservice@illumina.com.

Supplier Contacts:

Nikki Chu- nchu@illumina.com, Sr.Inside Sales Rep, 858-882-6872.

Crystal Moran- cmoran@illumina.com, Acct Manager PAWest/Hbg/Hershey, 412-628-7555.

Rob Hnatuk- rhnatuk@illumina.com, Territory Acct Manager, 610-705-2537.

Supplier Information:

Illumina Inc

5200 Illumina Way

San Diego CA 92122-4616 US

Telephone # 800-809-4566 Fax # 858-736-8410

Email: customerservice@illumina.com

SAP Vendor Number : 408689

No further information for this Contract

Information:

**FULLY EXECUTED - CHANGE 2 - REPRINT**

Contract Number: 4400020005

Original Contract Effective Date: 09/24/2018

Contract Change Date: 09/26/2023

Valid From: 09/01/2018 To: 05/31/2024

All using Agencies of the Commonwealth, Participating Political
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Your SAP Vendor Number with us: 408689

Supplier Name/Address:

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5200 Illumina Way
San Diego CA 92122-4616 US

Supplier Phone Number: 800-809-4566

Supplier Fax Number: 858-736-8410

Contract Name:

Nucleic Acid Analytical Equip & Supply

Purchasing Agent

Name: Dunn Stephanie

Phone: 717-346-3840

Fax: 717-783-6241

Please Deliver To:

To be determined at
the time of the Purchase Order
unless specified below.

Payment Terms

NET 30

Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
*** Validity Period Changed ***						
1	Nucleic Acid Analytical Equip & Supply	0.000	Each	0.00	1	0.00

General Requirements for all Items:**Information:**

Supplier's Signature _____

Printed Name _____

Title _____

Date _____

**FULLY EXECUTED - CHANGE 2 - REPRINT**

Contract Number: 4400020005

Original Contract Effective Date: 09/24/2018

Contract Change Date: 09/26/2023

Valid From: 09/01/2018 To: 05/31/2024

Supplier Name:

Illumina Inc

Header Text

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Supplier Information:

Illumina Inc

5200 Illumina Way

San Diego CA 92122-4616 US

Telephone # 800-809-4566 Fax # 858-736-8410

Email: customerservice@illumina.com

SAP Vendor Number : 408689

No further information for this Contract

Information:

**FULLY EXECUTED - CHANGE 1**

Contract Number: 4400020005

Original Contract Effective Date: 09/24/2018

Contract Change Date: 05/08/2023

Valid From: 09/01/2018 To: 11/30/2023

All using Agencies of the Commonwealth, Participating Political
Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 408689**Supplier Name/Address:**

Illumina Inc
5200 Illumina Way
San Diego CA 92122-4616 US

Supplier Phone Number: 800-809-4566**Supplier Fax Number:** 858-736-8410**Contract Name:**

Nucleic Acid Analytical Equip & Supply

Purchasing Agent**Name:** Dunn Stephanie**Phone:** 717-346-3840**Fax:** 717-783-6241**Please Deliver To:**

To be determined at
the time of the Purchase Order
unless specified below.

Payment Terms

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Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

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1	Nucleic Acid Analytical Equip & Supply	0.000	Each	0.00	1	0.00
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General Requirements for all Items:**Information:**

Supplier's Signature _____

Printed Name _____

Title _____

Date _____

**FULLY EXECUTED - CHANGE 1**

Contract Number: 4400020005

Original Contract Effective Date: 09/24/2018

Contract Change Date: 05/08/2023

Valid From: 09/01/2018 To: 11/30/2023

Supplier Name:

Illumina Inc

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Email: customerservice@illumina.com

SAP Vendor Number : 408689

No further information for this Contract

Information:

**FULLY EXECUTED**

Contract Number: 4400020005

Original Contract Effective Date: 09/24/2018

Valid From: 09/01/2018 To: 08/31/2023

All using Agencies of the Commonwealth, Participating Political
Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 408689

Purchasing Agent

Name: Restagno Victor

Phone: 717-346-8177

Fax: 717-346-3820

Supplier Name/Address:

Illumina Inc
5200 Illumina Way
San Diego CA 92122-4616 US

Supplier Phone Number: 800-809-4566

Supplier Fax Number: 858-736-8410

Please Deliver To:

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Nucleic Acid Analytical Equip & Supply

Payment Terms

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No further information for this Contract

Information:

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PART I - GENERAL INFORMATION

PART I - GENERAL INFORMATION

I.1 I-SPR-001.2 Purpose (Dec. 2006)

The Commonwealth of Pennsylvania (Commonwealth) is issuing this Supplier Pricing Request to request a written offer from the vendor to meet the needs of DSG to satisfy the need for Illumina Nucleic Acid Analytical Equip and Supp .

I.2 I-SPR-005.1 Type of Contract (Dec. 2006)

If the Issuing Office enters into a contract as a result of this SPR, it will be a Fixed Pricing contract containing the Contract Terms and Conditions as shown in Part IV of this SPR.

I.3 I-SPR-011-2b Submission of Supplier Pricing Request Forms - Electronic Submittal (Dec. 2006)

Supplier pricing is requested for the item(s) described in this Supplier Pricing Request and all the documents referenced in the form (collectively called the SPR). The vendor must submit its response to the Supplier Pricing Request through the Commonwealth's electronic system (SRM).

I.4 I-SPR-029.2 Prices – Sole Source (Dec 2006)

If a contract is entered into with the vendor, the vendor will be required to provide the awarded item(s) at the prices quoted in its response to the Supplier Pricing Request.

I.5 Submission-001.1 Representations and Authorizations (February 2017)

By submitting its proposal, each Offeror understands, represents, and acknowledges that:

A. All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). The Commonwealth shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.

B. The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential offeror.

C. The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.

D. The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.

E. The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.

F. To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in

any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.

G. To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.

H. The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.

I. The Offeror has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the need for the services described in its proposal or the specifications for the services described in the proposal.

J. Each Offeror, by submitting its proposal, authorizes Commonwealth agencies to release to the Commonwealth information concerning the Offeror's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.

K. Until the selected Offeror receives a fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.

L. The Offeror is not currently engaged, and will not during the duration of the contract engage, in a boycott of a person or an entity based in or doing business with a jurisdiction which the Commonwealth is not prohibited by Congressional statute from engaging in trade or commerce.

PART II -SUBMITTAL REQUIREMENTS

PART II -SUBMITTAL REQUIREMENTS

II.1 II-SPR-008.1b Lobbying Certification and Disclosure – Electronic Submission (Dec 2006)

With respect to an award of a federal contract, grant, or cooperative agreement exceeding \$100,000 or an award of a federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000 all recipients must certify that they will not use federal funds for lobbying and must disclose the use of non-federal funds for lobbying by filing required documentation. Vendors must complete and return the Lobbying Certification Form and the Disclosure of Lobbying Activities Form, which are attached to and made a part of this SPR. The completed and signed Lobbying Certification Form and the Disclosure of Lobbying Activities Form should be submitted with the Response. Commonwealth agencies will not contract with outside firms or individuals to perform lobbying services, regardless of the source of funds.

II.2 II-SPR-012.1 Return Goods Policy (Doc 2006)

Each vendor must submit a copy of their return goods policy with their response.

II.3 II-SPR-016.1 Post-Submission Descriptive Literature (Dec 2006)

The Commonwealth may, during its evaluation of the response, require any vendor to submit cuts, illustrations, drawings, prints, test data sheets, specification sheets and brochures which detail construction features, design, components, materials used, applicable dimensions and any other pertinent information which the Issuing Office may require in order to evaluate the product(s) offered. The required information must be submitted within two (2) business days after notification from the Issuing Office. Failure to submit the required information prior to the expiration of the second business day after notification may result in the rejection of the response.

II.4 II-SPR-017.1b Reciprocal Limitations Act - Electronic Submittal (February 2007)

This procurement is subject to the Reciprocal Limitations Act. The vendor must complete and submit with the Supplier Pricing Request the State of Manufacture Chart, which is contained in GSPUR-89 ("Reciprocal Limitations Act Requirements") which is attached to and made part of this procurement. The completed State of Manufacture Chart should be submitted as part of the Supplier Pricing Request.

II.5 II-SPR-019.1b Iran Free Procurement Certification and Disclosure – Electronic Submittal (November 2016)

Prior to entering a contract worth at least \$1,000,000 or more with a Commonwealth entity, a bidder must: a) certify it is not on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services ("DGS") pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e). All bidders must complete and return the Iran Free Procurement Certification form, which is attached hereto and made part of this SPR. The completed and signed Iran Free Procurement Certification form must be submitted with the Response.

See the following web page for current Iran Free Procurement list:

<http://www.dgs.pa.gov/businesses/materials%20and%20services%20procurement/procurement-resources/pages/default.aspx#.WDNfJJ>

PART III - WORK STATEMENT

PART III - WORK STATEMENT

III.1 III-SPR-001.1A Specifications (Dec 2006)

The Commonwealth is seeking Responses to procure the item(s) set forth in the attached document entitled "Specifications."

PART IV - TERMS AND CONDITIONS

PART IV - TERMS AND CONDITIONS

IV.1 CONTRACT-001.1c Contract Terms and Conditions – Stand-Alone (Nov 30 2006)

The Contractor and the Commonwealth agree that the following terms and conditions are part of the Contract:

IV.2 CONTRACT-002.1a Term of Contract – Contract (May 2012)

The initial term of the Contract shall be 05 year(s) and 00 month(s).

The term of the Contract shall commence on the Effective Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract.

The Effective Date shall be: a) the Effective Date printed on the Contract after the Contract has been fully executed by the Commonwealth (signed and approved as required by the Commonwealth contracting procedures) or b) the "Valid from" date printed on the Contract, whichever is later.

IV.3 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)

The Commonwealth reserves the right, upon notice to the Contractor, to extend any single term of the Contract for up to three (3) months upon the same terms and conditions.

IV.4 CONTRACT-003.1a Signatures – Contract (July 2015)

The Contract shall not be a legally binding contract until the fully-executed Contract has been sent to the Contractor. No Commonwealth employee has the authority to verbally direct the commencement of any work or delivery of any supply under this Contract prior to the Effective Date. The Contractor hereby waives any claim or cause of action for any service or work performed prior to the Effective Date.

The Contract may be electronically signed by the Commonwealth. The electronically-printed name of the Purchasing Agent represents the signature of that individual who has the authority, on behalf of the Commonwealth, to bind the Commonwealth to the terms of the Contract. If the Contract output form does not have "Fully Executed" at the top of the first page and does not have the name of the Purchasing Agent printed in the appropriate box, the Contract has not been fully executed.

The fully-executed Contract may be sent to the Contractor electronically or through facsimile equipment. The electronic transmission of the Contract shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Contract shall constitute receipt of the fully-executed Contract.

The Commonwealth and the Contractor specifically agree as follows:

a. No handwritten signature shall be required in order for the Contract to be legally enforceable.

b. The parties agree that no writing shall be required in order to make the Contract legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine Contract or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Contract or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither

party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

IV.5 CONTRACT-004.1a Definitions (Oct 2013)

As used in this Contract, these words shall have the following meanings:

a. Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".

b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.

c. Days: Unless specifically indicated otherwise, days mean calendar days.

d. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.

e. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.

f. Services: All Contractor activity necessary to satisfy the Contract.

IV.6 CONTRACT-005.1a Purchase Orders (July 2015)

Commonwealth agencies may issue Purchase Orders against the Contract. These orders constitute the Contractor's authority to make delivery. All Purchase Orders received by the Contractor up to and including the expiration date of the Contract are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.

Purchase Orders may be electronically signed by the Agency. The electronically-printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the Commonwealth, to authorize the Contractor to proceed.

Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of an order. Orders received by the Contractor after 4:00 p.m. will be considered received the following business day.

a. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable.

b. The parties agree that no writing shall be required in order to make the Purchase Order legally binding. The parties hereby agree not to contest the validity or enforceability of a Purchase Order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any Purchase Order or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of Purchase Orders or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Purchase Order or acknowledgement were not in writing or signed by the

parties. A Purchase Order or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

Purchase Orders under ten thousand dollars (\$10,000) in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Purchasing Card.

IV.7 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)

In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth. The Contractor will be responsible for all services in this Contract whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

IV.8 CONTRACT-007.01a Supplies Delivery (Nov 30 2006)

All item(s) shall be delivered F.O.B. Destination. The Contractor agrees to bear the risk of loss, injury, or destruction of the item(s) ordered prior to receipt of the items by the Commonwealth. Such loss, injury, or destruction shall not release the Contractor from any contractual obligations. Except as otherwise provided in this contract, all item(s) must be delivered within the time period specified. Time is of the essence and, in addition to any other remedies, the Contract is subject to termination for failure to deliver as specified. Unless otherwise stated in this Contract, delivery must be made within thirty (30) days after the Effective Date.

IV.9 CONTRACT-007.02 Estimated Quantities (Nov 30 2006)

It shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the Commonwealth and that the Commonwealth in accepting any bid or portion thereof, contracts only and agrees to purchase only the materials and services in such quantities as represent the actual requirements of the Commonwealth. The Commonwealth reserves the right to purchase materials and services covered under the Contract through a separate competitive procurement procedure, whenever Commonwealth deems it to be in its best interest.

IV.10 CONTRACT-008.1a Warranty. (Oct 2006)

The Contractor warrants that all items furnished and all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Contract, all items are warranted for a period of one year following delivery by the Contractor and acceptance by the Commonwealth. The Contractor shall repair, replace or otherwise correct any problem with the delivered item. When an item is replaced, it shall be replaced with an item of equivalent or superior quality without any additional cost to the Commonwealth.

IV.11 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013)

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report, document or other material provided to the Commonwealth under the contract.

The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the

performance of the Contract.

This is upon condition that the Commonwealth shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same.

As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action.

If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.

The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract.

If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing.

If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

IV.12 CONTRACT-009.1d Ownership Rights (Oct 2006)

The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

IV.13 CONTRACT-010.1a Acceptance (Oct 2006)

No item(s) received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the item(s). Any item(s) which is discovered to be defective or fails to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the item(s) or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection. It shall thereupon become the duty of the Contractor to remove rejected item(s) from the premises without expense to the Commonwealth within fifteen (15) days after notification. Rejected item(s) left longer than fifteen (15) days will be regarded as abandoned, and the Commonwealth shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale which represents the Commonwealth's costs and expenses in regard to the storage and sale of the item(s). Upon notice of rejection, the Contractor shall immediately replace all such rejected item(s) with others conforming to the specifications and which are not defective. If the Contractor fails, neglects or refuses to do so, the Commonwealth shall then have the right to procure a corresponding quantity of such item(s), and deduct from any monies due or that may thereafter become due to the Contractor, the difference between the price stated in the Contract and the cost thereof to the Commonwealth.

IV.14 CONTRACT-010.2 Product Conformance (March 2012)

The Commonwealth reserves the right to require any and all Contractors to:

1. Provide certified data from laboratory testing performed by the Contractor, or performed by an independent laboratory, as specified by the Commonwealth.
2. Supply published manufacturer product documentation.
3. Permit a Commonwealth representative to witness testing at the Contractor's location or at an independent laboratory.
4. Complete a survey/questionnaire relating to the bid requirements and specifications.
5. Provide customer references.
6. Provide a product demonstration at a location near Harrisburg or the using agency location.

IV.15 CONTRACT-010.3 Rejected Material Not Considered Abandoned (March 2012)

The Commonwealth shall have the right to not regard any rejected material as abandoned and to demand that the Contractor remove the rejected material from the premises within thirty (30) days of notification. The Contractor shall be responsible for removal of the rejected material as well as proper clean-up. If the Contractor fails or refuses to remove the rejected material as demanded by the Commonwealth, the Commonwealth may seek payment from, or set-off from any payments due to the Contractor under this or any other Contract with the Commonwealth, the costs of removal and clean-up. This is in addition to all other rights to recover costs incurred by the Commonwealth.

IV.16 CONTRACT-011.1a Compliance With Law (Oct 2006)

The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

IV.17 CONTRACT-013.1 Environmental Provisions (Oct 2006)

In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations, including, but not limited to: the Clean Streams Law Act of June 22, 1937 (P.L. 1987, No. 394), as amended 35 P.S. Section 691.601 et seq.; the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, No. 97), as amended, 35 P.S. Section 6018.101 et seq. ; and the Dam Safety and Encroachment Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended , 32 P.S. Section 693.1.

IV.18 CONTRACT-014.1 Post-Consumer Recycled Content (June 2016)

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified by the Environmental Protection Agency in its Comprehensive Procurement Guidelines, which can be found at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program> .

IV.19 CONTRACT-014.3 Recycled Content Enforcement (February 2012)

The Contractor may be required, after delivery of the Contract item(s), to provide the Commonwealth with documentary evidence that the item(s) was in fact produced with the required minimum percentage of post-consumer and recovered material content.

IV.20 CONTRACT-015.1 Compensation (Oct 2006)

The Contractor shall be required to furnish the awarded item(s) at the price(s) quoted in the Purchase Order. All item(s) shall be delivered within the time period(s) specified in the Purchase Order. The Contractor shall be compensated only for item(s) that are delivered and accepted by the Commonwealth.

IV.21 CONTRACT-015.2 Billing Requirements (February 2012)

Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall include in all of its invoices the following minimum information:

- Vendor name and "Remit to" address, including SAP Vendor number;
- Bank routing information, if ACH;
- SAP Purchase Order number;
- Delivery Address, including name of Commonwealth agency;
- Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);
- Quantity provided;
- Unit price;
- Price extension;
- Total price; and
- Delivery date of supplies or services.

If an invoice does not contain the minimum information set forth in this paragraph, the Commonwealth may return the invoice as improper. If the Commonwealth returns an invoice as improper, the time for processing a payment will be suspended until the Commonwealth receives a correct invoice. The Contractor may not receive payment until the Commonwealth has received a correct invoice.

Contractors are required to establish separate billing accounts with each using agency and invoice them directly. Each invoice shall be itemized with adequate detail and match the line item on the Purchase Order. In no instance shall any payment be made for services to the Contractor that are not in accordance with the prices on the Purchase Order, the Contract, updated price lists or any discounts negotiated by the purchasing agency.

IV.22 CONTRACT-016.1 Payment (Oct 2006)

- a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.
- b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or Purchase Order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the

responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or Purchase Order.

IV.23 CONTRACT-017.1 Taxes (Dec 5 2006)

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 23-23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

IV.24 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006)

The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of this Contract.

IV.25 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006)

- a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.
- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

IV.26 CONTRACT-020.1 Audit Provisions (Oct 2006)

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents, and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

IV.27 CONTRACT-021.1 Default (Oct 2013)

a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:

- 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
- 2) Failure to perform the work with sufficient labor, equipment, or material to ensure the completion of the specified work in accordance with the Contract or Purchase Order terms;
- 3) Unsatisfactory performance of the work;
- 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
- 5) Improper delivery;
- 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;
- 7) Delivery of a defective item;
- 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
- 9) Discontinuance of work without approval;
- 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
- 11) Insolvency or bankruptcy;
- 12) Assignment made for the benefit of creditors;
- 13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
- 14) Failure to protect, to repair, or to make good any damage or injury to property;
- 15) Breach of any provision of the Contract;
- 16) Failure to comply with representations made in the Contractor's bid/proposal; or
- 17) Failure to comply with applicable industry standards, customs, and practice.

b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.

c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be

in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.

d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.

f. Following exhaustion of the Contractor's administrative remedies as set forth in the Contract Controversies Provision of the Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

IV.28 CONTRACT-022.1 Force Majeure (Oct 2006)

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but aren't limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the Commonwealth orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect to cancel the Contract, cancel the Purchase Order, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the Commonwealth by notice to the Contractor, may suspend all or a portion of the Contract or Purchase Order.

IV.29 CONTRACT-023.1a Termination Provisions (Oct 2013)

The Commonwealth has the right to terminate this Contract or any Purchase Order for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.

b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

c. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for Contractor default under the Default Clause upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract or a

Purchase Order for other cause as specified in the Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract or a Purchase Order for cause, then, at the Commonwealth's discretion, the Contract or Purchase Order shall be deemed to have been terminated for convenience under the Subparagraph a.

IV.30 CONTRACT-024.1 Contract Controversies (Oct 2011)

a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.

b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

IV.31 CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)

a. Subject to the terms and conditions of this paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.

b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

e. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.

f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the

terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.

g. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

IV.32 CONTRACT-026.1 Other Contractors (Oct 2006)

The Commonwealth may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and Commonwealth employees, and coordinate its work with such additional work as may be required. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees. This paragraph shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The Commonwealth shall equitably enforce this paragraph as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

IV.33 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (August 2017)

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
4. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

7. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

8. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

IV.34 CONTRACT-028.1 Contractor Integrity Provisions (January 2015)

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

1. DEFINITIONS. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

a. "Affiliate" means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.

c. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.

d. "Contractor Related Parties" means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.

e. "Financial Interest" means either:

(1) Ownership of more than a five percent interest in any business; or

(2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

f. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct*, *Executive Order 1980-18*, the *4 Pa. Code §7.153(b)*, shall apply.

g. "Non-bid Basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

2. In furtherance of this policy, Contractor agrees to the following:

a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the

requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.

c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

d. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than the Contractor's submission of the contract signed by Contractor.

e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:

- (1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
- (2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
- (3) had any business license or professional license suspended or revoked;
- (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
- (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract it becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

f. Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.

g. When contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.

h. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any

bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.

j. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.

IV.35 CONTRACT-029.1 Contractor Responsibility Provisions (Nov 2010)

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

1. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.

2. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity.

Such notification shall be made within 15 days of the date of suspension or debarment.

4. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

IV.36 CONTRACT-030.1 Americans with Disabilities Act (Oct 2006)

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. Section 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of Subparagraph a. above.

IV.37 CONTRACT-031.1 Hazardous Substances (April 2017)

The Contractor shall provide information to the Commonwealth about the identity and hazards of hazardous substances supplied or used by the Contractor in the performance of the Contract. The Contractor must comply with Act 159 of October 5, 1984, known as the "Worker and Community Right to Know Act" (the "Act") and the regulations promulgated pursuant thereto at 34 Pa. Code Section 301.1 - 323.6.

a. Labeling. The Contractor shall ensure that each individual product (as well as the carton, container or package in which the product is shipped) of any of the following substances (as defined by the Act and the regulations) supplied by the Contractor is clearly labeled, tagged or marked with the information listed in Subparagraphs (1) through (4):

- 1) Hazardous substances:
 - a) The chemical name or common name,
 - b) A hazard warning, and
 - c) The name, address, and telephone number of the manufacturer.

- 2) Hazardous mixtures:
 - a) The common name, but if none exists, then the trade name,
 - b) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,
 - c) The chemical or common name of hazardous substances consisting 1.0% or more of the mixture,
 - d) A hazard warning, and
 - e) The name, address, and telephone number of the manufacturer.
- 3) Single chemicals:
 - a) The chemical name or the common name,
 - b) A hazard warning, if appropriate, and
 - c) The name, address, and telephone number of the manufacturer.
- 4) Chemical Mixtures:
 - a) The common name, but if none exists, then the trade name,
 - b) A hazard warning, if appropriate,
 - c) The name, address, and telephone number of the manufacturer, and
 - d) The chemical name or common name of either the top five substances by volume or those substances consisting of 5.0% or more of the mixture.

A common name or trade name may be used only if the use of the name more easily or readily identifies the true nature of the hazardous substance, hazardous mixture, single chemical, or mixture involved.

Container labels shall provide a warning as to the specific nature of the hazard arising from the substance in the container.

The hazard warning shall be given in conformity with one of the nationally recognized and accepted systems of providing warnings, and hazard warnings shall be consistent with one or more of the recognized systems throughout the workplace. Examples are:

- NFPA 704, Identification of the Fire Hazards of Materials.
- National Paint and Coatings Association: Hazardous Materials Identification System.
- American Society for Testing and Materials, Safety Alert Pictorial Chart.
- American National Standard Institute, Inc., for the Precautionary Labeling of Hazardous Industrial Chemicals.

Labels must be legible and prominently affixed to and displayed on the product and the carton, container, or package so that employees can easily identify the substance or mixture present therein.

b. Material Safety Data Sheet. The contractor shall provide Material Safety Data Sheets (MSDS) with the information required by the Act and the regulations for each hazardous substance or hazardous mixture. The Commonwealth must be provided an appropriate MSDS with the initial shipment and with the first shipment after an MSDS is updated or product changed. For any other chemical, the contractor shall provide an appropriate MSDS, if the manufacturer, importer, or supplier produces or possesses the MSDS. The contractor shall also notify the Commonwealth when a substance or mixture is subject to the provisions of the Act. Material Safety Data Sheets may be attached to the carton, container, or package mailed to the Commonwealth at the time of shipment.

IV.38 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006)

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the

Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Commonwealth shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

IV.39 CONTRACT-033.1 Applicable Law (Oct 2006)

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

IV.40 CONTRACT- 034.1b Integration (Nov 30 2006)

This Contract, including the Invitation for Bids, the Contractor's bid, all referenced documents, and any Purchase Order constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties.

IV.41 CONTRACT-034.2c Order of Precedence - SPR (Dec 13 2006)

In the event there is a conflict among the documents comprising this Contract, the Commonwealth and the Contractor agree on the following order of precedence: the Contract; the SPR; and the Contractor's response to the SPR.

IV.42 CONTRACT-034.3 Controlling Terms and Conditions (Aug 2011)

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. All quotations requested and received from the Contractor are for obtaining firm pricing only. Other terms and conditions or additional terms and conditions included or referenced in the Contractor's quotations, invoices, business forms, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Contractor and not binding on the Commonwealth.

IV.43 CONTRACT-035.1a Changes (Oct 2006)

The Commonwealth reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required by any notification of change

shall be handled through Contract Controversies Provision.

IV.44 CONTRACT-037.1a Confidentiality (Oct 2013)

(a) The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party (notice may be communicated by describing the information, and the specifications around its use or disclosure, in the SOW). Neither party may assert that information owned by the other party is such party's confidential information. The parties agree that such confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of such confidential information shall be marked by the party making the copy with any notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only, and which will remain subject to this Contract's security, privacy, data retention/destruction and confidentiality provisions (all of which shall survive the expiration of this Contract). Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default pursuant to the DEFAULT provision of this Contract, in addition to other remedies available to the non-breaching party.

(b) Insofar as information is not otherwise protected by law or regulation, the obligations stated in this Section do not apply to information:

- (1) already known to the recipient at the time of disclosure other than through the contractual relationship;
- (2) independently generated by the recipient and not derived by the information supplied by the disclosing party.
- (3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
- (4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
- (5) required to be disclosed by law, regulation, court order, or other legal process.

There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

(c) The Contractor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:

- (1) Prepare an un-redacted version of the appropriate document, and
- (2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret, and
- (3) Prepare a signed written statement that states:
 - (i) the attached document contains confidential or proprietary information or trade secrets;
 - (ii) the Contractor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and

(iii) the Contractor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.

(4) Submit the two documents along with the signed written statement to the Commonwealth.

IV.45 CONTRACT-046.1 Manufacturer's Price Reduction (Oct 2006)

If, prior to the delivery of the awarded item(s) by the Contractor, a price reduction is announced by the original equipment manufacturer, a comparative price reduction will be given to the Commonwealth by the Contractor.

IV.46 CONTRACT-051.1 Notice (Dec 2006)

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to following:

- a. If to the Contractor: the Contractor's address as recorded in the Commonwealth's Supplier Registration system.
- b. If to the Commonwealth: the address of the Issuing Office as set forth on the Contract.

IV.47 CONTRACT-052.1 Right to Know Law (Feb 2010)

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.

b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or

harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

Supplement to Terms and Conditions
SPR 6100046156

The following additions and changes to the Terms and Conditions set forth in SPR 6100046156 have been negotiated between the Commonwealth of Pennsylvania and the vendor and are incorporated with the SPR as set forth below:

1. The following definitions are added to Paragraph IV.5 CONTRACT-004.1a Definitions (Oct 2013):

“**CONSUMABLE(S)**” means Contractor branded reagents and consumable items that are intended by Contractor to be consumed through the use of Hardware.

“**DOCUMENTATION**” means Contractor’s user manual, package insert, and similar documentation, for the Product in effect on the date that the Product ships from Contractor. Documentation may be provided with the Product at time of shipment or provided electronically from Contractor.

“**HARDWARE**” means Contractor branded instruments, accessories, or peripherals.

“**PRODUCT(S)**” means the item(s) acquired hereunder. Products may be Hardware, Consumables, or Software. Software may be embedded in or installed on Hardware or provided separately.

“**SOFTWARE**” means Contractor branded software (e.g., Hardware operating software, data analysis software). All Software is licensed and not sold and may be subject to additional terms found in the Software’s end user license agreement.

“**SPECIFICATION**” means Contractor’s written technical specifications for the Product in effect on the date that the Product ships from Contractor.

2. The following language is added to Paragraph IV.10 CONTRACT-008.1a Warranty (Oct 2006):

- a. **Representations and Warranties.** Commonwealth is not an authorized dealer, representative, reseller, or distributor of any of Contractor’s, or its affiliates’, products or services. Commonwealth agrees, represents and warrants that it (i) is not purchasing the Product on behalf of a third party, (ii) is not purchasing the Product in order to resell or distribute the Product to a third party, (iii) is not purchasing the Product in order to export the Product from the country in which Contractor shipped the Product pursuant to the ship-to address designated by Commonwealth at the time of ordering (“**Ship-to Country**”), and (iv) will not export the Product out of the Ship-To Country.
- b. **Product Warranty.** All warranties are personal to the Commonwealth and may not be transferred or assigned to a third-party, including an affiliate of Commonwealth. All warranties are facility specific and do not transfer if the Product is moved to another facility

of Commonwealth, unless Seller conducts such move. The warranties described in this Agreement exclude any stand-alone third-party goods that may be acquired or used with the Products.

- i. Warranty for Consumables. Seller warrants that Consumables, other than custom Consumables, will conform to their Specifications until the later of (i) 3 months from the date of shipment from Seller, or (ii) any expiration date or the end of the shelf-life pre-printed on such Consumable by Seller, but in either event, no later than 12 months from the date of shipment. With respect to custom Consumables (i.e., Consumables made to specifications or designs made by Commonwealth or provided to Seller by, or on behalf of, Commonwealth), Seller only warrants that the custom Consumables will be made and tested in accordance with Seller's standard manufacturing and quality control processes. Seller makes no warranty that custom Consumables will work as intended by Commonwealth or for Commonwealth's intended uses.
- ii. Warranty for Hardware. Seller warrants that Hardware, other than Upgraded Components, will conform to its Specifications for a period of 12 months after its shipment date from Seller unless the Hardware includes Seller provided installation in which case the warranty period begins on the date of installation or 30 days after the date the Hardware was delivered, whichever occurs first ("Base Hardware Warranty"). "Upgraded Components" means Seller provided components, modifications, or enhancements to Hardware that was previously acquired by Commonwealth. Seller warrants that Upgraded Components will conform to their Specifications for a period of 90 days from the date the Upgraded Components are provided by Seller. Upgraded Components do not extend the warranty for the Hardware unless the upgrade was conducted by Seller at Seller's facilities in which case the upgraded Hardware shipped to Commonwealth comes with a Base Hardware Warranty.
- iii. Exclusions from Warranty Coverage. The foregoing warranties do not apply to the extent a non-conformance is due to (i) abuse, misuse, neglect, negligence, accident, improper storage, or use contrary to the Documentation or Specifications, (ii) improper handling, installation, maintenance, or repair (other than if performed by Seller's personnel), (iii) unauthorized alterations, (iv) Force Majeure events, or (v) use with a third party's good not provided by Seller (unless the Product's Documentation or Specifications expressly state such third party's good is for use with the Product).
- iv. Procedure for Warranty Coverage. In order to be eligible for repair or replacement under this warranty Commonwealth must (i) promptly contact Seller's support department to report the non-conformance, (ii) cooperate with Seller in confirming or diagnosing the non-conformance, and (iii) return the Product, transportation charges prepaid to Seller following Seller's instructions or, if agreed by Seller and

Commonwealth, grant Seller's authorized repair personnel access to the Product in order to confirm the non-conformance and make repairs.

- v. Sole Remedy under Warranty. Seller will, at its option, repair or replace nonconforming Product that is covered by this warranty, provided that Seller can reasonably identify and confirm such nonconformance. The warranty period for repaired or replaced Consumables is 90 days from the date of shipment, or the remaining period on the original Consumables warranty, whichever is later. Hardware may be repaired or replaced with functionally equivalent, reconditioned, or new Hardware or components (if only a component of Hardware is non-conforming). If the Hardware is replaced in its entirety, the warranty period for the replacement is 90 days from the date of shipment or the remaining period on the original Hardware warranty, whichever is later. If only a component is being repaired or replaced, the warranty period for such component is 90 days from the date of shipment or the remaining period on the original Hardware warranty, whichever ends later. The preceding states Commonwealth's sole remedy and Seller's sole obligations under the warranty.
3. The following language is added to Paragraph IV.11 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013):

Exclusions to Seller Indemnification Obligations. For the avoidance of doubt, Seller has no obligation to defend, indemnify or hold harmless Commonwealth for any infringement claim to the extent such infringement arises from: (i) use of the Product in any manner or for any purpose other than Research Use, (ii) use of the Product in any manner not in accordance with its Specifications, its Documentation, or the rights expressly granted to Commonwealth under these terms and conditions, (iii) use of the Product in combination with any other products, materials, or services not supplied by Seller, (iv) use of the Product to perform any assay or other process not supplied by Seller, (v) Seller's compliance with specifications or instructions for such Product furnished by, or on behalf of, Commonwealth, (vi) Commonwealth's breach of any of these terms and conditions, (vii) use of stand-alone third party goods that may be acquired or used with the Products, or (viii) use of the Products in any manner or for any purpose that requires rights to Other IP (each of (i) – (viii), is referred to as an "Excluded Claim").

The Department agrees to pay for any loss, liability or expense, which arises out of or relates to the Department's acts or omissions with respect to its obligation under this Agreement, where a court of law makes a final determination of liability on the part of the Department or where the Department agrees to a settlement. This provision shall not be construed to limit the Department's rights, claims or defenses which arise as a matter of law or pursuant to any other provision of this Agreement. This provision shall not be construed to waive or limit the sovereign immunity of the Commonwealth or the Department. The Commonwealth's indemnification obligations shall only be allowed to the extent permitted under PA Const. Art I, Section 11.1; 1 PA. C. S. Section 2310.

4. The following subsection (c) is added to Paragraph IV.25 CONTRACT-0.19.1 Hold Harmless (Nov 30 2006):

1. The Seller's indemnification obligations are conditioned upon the Commonwealth (i) promptly notifying the other party in writing of such claim or action (ii) to the extent permitted by the Commonwealth Attorneys Act, 71 P.S. § 732-101 *et seq.*, giving the Seller exclusive control and authority over the defense and settlement of such claims of action; (iii) not admitting infringement of any intellectual property right without prior written consent of the other party, (iv) not entering into any settlement or compromise of any such claim or action without the other party's prior written consent, and (v) providing reasonable assistance to the other party in the defense of the claim or action; provided that, the party reimburses the indemnified party for its reasonable out-of-pocket expenses incurred in providing such assistance.

5. The following section is added to the Terms and Conditions of the SPR:

Rights to Products upon Purchase. Subject to these terms and conditions, Commonwealth is granted only a non-exclusive, non-transferable, personal, non-sublicensable right under Contractor's Core IP to use the Product only in Commonwealth's facility only for Commonwealth's Research Use ("**Permitted Rights**"). "**Research Use**" means use for internal research (which includes research services provided by Commonwealth to third parties), **specifically excluding any use that** (a) is not in accordance with the Product's Specifications or Documentation, (b) requires grants of rights or a license to Application Specific IP, (c) is a re-use of a previously used Consumable, (d) is the disassembling, reverse-engineering, reverse-compiling, or reverse assembling of the Product, (e) is the separation, extraction, or isolation of components of the Product or other unauthorized analysis of the Product, (f) gains access to or determines the methods of operation of the Product, (g) is the use of non-Contractor reagent/consumables with Contractor's Hardware (does not apply if the Specifications or Documentation state otherwise), (h) is the transfer to a third-party of, or sub-licensing of, Software or any third-party software provided by Contractor, or (i) is a clinical, diagnostic, or other non-research use of the Product (each of (a) – (i), is referred to as an "**Excluded Use**"). All Software, whether provided separately, installed on, or embedded in a Product, is licensed to Commonwealth, not sold. Commonwealth agrees that the first sentence of this Section is designed to and does alter the effect of the exhaustion of patent rights that would otherwise result if the sale was made without restriction. Except as expressly stated in this Section no right or license under any Contractor intellectual property rights is or are granted, expressly, by implication, or by estoppel, to Commonwealth. "**Application Specific IP**" means the intellectual property owned by or controlled by Contractor and Contractor's affiliates that pertain to or cover aspects or features of the Product (and use thereof) only with regard to specific field(s) or specific application(s). Application Specific IP excludes all Core IP. "**Core IP**" means the intellectual property owned or controlled by Contractor and Contractor's affiliates, as of the date the Product ships, that pertain to or cover aspects or features of the Product (or use thereof) that are common to the Product in all applications and all fields of use. Application Specific IP and Core IP are separate, non-overlapping, subsets of intellectual property owned or controlled by Contractor and Contractor's affiliates. By way of non-limiting example, Contractor and Contractor's affiliates' intellectual property rights for non-invasive pre-natal testing, for specific diagnostic methods, for

specific forensic methods, and for specific nucleic acid biomarkers, sequences, or combinations of biomarkers or sequences are examples of Application Specific IP. Commonwealth agrees that (i) Commonwealth's use of Product in any manner or for any purpose other than Research Use is a breach of these terms and conditions, (ii) actual knowledge by Contractor, or Contractor's affiliates, that Commonwealth is using Product in any manner or for any purpose other than Research Use does not (A) waive or otherwise limit any rights that Contractor, or Contractor's affiliates, may have as a result of such use of the Product, including without limitation, any rights or remedies available under these terms and conditions, at law and/or in equity, (B) grant Commonwealth a license to any intellectual property owned or controlled by Contractor or Contractor's affiliates whether by implication, estoppel, or otherwise with respect to such use of the Product, and (iii) any trade usage, course of performance, or course of dealing between Contractor and Commonwealth, will not be used to interpret these terms and conditions, including without limitation, the scope of the Research Use rights for Product conferred under this Section.

Commonwealth is solely responsible for determining whether Commonwealth has all intellectual property rights that are necessary for Commonwealth's intended uses of the Product, including without limitation, any rights from third parties or rights from Contractor, or Contractor's affiliates, to Application Specific IP (collectively "Other IP"). Contractor makes no guarantee or warranty that Commonwealth's specific intended uses will not infringe the intellectual property rights of a third party or Application Specific IP of Contractor or Contractor's affiliates.

6. The following section is added to the Terms and Conditions of the SPR:

Product Restrictions. The conditions and restrictions found in these terms and conditions are bargained for conditions of sale and therefore control the sale of and use of the Products by Commonwealth.

- a. **Unauthorized Uses of Products.** Commonwealth agrees: (i) to use each Consumable only one time, and (ii) to use only Contractor Consumables with Contractor Hardware. The limitations in (i)-(ii) do not apply if the Documentation or Specifications for the Product expressly state otherwise. Commonwealth agrees not to, nor authorize any third party to, use the Products as described in any Excluded Uses. Commonwealth further agrees that the contents of and methods of operation of the Product are proprietary to Contractor and the Product contains or embodies trade secrets of Contractor.
- b. **Unauthorized Transfer of Products.** Commonwealth agrees to not sell, rent, lease, loan, transfer, assign or otherwise dispose of any Hardware or component thereof containing Software to any third party ("**Unauthorized Transfer**") unless Commonwealth erases or removes the Software prior to such action. For the avoidance of doubt, Commonwealth understands that in the event of an Unauthorized Transfer, any rights to use the Software granted to Commonwealth by Contractor and the Permitted Rights immediately cease, and the third party transferee will have no rights to use the Software and no Permitted Rights. Additionally, in the event of an Unauthorized Transfer, any existing warranties for the

Hardware or Software shall be void and of no effect, as of the date of such Unauthorized Transfer.

7. The following section is added to the Terms and Conditions of the SPR:

Regulatory. The Product is labeled For Research Use Only. Commonwealth acknowledges that (i) the Product has not been approved, cleared, or licensed by the United States Food and Drug Administration or any other regulatory entity whether foreign or domestic for any specific intended use, whether research, commercial, diagnostic, or otherwise, and (ii) Commonwealth must ensure it has any regulatory approvals that are necessary for Commonwealth's intended uses of the Product. Commonwealth further agrees to comply with all applicable laws and regulations when using, maintaining, and disposing of Product.

8. The following section is added to the Terms and Conditions of the SPR:

Limitations on Liability

TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL CONTRACTOR OR ITS CONTRACTORS BE LIABLE TO COMMONWEALTH OR ANY THIRD PARTY FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, LOST PROFITS, DATA OR BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH, WITHOUT LIMITATION, THE SALE OF THE PRODUCT, ITS USE, CONTRACTOR'S PERFORMANCE OR ANY OF THESE TERMS AND CONDITIONS, HOWEVER ARISING OR CAUSED AND ON ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE).

TO THE EXTENT PERMITTED BY LAW, CONTRACTOR'S TOTAL AND CUMULATIVE LIABILITY TO COMMONWEALTH OR ANY THIRD PARTY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS AND CONDITIONS, INCLUDING WITHOUT LIMITATION, THE PRODUCT (INCLUDING USE THEREOF) AND CONTRACTOR'S PERFORMANCE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL IN NO EVENT EXCEED THE AMOUNT PAID TO CONTRACTOR FOR THE PARTICULAR PRODUCT CONTAINED IN THE PARTICULAR ORDER THAT DIRECTLY CAUSED THE LIABILITY.

9. The following section is added to the Terms and Conditions of the SPR:

Limitations on Warranties

TO THE EXTENT PERMITTED BY LAW AND SUBJECT TO THE EXPRESS PRODUCT WARRANTY MADE IN THESE TERMS AND CONDITIONS CONTRACTOR MAKES

NO (AND EXPRESSLY DISCLAIMS ALL) WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE PRODUCT, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR ARISING FROM COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CONTRACTOR MAKES NO CLAIM, REPRESENTATION, OR WARRANTY OF ANY KIND AS TO THE UTILITY OF THE PRODUCT FOR COMMONWEALTH'S INTENDED USES SHOULD THOSE USES FALL BEYOND THE SCOPE OF THE PRODUCT SPECIFICATIONS.

10. The following section is added to the Terms and Conditions of the SPR:

Export Compliance. The Products, any related technology, or information provided to Commonwealth may be subject to restrictions and controls imposed by the United States Export Administration Act and the regulations thereunder (or the export regulations and laws of another country). Notwithstanding anything to the contrary in this Agreement, Commonwealth agrees not to use the Products in, or export or re-export the Products, any related technology, or information provided to Commonwealth into, any country or to any person or entity, or in any manner, in violation of such controls or any other laws, rules or regulations of any country, state or jurisdiction.

11. The following section is added to the Terms and Conditions of the SPR:

Healthcare Law Compliance. Commonwealth acknowledges and agrees that as a healthcare company, Contractor, and Contractor's affiliates, may be required by applicable law and regulation ("**Healthcare Laws**") to disclose the existence of this Agreement, the terms of this Agreement including financial terms, and the subject matter (e.g., the U.S. Sunshine Act, and state and foreign equivalents). Contractor agrees it, and its affiliates, will disclose the least amount of information as possible in order to comply with such Healthcare Laws.

12. The following section is added to the Terms and Conditions of the SPR:

Iran Free Procurement. To be eligible for an award of a contract with a Commonwealth entity for goods or services worth at least \$1,000,000 or more, a vendor must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services ("DGS") pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e).

SPECIFICATIONS

Illumina Nucleic Acid Analytical Equipment and Supplies

SECTION I

GENERAL INFORMATION

I.1 OVERVIEW

This statewide contract will cover the requirements of Commonwealth of Pennsylvania agencies for Illumina Nucleic Acid Analytical Equipment and Supplies.

I.2 SCOPE

This contract is intended to provide Illumina instrumentation, supplies and consumables required by Commonwealth agencies that are not available through Statewide Contract 4400016768 with VWR for Laboratory Supplies and Equipment.

Specific items that are available through Statewide Contract 4400016768 or a successor version shall be considered outside the scope of this contract.

This contract does not cover maintenance, repairs, or service agreements.

I.3 TERM OF CONTRACT

Each contract shall commence on the Effective Date, to be no earlier than August 10, 2018, as defined in the Terms and Conditions. Notwithstanding Section IV.2-Term of Contract of the Terms and Conditions, the contract shall expire August 31, 2023, unless extended in accordance with Section IV.3 - Extension of Contract Term of the Terms and Conditions.

I.4 ISSUING OFFICE

The Department of General Services, Bureau of Procurement is the Issuing Office for this SPR. Direct all inquiries to:

Liz Bollinger
Commodity Specialist
Bureau of Procurement
Department of General Services
Phone: 717-346-3276
Email: ebollinger@pa.gov

I.5 BIDDING INSTRUCTIONS

Exhibit 1 – Supplier Info, Price and Manufacturer Representation

Bidders shall submit their company information, manufacturer/brands, and quoted percentage discount(s) from the manufacturer's list price using the MS Excel template provided as Exhibit 1.

Bidders are permitted to offer two distinct percentage discounts per manufacturer/brands if desired; one for supplies and consumables and one for equipment and instrumentation. Bidders are permitted to offer percentage discounts up to four digits (example: 26.15%).

Bidders shall submit a price list for the corresponding manufacturer/brands quoted in Exhibit 1 – Price List, using the MS Excel price list template provided as Exhibit 1. The template includes the following columns:

1. Supplier Name
2. Supplier Part Number
3. Manufacturer Name
4. Item Description
5. Unit of Measure (UOM)
6. Manufacturer's Published Price List Year
7. Manufacturer's Publish Price
8. Percentage (%) off Published Unit Price
9. CWOPA Delivered Net Cost

DGS reserves the right to remove from the awarded bidder's Price List any items determined to be outside the scope of this contract as defined in Section I.2 above prior to award.

I.6 AGENCY ORDERING PROCESS

Using agencies will issue Commonwealth Purchase Orders (PO) for items listed on an awarded supplier's price list on an as-needed basis. Using agencies are permitted make purchases from this contract using the Commonwealth Purchasing Card (P-Card) up to the maximum dollar amount permitted by Commonwealth policy, currently up to \$10,000 per order.

SECTION II SCOPE OF WORK

II.1 PRODUCT SPECIFICATIONS

Awarded supplier shall provide new and unused supplies, consumables, instrumentation, and equipment.

For any products with shelf-life requirements, supplier shall supply products meeting minimum shelf-life requirements as defined by the manufacturer. Should any product with a shelf-life be delivered after the expiration of its shelf-life, or without reasonable time remaining in its shelf-life for it to be used for its intended purpose, the supplier shall replace the item at no cost.

Supplier is to provide any user manuals, training and/or on-site installation at no cost as required. On-site installation shall be “plug-and-play” in nature including delivery, configuration, and setup. Any electrical, plumbing, or HVAC building connections or related work necessary to facilitate the use of equipment or instrumentation will be provided by the using agency.

II.2 ORDER RECEIPT AND FULFILLMENT

Awarded supplier shall provide ordered supplies, consumables, and equipment to using agency locations throughout the Commonwealth of Pennsylvania.

Suppliers are required to notify using agencies within twenty-four (24) hours if an ordered item is out of stock and to provide the lead time associated with stock replenishment.

All orders shipped to the Commonwealth must be accompanied with a packing slip referencing the Purchase Order Number, Purchase Order Date, Ship-to address and name and any additional information requested by the ordering agency.

Should supplier receive an order for a discontinued item, the supplier must notify the requesting agency of any substitute item being offered as a replacement. Supplier is not permitted to provide replacement items without prior consent from the ordering agency and contracting officer. If the agency consents to the replacement item, the agency is required to create a new purchase order for the replacement item.

II.3 DELIVERY AND MINIMUM ORDERS

Transportation of goods shall be FOB Destination, freight included, to any point within forty-eight (48) hours after order is placed. Exceptions to the 48-hour delivery requirement can be made for custom orders for special items or large equipment when applicable and mutually agreed up between the agency and supplier

Supplier is solely responsible for all costs related to the shipping of ordered items with the following exceptions:

1. Additional costs for expedited orders requiring special shipping arrangements other than Standard Ground will be the responsibility of the ordering agency unless due to supplier error. Backorders are not considered supplier errors.
2. There are no minimum order restrictions for this contract. Using agencies are permitted to place orders against this contract for any quantity or dollar value as needed. For small orders valued at \$100 or less, suppliers are permitted to assess additional shipping charges at the supplier's discretion.

With the exception of the items specified above, supplier is not permitted to assess additional costs related to shipping for any circumstance, including but not limited to:

- Fuel surcharges
- Shipping of hazardous materials
- Shipping of temperature sensitive materials
- Shipping of products greater than 50 lbs. per unit
- Chemicals and chemicals shipped in larger containers such as drums
- Capital equipment weighing more than 75 lbs. per unit

II.4 RETURNS

Any item delivered in poor condition, in excess of the amount ordered, or not included in the purchase order may be returned to the supplier at the supplier's expense within 10 business days at the ordering agency's discretion. Credit for returned goods shall be made within 30 days after the supplier receives the returned items. There shall be no restocking fees or shipping fees assessed to the Commonwealth for returned items.

In the event an agency orders the wrong item, the item may be returned to the supplier at the ordering agency's expense. Credit for returned goods shall be made within 30 days after the supplier receives the returned item(s).

II.5 HAZARDOUS MATERIALS

The awarded supplier shall retain ownership and responsibility for all hazardous materials delivered in error. The supplier must retrieve hazardous materials delivered in error within three business days of notification. The supplier must retrieve hazardous materials that have been delivered in error at no cost to the Commonwealth and follow up with corrected delivery. Production, packaging, labeling, shipping, handling and storage of laboratory products must comply with all applicable federal, state, and local standards, including but not limited to: NIST, OSHA and CAS.

Supplier must have or make available upon request or available electronically any requests for Material Safety Data Sheets (MSDS) or Certificate of Analysis (C of A) documentation.

II.6 REPORTING REQUIREMENT

Bidder is required to submit to DGS an electronic report of all sales activity against this contract upon request. When requested, the supplier shall provide the report in MS Excel format.

The report shall include the following information at a minimum:

1. Invoice Date
2. Order Date
3. Ordering Agency Name/Ship-to Account Info
4. Ship-to Address
5. Supplier Name
6. Supplier Part Number
7. Product Description
8. Unit of Measure (UOM)
9. UOM Quantity Ordered
10. Published Price
11. Percentage Discount in %, not dollars
12. CWOPA Delivered Net Price
13. Ordering Method (PO or P-card)

SECTION III PRICING AND INVOICING

III.1 PRICE ADJUSTMENT

The percentage discounts quoted by the awarded supplier in its response to this SPR shall be firm for the full term of this contract, inclusive of any extensions exercised as outlined in Sections IV.3- CONTRACT-002.3 Extension of Contract Term of the Terms and Conditions.

The manufacturer's list prices specified by the awarded supplier in its response to this SPR shall remain firm from the contract start date until February 14, 2019. Supplier is permitted to adjust their Manufacturer's Published Price List annually with an effective date of February 14 for each subsequent year of the contract term. Percentage discounts off supplier's published price List must remain the same throughout the term of the contract.

Supplier must submit new Price List no later than 14 calendar days prior to February 14 each year.

Supplier is permitted to offer, and agencies are permitted to solicit, lower prices than those listed on the supplier's price list at any time.

III.2 ITEM ADDITIONS/CHANGES

Supplier may add new items to their Price List(s) at time of renewal only except as specified herein:

Supplier is permitted to add items to their contract other than at time of renewal in response to a critical need of a using agency. Any items added in this manner are restricted to the scope of items described in Section I.2 of these Specifications. Any items to be added to the awarded supplier's contract in this manner shall be done so through mutual agreement between the awarded supplier and the Issuing Officer.

The Issuing Office reserves the right to remove any items not considered to be within the scope of this contract as defined in Section I.2 of these specifications at any time.

III.3 INVOICING

Specific invoicing instructions will be provided with a using agency's purchase order. For additional information regarding the invoicing process and assistance in obtaining the status of a payment, visit the following links:

DGS Supplier Service Center:

<http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Supplier%20Service%20Center/Pages/default.aspx>

Commonwealth Office of the Budget:

<http://www.budget.pa.gov/Services/ForVendors/Pages/default.aspx>

EXHIBIT 1 - PRICE LIST

COMMONWEALTH OF PENNSYLVANIA PRICE LIST

SUPPLIER NAME: Illumina, Inc.

DATE: 7/20/2018

<u>Line #</u>	<u>Supplier Name</u>	<u>Supplier Part Number</u>	<u>Manufacturer Name</u>	<u>Item Description</u>	<u>UOM</u>	<u>Manufacturer Published Price List</u>	<u>Manufacturer Published Price</u>	<u>% Discount</u>	<u>Commonwealth Delivered Net Cost (FOB)</u>
1	Illumina, Inc.	20019983	Illumina, Inc.	MiSeq Silver Support Plan	1	2018-2019	\$ 12,875.00	1.00%	\$12,746.25
2	Illumina, Inc.	20019960	Illumina, Inc.	MiSeq Bronze Support Plan	1	2018-2019	\$ 6,925.00	1.00%	\$ 6,855.75
3	Illumina, Inc.	MS-102-2003	Illumina, Inc.	MiSeq® Reagent Kit v2 (500 cycle)	1	2018-2019	\$ 1,210.00	1.00%	\$ 1,197.90
4	Illumina, Inc.	MS-102-3003	Illumina, Inc.	MiSeq® Reagent Kit v3 (600 cycle)	1	2018-2019	\$ 1,580.00	1.00%	\$ 1,564.20
5	Illumina, Inc.	FC-121-1011	Illumina, Inc.	NXTR® Index Kit (24 IDXS, 96 SMPles)	1	2018-2019	\$ 270.00	1.00%	\$ 267.30

6 Illumina, Inc.	20018704	Illumina, Inc.	Nextera DNA Flex LPK (24 SPI)	1 2018-2019	\$ 1,008.00	1.00%	\$ 997.92
7 Illumina, Inc.	20018705	Illumina, Inc.	Nextera DNA Flex LPK (96 SPI)	1 2018-2019	\$ 4,032.00	1.00%	\$ 3,991.68
8 Illumina, Inc.	FC-131-2004	Illumina, Inc.	NXTR® XT IDX Kt v2 Set D 96 IDXS,384 SMP	1 2018-2019	\$ 1,020.00	1.00%	\$ 1,009.80
9 Illumina, Inc.	FC-131-2003	Illumina, Inc.	NXTR® XT IDX Kt v2 Set C 96 IDXS,384 SMP	1 2018-2019	\$ 1,020.00	1.00%	\$ 1,009.80
10 Illumina, Inc.	FC-131-2002	Illumina, Inc.	NXTR® XT IDX Kt v2 Set B 96 IDXS,384 SMP	1 2018-2019	\$ 1,020.00	1.00%	\$ 1,009.80
11 Illumina, Inc.	FC-131-2001	Illumina, Inc.	NXTR® XT IDX Kt v2 Set A 96 IDXS,384 SMP	1 2018-2019	\$ 1,020.00	1.00%	\$ 1,009.80
12 Illumina, Inc.	FC-133-1001	Illumina, Inc.	NXTR® XT LIB Prep KT PulseNet (96 SMP)	1 2018-2019	\$ 3,000.00	1.00%	\$ 2,970.00
13 Illumina, Inc.	MS-102-9999	Illumina, Inc.	MiSeq® Disposable Wash Tubes	1 2018-2019	\$ 3.00	1.00%	\$ 2.97
14 Illumina, Inc.	FC-110-3001	Illumina, Inc.	PhiX CONTROL V3 KIT	1 2018-2019	\$ 160.00	1.00%	\$ 158.40
15 Illumina, Inc.	SY-415-1002	Illumina, Inc.	NextSeq® 550 Sequencing System	1 2018-2019	#####	1.00%	\$ 272,250.00
16 Illumina, Inc.	SY-410-1003	Illumina, Inc.	MiSeq System	1 2018-2019	\$ 99,000.00	1.00%	\$ 98,010.00

17	Illumina, Inc.	SY-420-1001	Illumina, Inc.	MiniSeq System	1	2018-2019	\$ 49,500.00	1.00%	\$	49,005.00
18	Illumina, Inc.	SY-401-4001	Illumina, Inc.	HiSeq® 4000 Sequencing System	1	2018-2019	#####	1.00%	\$	891,000.00
19	Illumina, Inc.	TR-204-0009	Illumina, Inc.	Nextera® XT - Customer Site	1	2018-2019	\$ 5,000.00	1.00%	\$	4,950.00