

NEW

State of Maine**Master Agreement****Effective Date:** 08/14/19**Expiration Date:** 12/28/19**Master Agreement Description:** Molecular Biology Supplies and Reagents**Buyer Information**

Justin Franzose 207-624-7337 ext. justin.franzose@maine.gov

Issuer Information

LISA ROBBINS 207-287-2727 ext. lisa.robbins@maine.gov

Requestor Information

Lisa Robbins 207-287-2727 ext. lisa.robbins@maine.gov

Authorized Departments

10A DEPT OF HUMAN SERVICES

Vendor Information**Vendor Line #:** 1**Vendor ID**

VC1000037602

Vendor Name

LIFE TECHNOLOGIES

Alias/DBA

INVITROGEN

Vendor Address Information

5791 VAN ALLEN WAY

CARLSBAD, CA 92008

US

Vendor Contact Information

CUSTOMER SERVICE

800-955-6288 ext.

orders@lifetech.com

Commodity Information

Vendor Line #: 1

Vendor Name: LIFE TECHNOLOGIES

Commodity Line #: 1

Commodity Code: 49300

Commodity Description: Molecular Biology Supplies and Reagents

Commodity Specifications: Proposed end date of this agreement is 11/6/2021.

Commodity Extended Description: AS PER THE SPECIFICATIONS ATTACHED AND MADE PART OF THIS MA.

Quantity

0.00000

UOM

Unit Price

\$0.00

Delivery Days

Free on Board

Contract Amount

\$0.00

Service Start Date

08/14/19

Service End Date

12/28/19

Catalog Name

Discount

0.0000 %

Discount Start Date

Discount End Date

QUOTATION NO.: D2276922

QUOTATION NUMBER MUST BE REFERENCED AT THE TIME OF ORDER TO ENSURE CORRECT PRICING

Report Date: 07-NOV-2018

QUOTATION NO.: D2276922

To ensure correct pricing and terms, the above quotation number must appear on all orders and correspondence.

FROM: 11/07/2018 THROUGH: 12/28/2019
EXCEPT WHERE NOTED BELOW

TERMS: NET 30 DAYS

FOB: Shipping Point

TO ORDER:

Life Technologies Corporation

3175 Staley Road
Grand Island, New York 14072 USA
Fax No.: 1-800-331-2286
To Order: 1-800-955-6288
E-mail: CustomerCare@thermofisher.com
www.thermofisher.com/ordersupport

TO: DEPT OF HEALTH AND HUMAN SERVICES
FOR:
HLTH & ENVIRON TESTING LAB / .
221 STATE ST
ATTN
AUGUSTA
ME 04333 USA

ATTN:

WE ARE PLEASED TO QUOTE ON YOUR REQUIREMENTS AS FOLLOWS

Line#	CC*	SKU # / PPL	DESCRIPTION	MINIMUM QUANTITY	PRICE OR % DISCOUNT	
					Disc% / Fixed Price	Unit Price
1		15508013	DITHIOTHREITOL (DTT) 5G	1	8.77%	\$118.60
2		15568025	TRIS-HCL, PH 8.0, 1M 1000ML	1	7.49%	\$49.49
3	H	15593031	PHENOL/CHLOROFORM/ALCOHOL 100ML	1	5.00%	\$110.20
4		25530015	PROTEINASE K 100 MG	1	4.43%	\$124.24
5	D	4311320	HI-DI FORMAMIDE BOTTLE 25 ML	1	11.08%	\$37.64
6		4315932	SEPTA STRIP,BUFFER TRAY EACH	1	3.78%	\$229.00
7		4315933	SEPTA STRIP,96 WELL TRAY EA	1	4.87%	\$410.96
8		4317241	PLATE,RETAINER 96 WELL 3100 EACH	1	7.30%	\$60.02
9		4333464	CAPILLARY ARRAY 4 x 36 CM	1	6.27%	\$927.93
10	D	4335613	3730 BUFFER(10X) W/EDTA 500ML EACH	1	11.09%	\$263.17
11	D	4363752	3130 POP-4 3.5 ML	1	6.81%	\$211.54
12	D	4396838	TAQMAN ENVIRONMENTAL MASTER MIX 2.0	1	16.00%	\$490.56
13		4398021	TF,2 X 200RXN TAQMAN EMM 2.0 EACH	1	15.44%	\$891.26
14		4398044	TF,4 X 200RXN TAQMAN EMM 2.0 EACH	1	16.00%	\$1530.48
15	D	4427368	IDENTIFILER PLUS KIT EACH	1	5.98%	\$4108.67
16		4467079	PREP-N-GO BUFFER EACH	1	0.03%	\$5508.35
17	D	4467831	FG, ID DIRECT KIT (200X) EACH	1	5.78%	\$4489.58
18		4471406	PREP-N-GO BUFFER (BUCCAL SWAB) EACH	1	3.00%	\$5344.70
19		4473289	PREP-N-GO + ID DIRECT 1000 RXN	1	5.83%	\$23730.84
20	D	4476135	FG,GLOBALFILER KIT EACH	1	5.00%	\$4232.25
21	D	4476609	FG,GLOBALFILER EXPRESS (200 RXN)	1	5.00%	\$3291.75
22	D	4477555	YFILER DIRECT KIT EACH	1	10.00%	\$8892.00

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Line#	CC*	SKU # / PPL	DESCRIPTION	MINIMUM QUANTITY	PRICE OR % DISCOUNT	
					Disc% / Fixed Price	Unit Price
23	D	4482910	QUANTIFILER TRIO KIT EACH	1	3.00%	\$1810.02
24	D	4482911	QUANTIFILER HP KIT EACH	1	3.00%	\$1311.44
25		6280163	RESERVOIRS,BUFFER/WATER WASTE 3100	1	5.00%	\$59.61
26		AM9820	20% SDS SOLUTION 250 ML EACH	1	9.12%	\$45.89
27		AM9822	10% SDS SOLUTION 500 ML EACH	1	10.74%	\$74.76
28		N8010540	MICROAMP RXN TUBES WITH CAP, 0.2ML	1	22.25%	\$101.08
29		N8010560	MICROAMP 96-WELL RXN PLATE - EA NO BARCODE	1	12.30%	\$60.51
30		S7563	SYBR GREEN I NUCLEIC A 500 UL	1	7.14%	\$286.94
31	D	10966083	PLATINUM TAQ DNA POL 5000 REACTIONS	1	5.00%	\$3895.00
32	D	11732088	SSIII 1-STEP QRT-PCR 500 500 RXN	1	5.00%	\$1782.20
33	D	15920010	PROTEIN G AGAROSE 5ML	1	9.50%	\$613.59
34	D	12574035	SS III ONE-STEP HI FI 100 RXN 100 REACTIONS	1	12.00%	\$679.36
35		4323032	FG,OPTICAL CAP (8 CAPS/STRIPS) EACH	1	8.00%	\$109.48
36		4358293	FAST RCTN TUBES(8 TUBES/STRIP) EACH	1	8.00%	\$88.78
37		4346907	96-WELL FAST THERMAL CYCLING PLATES, 10	1	5.00%	\$41.46
38	D	N8080119	RNASE INHIBITOR, 20 UNITS/UL, 100 RXN	1	5.00%	\$84.79
39		11415064	LEIBOVITZ L 15 MED 500ML	1	6.00%	\$33.32
40	D	26140087	FBS QUALIFIED, USA ORIGIN 100ML	1	5.00%	\$162.45
41		15040066	VERSENE 100ML	1	5.00%	\$10.61
42	D	15090046	TRYPSIN, 2.5%, 10X 100ML	1	6.00%	\$30.64
43		15750078	GENTAMICIN 10X10ML	1	5.00%	\$461.70
44		21985023	2 MERCAPTOETHANOL 1000X 50ML #21985	1	6.00%	\$36.65
45		14190144	DPBS 500ML	1	9.00%	\$18.72
46		A30589	8 TUBE STRIP W/ DOMED CAPS 125 STRIPS	1	5.00%	\$166.25
47		4306311	MICROAMP CLEAR ADHESIVE FILM, 100 PC	1	5.00%	\$130.15
48		Q32850	QUBIT DSDNA BR ASSAY KIT, 100 1 KIT	1	6.00%	\$88.36
49		Q32851	QUBIT DSDNA HS ASSAY KIT, 100 1 KIT	1	6.00%	\$88.36
50	D	10966034	PLATINUM TAQ DNA POLYMERASE 600 REACTIONS #Y02028 #95514	1	6.00%	\$479.40

* Items flagged with H or D require special handling and may be subject to an additional charge

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TERMS AND CONDITIONS OF SALE

This quotation is for products and services sold by Life Technologies Corporation, a Thermo Fisher Scientific company. This quotation, and the terms and conditions of sale found at www.thermofisher.com/termsandconditions ("thermofisher.com Terms and Conditions of Sale") that apply to the products and services listed on this quotation, are incorporated by reference into this quotation and any resulting contract. By issuing a purchase order or otherwise ordering or accepting product(s) or services, you expressly confirm that you intend to be bound by and agree to thermofisher.com Terms and Conditions of Sale to the exclusion of all other terms we do not expressly agree to in writing, and that the purchase and sales transaction between you and us is subject to and will be governed by thermofisher.com Terms and Conditions of Sale and the terms of this quotation.

If you have any questions, please visit our website at www.thermofisher.com.

TERMS AND CONDITIONS OF QUOTE

ADDITIONAL TERMS AND CONDITIONS OF QUOTATION

1. This quotation shall apply only to direct order purchases. In order to receive quoted prices, the quotation number must be referenced at time of order. Credits will not be issued for orders not referencing quotation numbers.
2. The effective dates of this quotation appear on the first page unless otherwise noted.
3. Percentage discounts in this quotation will be calculated from our current price for the applicable product. Discounts will be calculated from single unit catalog price. We reserve the right to change our prices at any time. Any increase or decrease to the price of a product would result in a change to your discounted price. Certain discounts are based on categories of products (e.g., "Pricing Product Line" or "PPL" discounts) that might change over time. We reserve the right to re-align products within a category or add or remove products to or from a specific category at any time. Such re-alignment, addition or removal may result in a change to your discounted price for a particular product.
4. We may terminate this quotation upon written notice.
5. This quotation contains our confidential pricing information which if disclosed to third parties could cause competitive harm to us. Subject to overriding obligations to third party funding agencies or governmental entities, the customer agrees to keep all pricing information contained herein confidential.

State of Maine Waiver of Competitive Bidding Request Form

Form Instructions: Please provide the requested information in the white boxes below. This form is to precede all contract requests that are not the direct result of a competitive bid process.

DHHS/DCM Contract Administrator:	Chris Moiles	Office/Division/Program of Contract Administrator:	DHHS, MeCDC, DS, HETL
Est. Contract Amount:	\$300,000.00	Contract or RQS Number:	RQS 10A 20190626*1377
		Purchasing Maine ID:	VC1000037602
		DHHS Agreement Number:	CD0-19-5429
Proposed Start Date:	11/07/2018	Proposed End Date:	11/06/2021
Vendor/Provider Name, City, State	Life Technologies Carlsbad, CA		
Short Description of Good or Service:	This request is for a master agreement for molecular biology supplies and reagents. A pricing quote #D2276322 has been provided by Life Technologies.		
Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Procurement Services website for a period of seven consecutive calendar days.		To be completed by the Division of Procurement Services Posting dates on Division of <i>Procurement Services</i> website: From: <u>6/28/2019</u> To: <u>7/5/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0620191118	
1. Statutory Justification			
State of Maine statute (5 M.R.S. §1825-B(2)) allows waivers of competitive bidding only for the specific reasons listed below. Please mark the appropriate box (X) next to the justification which applies to this specific request.			
<input type="checkbox"/>	A. The procurement of goods or services by the State for county commissioners pursuant to Title 30-A, section 124, involves the expenditure of \$2,500 or less, and the interests of the State would best be served;		
<input type="checkbox"/>	B. The Director of the Bureau of General Services is authorized by the Governor, or the Governor's designee, to make purchases without competitive bidding because, in the opinion of the Governor or the Governor's designee, an emergency exists that requires the immediate procurement of goods or services;		
	<i>If citing the above justification for this Waiver of Competitive Bidding request, please have the requesting Department's Commissioner or Chief Executive (as the Governor's "designee") sign and date on the right.</i>	<i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i>	
		Signature:	
		Printed Name:	Date:
<input checked="" type="checkbox"/>	C. After reasonable investigation by the Director of the Bureau of General Services, it appears that any required unit or item of supply, or brand of that unit or item, is procurable by the State from only one source;		
<input type="checkbox"/>	D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;		
<input type="checkbox"/>	E. The purchase is part of a cooperative project between the State and the University of Maine System, the Maine Community College System, the Maine Maritime Academy, or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State involving: (1) An activity assisting a state agency and enhancing the ability of the university system, community college system, Maine Maritime Academy, or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State to fulfill its mission of teaching, research, and public service; (2) A sharing of project responsibilities and, when appropriate, costs;		
	<i>If citing the above justification for this sole source request, please note that the specific approval of the Governor's Office is required, in accordance with Executive Order 26 FY 11/12, "An Order to Enhance Competitive Bidding". The approval must be documented on DAFS/BGS/Division of Procurement Services "GOVCOOP" form, found here: http://www.maine.gov/purchases/info/forms/govcoop.doc.</i>		
<input type="checkbox"/>	F. The procurement of goods or services involves expenditures of \$10,000 or less, in which case the Director of the Bureau of General Services may accept oral proposals or bids;		
<input type="checkbox"/>	G. The procurement of goods or services involves expenditures of \$10,000 or less, and procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need.		

State of Maine Waiver of Competitive Bidding Request Form

If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:

Please note that the following four points below (#2 through 5) all require a response.

2. Description of Specific Need

Please identify, and fully describe, the specific problem, requirement, or need the resulting non-competitive contract would address and which makes the goods or services necessary. Explain how the requesting Department determined that the goods or services are critical and/or essential to agency responsibilities or operations.

The Maine HETL has equipment from the vendor noted above, for the purpose of testing human specimens for a variety of infectious diseases. The instruments provided by Life Technology require specific reagents and consumables in order to function appropriately. No other vendor can provide compatible reagents or supplies for HETL's molecular, serology and virology equipment. HETL's testing protocols are based on HETL's capability of using these particular instruments for determining the presence of specific organisms found within the specimens received in HETL's laboratory.

3. Availability of other Public Resources

Please explain how the requesting Department concluded that sufficient staffing, resources, or expertise is not available within the State of Maine's government, or other governmental entities (local, other state, or federal agencies) external to the requesting Department, which would be able to address the identified need more efficiently and effectively than the identified vendor.

- a) HETL is the reference contract laboratory that hospitals, physicians and external laboratories count on for performing complex testing in the State of Maine. Use of the appropriate kits, reagents, and supplies with these instruments is necessary in order to comply with and to follow CDC/FDA guidelines.
- b) HETL is the State Health and Environmental Testing Laboratory and the sole source of the state to provide such services.
- c) Providing rapid test results to Maine CDC is of the utmost importance in order to allow the epidemiologists to do contact investigations quickly thereby reducing the spread of the disease as well as the disease burden.

4. Cost

Since a waiver of competitive bidding is being requested for this procurement, please explain how the requesting Department concluded the negotiated costs, fees, or rates are **fair and reasonable**.

- a) The federal CDC/FDA in many cases sets the rules and guidelines in the form of Standard Operating Procedures. In order to provide diagnostic testing to the State of Maine HETL must follow the guidelines instituted by the federal CDC/FDA. Therefore, HETL has purchased and currently maintains the equipment required to run CDC/FDA approved diagnostic tests.
- b) HETL has asked manufacturers for discounts due to its status as a nonprofit, governmental organization (public health laboratory).

5. Future Competition

Please describe potential opportunities which may be available to foster competition for these goods or services in the future.

- a) While HETL recognizes the need for competition in order to acquire the lowest price, in this specific case, the federal agency which sets the standard operating procedures(SOPs) has stated the equipment purchased from Life Technology must be from Life Technology and therefore it is required to purchase kit, reagents, and supplies compatible with these instruments.
- b) HETL cannot change vendors as the SOP's instituted by the CDC/FDA have only been approved using particular instrumentation and supplies from Life Technology.

State of Maine Waiver of Competitive Bidding Request Form

Please note that only one of the two points below ("Uniqueness" or "Timeframe") requires a response. Requesting Departments are not required to respond to both points.

6. Uniqueness

Please explain if the goods or services required are unique to a specific vendor. Describe the unique qualifications, abilities, and/or expertise of the vendor and how those particular unique factors address the specific need identified above. If the vendor has unique equipment, facilities, or proprietary data, also explain the necessity of these particular unique assets.

- a) The use of the Life Technology equipment is mandated in several Federal CDC/FDA standard operating procedures for the identification of samples or clinical specimens. HETL follows these federal CDC/FDA guidelines.
- b) The federal CDC/FDA is the governing body that sets the standards and regulations. HETL follows these federal CDC guidelines.
- c) While the federal CDC/FDA determines what standard operating procedures to follow, it is up to HETL to purchase and maintain all equipment that is needed to perform said tests.
- d) It must be stated that when performing a specific diagnostic test, the user is immediately 'locked-in' to that one sole source for that specific diagnostic test. A Diagnostic Test from Company A is in no way compatible with a Diagnostic Test from Company B.
- e) HETL is required to use reagents specifically designed to work in conjunction with the instruments otherwise the warranty/guarantee of proper operation is null and void.

7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)

Please explain if time is of the essence and an emergency exists which requires the immediate procurement of goods or services. Describe the nature of this emergency, provide the date by which the goods or services must be delivered, and explain how that date was determined and its significance (i.e. impact if delayed beyond this date). Also, provide information as to how it was determined this vendor is the best option to address this time-sensitive procurement.

N/A

Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):

By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.

Printed Name:

Jeff Wiley

Date:

24 JUN 2019

STATE OF MAINE

GENERAL TERMS AND CONDITIONS FOR GOODS AND/OR SERVICES UNDER BUYER PURCHASE ORDERS (BPOs) AND MASTER AGREEMENTS (MAs)

1. **DEFINITIONS:** The following definitions are applicable to these standard terms and conditions:
 - a. The term “Buyer” or “State” shall refer to the Government of the State of Maine or a person representing the Government of the State of Maine.
 - b. The term “Department” or “DAFS” shall refer to the State of Maine Department of Administrative and Financial Services.
 - c. The term “Bureau” or “BGS” shall refer to the State of Maine Bureau of General Services.
 - d. The term “Division” shall refer to the State of Maine Division of Purchases.
 - e. The term “Contractor”, “Vendor”, or “Provider” shall refer to the organization that is providing goods and/or services through the contract to which these standard terms and conditions have been attached and incorporated.
 - f. The term “Contract” or “Agreement” shall refer to the contract document to which these standard terms and conditions apply, taking the format of a Buyer Purchase Order (BPO) or Master Agreement (MA) or other contractual document that is mutually agreed upon between the State and the Contractor.

2. **WARRANTY:** The Contractor warrants the following:
 - a. That all goods and services to be supplied by it under this Contract are fit and sufficient for the purpose intended, and
 - b. That all goods and services covered by this Contract will conform to the specifications, drawing samples, symbols or other description specified by the Division, and
 - c. That such articles are merchantable, good quality, and free from defects whether patent or latent in material and workmanship, and
 - d. That all workmanship, materials, and articles to be provided are of the best grade and quality, and
 - e. That it has good and clear title to all articles to be supplied by it and the same are free and clear from all liens, encumbrances and security interest.

Neither the final certificate of payment nor any provision herein, nor partial nor entire use of the articles provided shall constitute an acceptance of work not done in accordance with this agreement or relieve the Contractor liability in respect of any warranties or responsibility for faulty material or workmanship. The Contractor shall remedy any defects in the work and pay any damage to other work resulting therefrom, which shall appear within one year from the date of final acceptance of the work provided hereunder. The Division of Purchases shall give written notice of observed defects with reasonable promptness.

3. **TAXES:** Contractor agrees that, unless otherwise indicated in the order, the prices herein do not include federal, state, or local sales or use tax from which an exemption is available for purposes of this order. Contractor agrees to accept and use tax exemption certificates when supplied by the Division as applicable. In case it shall ever be determined that any tax included in the prices herein was not required to be paid by Contractor, Contractor agrees to notify the Division and to make prompt application for the refund thereof, to take all proper steps to procure the same and when received to pay the same to the Division.

4. **PACKING AND SHIPMENT:** Deliveries shall be made as specified without charge for boxing, carting, or storage, unless otherwise specified. Articles shall be suitably packed to secure lowest

transportation cost and to conform to the requirements of common carriers and any applicable specifications. Order numbers and symbols must be plainly marked on all invoices, packages, bills of lading, and shipping orders. Bill of lading should accompany each invoice. Count or weight shall be final and conclusive on shipments not accompanied by packing lists.

5. DELIVERY: Delivery should be strictly in accordance with delivery schedule. If Contractor's deliveries fail to meet such schedule, the Division, without limiting its other remedies, may direct expedited routing and the difference between the expedited routing and the order routing costs shall be paid by the Contractor. Articles fabricated beyond the Division's releases are at Contractor's risk. Contractor shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet delivery schedule, and, unless otherwise specified herein, no deliveries shall be made in advance of the Division's delivery schedule. Neither party shall be liable for excess costs of deliveries or defaults due to the causes beyond its control and without its fault or negligence, provided, however, that when the Contractor has reason to believe that the deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately to the Division. If the Contractor's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Contractor and subcontractor and without fault of negligence or either of them and the articles or services to be furnished were not obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

6. FORCE MAJEURE: The State may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The State may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

7. INSPECTION: All articles and work will be subject to final inspection and approval after delivery, notwithstanding prior payment, it being expressly agreed that payment will not constitute final acceptance. The Division of Purchases, at its option, may either reject any article or work not in conformity with the requirements and terms of this order, or re-work the same at Contractor's expense. The Division may reject the entire shipment where it consists of a quantity of similar articles and sample inspection discloses that ten (10%) percent of the articles inspected are defective, unless Contractor agrees to reimburse the Division for the cost of a complete inspection of the articles included in such shipment. Rejected material may be returned at Contractor's risk and expense at the full invoice price plus applicable incoming transportation charges, if any. No replacement of defective articles of work shall be made unless specified by the Division.

8. INVOICE: The original and duplicate invoices covering each and every shipment made against this order showing Contract number, Vendor number, and other essential particulars, must be forwarded promptly to the ordering agency concerned by the Vendor to whom the order is issued. Delays in receiving invoice and also errors and omissions on statements will be considered just cause for withholding settlement without losing discount privileges. All accounts are to be carried in the name of the agency or institution receiving the goods, and not in the name of the Division of Purchases.

9. ALTERATIONS: The Division reserves the right to increase or decrease all or any portion of the work and the articles required by the bidding documents or this agreements, or to eliminate all or any portion of such work or articles or to change delivery date hereon without invalidating this Agreement. All such alterations shall be in writing. If any such alterations are made, the contract amount or amounts shall be adjusted accordingly. In no event shall Contractor fail or refuse to continue the performance of the work in providing of articles under this Agreement because of the inability of the parties to agree on an adjustment or adjustments.

10. TERMINATION: The Division may terminate the whole or any part of this Agreement in any one of the following circumstances:

- a. The Contractor fails to make delivery of articles, or to perform services within the time or times specified herein, or
- b. If Contractor fails to deliver specified materials or services, or
- c. If Contractor fails to perform any of the provisions of this Agreement, or
- d. If Contractor so fails to make progress as to endanger the performance of this Agreement in accordance with its terms, or
- e. If Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors or if a receiver is appointed on account of its insolvency, or
- f. Whenever for any reason the State shall determine that such termination is in the best interest of the State to do so.

In the event that the Division terminates this Agreement in whole or in part, pursuant to this paragraph with the exception of 8(f), the Division may procure (articles and services similar to those so terminated) upon such terms and in such manner as the Division deems appropriate, and Contractor shall be liable to the Division for any excess cost of such similar articles or services.

11. NON-APPROPRIATION: Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

12. COMPLIANCE WITH APPLICABLE LAWS: Contractor agrees that, in the performance hereof, it will comply with applicable laws, including, but not limited to statutes, rules, regulations or orders of the United States Government or of any state or political subdivision(s) thereof, and the same shall be deemed incorporated herein by reference. Awarding agency requirements and regulations pertaining to copyrights and rights in data. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act, (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000). Mandatory standards and policies relating to energy efficiency which are

contained in the state energy conservation plan issued in compliance with Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

13. INTERPRETATION: This Agreement shall be governed by the laws of the State of Maine as to interpretation and performance.

14. DISPUTES: The Division will decide any and all questions which may arise as to the quality and acceptability of articles provided and installation of such articles, and as to the manner of performance and rate of progress under this Contract. The Division will decide all questions, which may arise as to the interpretation of the terms of this Agreement and the fulfillment of this Agreement on the part of the Contractor.

15. ASSIGNMENT: None of the sums due or to become due nor any of the work to be performed under this order shall be assigned nor shall Contractor subcontract for completed or substantially completed articles called for by this order without the Division's prior written consent. No subcontract or transfer of agreement shall in any case release the Contractor of its obligations and liabilities under this Agreement.

16. STATE HELD HARMLESS: The Contractor agrees to indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, laborers and other persons, firm or corporation furnishing or supplying work, services, articles, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement.

17. SOLICITATION: The Contractor warrants that it has not employed or written any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement, and it has not paid, or agreed to pay any company, or person, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Division shall have the absolute right to annul this agreement or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

18. WAIVER: The failure of the Division to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this order or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant, or condition or the future exercise of such right, but the obligation of Contractor with respect to such future performance shall continue in full force and effect.

19. MATERIAL SAFETY: All manufacturers, importers, suppliers, or distributors of hazardous chemicals doing business in this State must provide a copy of the current Material Safety Data Sheet (MSDS) for any hazardous chemical to their direct purchasers of that chemical.

20. COMPETITION: By accepting this Contract, Contractor agrees that no collusion or other restraint of free competitive bidding, either directly or indirectly, has occurred in connection with this award by the Division of Purchases.

21. INTEGRATION: All terms of this Contract are to be interpreted in such a way as to be consistent at all times with this Standard Terms and Conditions document, and this document shall take precedence over any other terms, conditions, or provisions incorporated into the Contract.