

MA 18P 24021200000000000077  
NEW

**State of Maine**



**Master Agreement**

**Effective Date:** 02/12/24

**Expiration Date:** 06/22/26

**Master Agreement Description:** Master Agreement for Supplies, Reagents, and Kits

**Buyer Information**

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

**Issuer Information**

Shawn Belanger 207-287-5073 ext. shawn.belanger@maine.gov

**Requestor Information**

Shawn Belanger 207-287-5073 ext. shawn.belanger@maine.gov

**Agreement Reporting Categories**

**Authorized Departments**

ALL

**Vendor Information**

**Vendor Line #:** 1

**Vendor ID**

VC1000009169

**Vendor Name**

BIO-RAD LABS

**Alias/DBA**

DIAGNOSTIC PRODUCTS

**Vendor Address Information**

5400 EAST SECOND STREET

BENICIA, CA 94510

US

**Vendor Contact Information**





**RIDERS**

<input checked="" type="checkbox"/>	The following riders are hereby incorporated into this Contract and made part of it by reference: (check all that apply)
<input checked="" type="checkbox"/>	Rider A – Scope of Work and/or Specifications
<input checked="" type="checkbox"/>	Rider B – Terms and Conditions
<input type="checkbox"/>	Rider C - Exceptions
<input type="checkbox"/>	Bid Cover Page and Debarment Form
<input checked="" type="checkbox"/>	Debarment, Performance, and Non-Collusion Certification
<input type="checkbox"/>	Price sheet (attach excel spreadsheet to post on website)
<input checked="" type="checkbox"/>	Bio-Rad' Reagent Rental Agreement dated January 6, 2023

**RIDER A**  
**Scope of Work and/or Specifications**

The purpose of this master agreement is to procure supplies, reagents, and kits required to use laboratory equipment from Bio-Rad. All delivery orders will be subject to the prices, terms and conditions attached and hereby incorporated into this contract. This agreement is for a term of 36 months.

Order of Preference: In the event of conflict between the Riders to this Agreement, the order of preference is as follows:

Rider C--Exceptions

Rider B-Terms and conditions

Rider A—Scope of Work and/specification

Bio-Rad Reagent Rental Agreement

Price Sheet

Debarment, Performance, and Non-Collusion Certification

Bid Cover Page and Debarment Form

**RIDER B  
TERMS AND CONDITIONS**

- 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:

**Product Guarantee**

All Bio-Rad products are guaranteed to meet the specifications indicated in the packed insert, IFU, product brochure or operation manual. If you have questions about specifications or performance, please call your local Bio-Rad sales representative or contact Technical Services at 1-800-2-BIORAD.

**Warranty Information**

Bio-Rad Laboratories warrants that its products will meet the original manufacturer specification and be free from defects in materials and workmanship when it leaves the factory. If a defect should appear during the warranty period, the defective part(s) will be replaced or the instrument will be replaced or repaired, at Bio-Rad's option, at no cost to the customer. Warranty periods are product specific but are generally a 12 month period from the date of shipment and/or installation. Instrument warranties do not include consumable parts or supplies used to run the instrument system, such as paper, ink, probes, fluids, cups, tubes, cuvettes, cartridges, tips, etc. This warranty does not cover items broken or damaged, including glass, by improper handling or use. Additionally, defects not covered are: repair or modification done by anyone other than Bio-Rad or an authorized agent, use of parts supplied by any vendor other than Bio-Rad, damage caused by disaster and corrosion due to solvent and sample spills. Reagents and chemistry products are warranted through their expiration date or for 1 year from shipment if no expiration date is indicated. Non-Bio-Rad branded products, such as computers and computer peripherals, are covered by the original equipment manufacturer's warranty. Warranties are not transferable from the original purchaser. Warranty coverage may be void if the product is moved outside of the country where the product was originally purchased.

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. 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. If, for any reason, the Division is to lose its exempt status, it will inform Contractor immediately and will pay Contractor any applicable taxes that may be imposed. 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 must be plainly marked on all invoices, , 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:** .

**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. . 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 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 agreement, 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 because 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.

**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. Such consent to not be unreasonably withheld. Contractor reserves the right to assign this agreement to any successor of Bio-Rad's particular business which pertains to the goods and services under this agreement, in the event there is a change of control or sale. 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 third party 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.

In no event shall Contractor or State be liable for any special, indirect, incidental, or consequential losses or damages, including lost profits, even if State has been advised of the possibility of such potential loss or damage. This section is not intended to modify or waive a party's indemnification obligations or product recall obligations set forth in this agreement. Contractor's liability shall be limited to gross price received by contractor for the goods on the relevant purchase order.

**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.

RIDER C  
EXCEPTIONS

If no exceptions Enter N/A

2. **WARRANTY:** The Contractor warrants the following:

Product Guarantee

All Bio-Rad products are guaranteed to meet the specifications indicated in the packed insert, IFU, product brochure or operation manual. If you have questions about specifications or performance, please call your local Bio-Rad sales representative or contact Technical Services at 1-800-2-BIORAD.

Warranty Information

Bio-Rad Laboratories warrants that its products will meet the original manufacturer specification and be free from defects in materials and workmanship when it leaves the factory. If a defect should appear during the warranty period, the defective part(s) will be replaced or the instrument will be replaced or repaired, at Bio-Rad's option, at no cost to the customer. Warranty periods are product specific but are generally a 12-month period from the date of shipment and/or installation. Instrument warranties do not include consumable parts or supplies used to run the instrument system, such as paper, ink, probes, fluids, cups, tubes, cuvettes, cartridges, tips, etc. This warranty does not cover items broken or damaged, including glass, by improper handling or use. Additionally, defects not covered are: repair or modification done by anyone other than Bio-Rad or an authorized agent, use of parts supplied by any vendor other than Bio-Rad, damage caused by disaster and corrosion due to solvent and sample spills. Reagents and chemistry products are warranted through their expiration date or for 1 year from shipment if no expiration date is indicated. Non-Bio-Rad branded products, such as computers and computer peripherals, are covered by the original equipment manufacturer's warranty. Warranties are not transferable from the original purchaser. Warranty coverage may be void if the product is moved outside of the country where the product was originally purchased.

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. 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. If, for any reason, the Division is to lose its exempt status, it will inform Contractor immediately and will pay Contractor any applicable taxes that may be imposed. 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 must be plainly marked on all invoices, 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 - Removed**
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. 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 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.
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 because 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.

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. Such consent to not be unreasonably withheld. Contractor reserves the right to assign this agreement to any successor of Bio-Rad's particular business which pertains to the goods and services under this agreement, in the event there is a change of control or sale. 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 third party 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.

In no event shall Contractor or State be liable for any special, indirect, incidental, or consequential losses or damages, including lost profits, even if State has been advised of the possibility of such potential loss or damage. This section is not intended to modify or waive a party's indemnification obligations or product recall obligations set forth in this agreement. Contractor's liability shall be limited to gross price received by contractor for the goods on the relevant purchase order.


### Debarment, Performance, and Non-Collusion Certification

*By signing this document, I certify to the best of my knowledge and belief that the aforementioned organization, its principals, and any subcontractors named in this proposal:*

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.*
- b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:*
  - i. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.*
  - ii. violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;*
  - iii. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and*
  - iv. have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.*
- c. Have not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.*

- Failure to provide this certification may result in the disqualification of the Bidder’s proposal, at the discretion of the Department.**

*To the best of my knowledge all information provided in the enclosed proposal, both programmatic and financial, is complete and accurate at the time of submission.*

Name: Shantara Kendrick	Title: Supervisor II / Service Contracts & Instrument Installation Administration
Authorized Signature: 	Date: 6/22/2023

## REAGENT RENTAL AGREEMENT PLAN Genius System

CUSTOMER: Department of Health and Human Services  
221 State Street  
Augusta, ME 04333  
Sold To: 1001005  
Ship To: 1001005

SUPPLIER : Bio-Rad Laboratories, Inc.  
1000 Alfred Nobel Drive  
Hercules, CA 94547

This Reagent Rental Agreement ("Agreement") is by and between Customer and Supplier and made effective as of Customer's "go-live" date as defined in section 4.1 (the "Effective Date"). This Agreement sets forth the terms and conditions that apply to all Equipment, Reagents and Consumables (as defined in Exhibit A, both referred to herein also as "Goods").

### 1. EQUIPMENT

- 1.1. Upon Customer's acceptance of this Reagent Rental Agreement Plan ("Agreement"), Customer shall continue use of the following item(s) of equipment (all of the items collectively referred to as the "Equipment").

Equipment is currently located at customer's site:

<u>Cat.#</u>	<u>Description</u>	<u>Quantity</u>
92465 (Existing)	Genius Reader	1

- 1.2. During the duration of this Agreement, the Customer shall use the Equipment in accordance with the terms of this Agreement and only at Customer's site at the address above and shall not remove or transfer it without the prior written consent of Supplier.

### 2. PAYMENT TERMS

Payment terms are net thirty (30) days from the date of invoice. Customer may make payments by ACH, wire or check. Payment by credit card is not accepted by this agreement.

### 3. CARE AND SERVICING OF THE EQUIPMENT

- 3.1. At no additional cost to Customer, Supplier will provide telephone assistance 24 hours per day, 365 days per year.
- 3.2. As part of this Agreement, Supplier or Supplier appointed personnel will provide on-site service, as needed, to keep the Equipment in good working order. On-site service will be provided, at no cost to Customer, Monday through Friday, 8:00 a.m. to 6:00 p.m. (local time), excluding Supplier and/ or national holidays. On-site extended service coverage (Saturday, Sunday, and/or holidays) is available, but is not included in this Agreement. Supplier's Signature Service Agreement Rate Schedule for "Extended Reagent Rental Service Coverage" charges is available upon request.

As part of this Agreement, Supplier or Supplier appointed personnel will provide depot (returned to Supplier) service, as needed, to keep the Equipment in good working order. Depot service will be provided, at no cost to customer, Monday through Friday, 8:00 a.m. to 6:00 p.m. (local time), excluding national holidays.

- 3.3. Supplier will not be required to pay the cost of any damage to the Equipment caused by Customer's negligence, abuse, or alteration of the Equipment, or by any service performed by unauthorized personnel or by use of any non-Supplier approved Reagents or Consumables.
- 3.4. Customer agrees that only Supplier appointed personnel are to service the Equipment.
- 3.5. Customer agrees to utilize only Supplier approved Reagents or Consumables on the Equipment.

- 3.6. Supplier shall not be responsible for the moving (de-installation and re-installation) of equipment from one location to another, additional operator training, and/or any other extra services not specified in this Agreement.
- 3.7. BRiCare is Supplier's remote support and monitoring system, which is a secured software application designed to increase instrument availability and reduce response time for technical support calls. Customer agrees to provide Supplier with an internet connection to each instrument to facilitate remote troubleshooting, problem diagnosis and possible resolution without dispatch of a Supplier Engineer. Customer is prohibited from disclosing PHI to Supplier, and Customer is solely responsible for safeguarding any PHI that is accessible to Supplier.

4. TERM

- 4.1. This Agreement will be effective on Customer's "award" date (not to exceed 60-days from installation of Equipment) and will continue in effect for a term of thirty-six (36) months (the "Term") unless sooner terminated by either party as provided herein This Agreement may be terminated by (a) Customer by serving a 120-day written notice of termination upon the Supplier at the address listed in paragraph 13, below;. (b)This Agreement will terminate automatically on the date as of which Customer in any manner acquires title to the Equipment.
- 4.2. In addition, Supplier may immediately terminate this Agreement in the event (a) Customer fails to make payment when due, as described in subparagraph 12.2, (b) materially breaches this Agreement (other than non-payment) and fails to cure such breach within thirty (30) days of notice by Supplier of such breach, or (c) Customer makes an assignment for the benefit of creditors or proceedings are commenced by or for Customer under any bankruptcy, insolvency, or debtor's relief law.
- 4.3. Should Customer terminate this Agreement, except for cause as set forth in Ride B, prior to the expiration of the Agreement Term, Customer is required to pay all expenses incurred in connection with the enforcement of any remedies, including all expenses of packing, shipping and handling the Equipment.

5. RETURN OF EQUIPMENT

Upon termination of this Agreement, for any reason, except taking title to the Equipment, a Supplier Service Engineer will carefully pack and return the Equipment to Supplier.

6. TITLE TO THE EQUIPMENT

- 6.1. Supplier is the owner of and retains title to the Equipment.
- 6.2. Customer shall not permit or suffer any attachment, encumbrance, lien, or security interest to be filed against the Equipment and shall promptly notify Supplier if any of the foregoing is filed or claimed and shall indemnify Supplier for any loss or damage resulting from any of the foregoing.
- 6.3. Upon the request of Supplier, Customer will execute a financing statement as provided under the Uniform Commercial Code to permit Supplier to perfect a security interest in the Equipment.

7. RISK OF LOSS & DAMAGE

- 7.1. Customer will be responsible for any damage to the Equipment not caused by Supplier's services or products. Customer shall promptly notify Supplier of any damage to the equipment described herein.
- 7.2. If Customer is liable for damage and if Supplier, in its sole discretion, decides the damaged items are not repairable, Customer shall pay Supplier the current catalog trade price for the item of the Equipment less depreciation based on a ten (10) year straight line base (prorated monthly). There upon Customer will own that item "as is" with all faults and defects.
- 7.3. Customer will agree to insure said piece of equipment against "All Risks" of physical damage or loss and forward to Supplier a Certificate of Insurance naming Supplier as Loss Payee, if requested.

8. LABEL



Customer shall not remove any labels, symbols or serial numbers that are or may be affixed to the items of Equipment being utilized hereunder, except as requested by Supplier in writing.

9. TAXES

9.1 Supplier is the owner of and retains title to the Equipment and responsibility for any applicable property taxes provided Customer forwards such property tax notification to: CDG Global Finance Department, Bio-Rad Laboratories, Inc., 4000 Alfred Nobel Drive, Hercules, CA 94547.

9.2 The Parties agree to cooperate with one another and use reasonable efforts to avoid or reduce tax withholding or similar obligations in respect of royalties and other payments made by Customer to Bio-Rad. Without limiting the generality of the foregoing, Bio-Rad shall provide Customer any tax forms and other information that may be reasonably necessary in order for Customer to not withhold tax or to withhold tax at a reduced rate under an applicable bilateral income tax treaty. Bio-Rad shall endeavor to provide any such tax forms to Customer at least thirty (30) days prior to the due date for any payment for which Bio-Rad desires that Customer apply a reduced withholding rate. Each Party shall provide the other with reasonable assistance to enable the recovery, as permitted by applicable law, of withholding taxes, value added taxes, or similar obligations resulting from payments related to any transaction between the parties, such recovery to be for the benefit of the Party bearing such withholding tax or value added tax.

10. FORCE MAJEURE

Supplier shall not be liable for any failure to perform under this Reagent Rental Agreement Plan due to strikes (legal or illegal), lockouts, fires, floods or water damage, riots, governmental acts or orders, interruption of transportation, inability to obtain materials upon reasonable prices or terms, or any other causes beyond its control.

11. WAIVER

11.1. Customer agrees that this Agreement is only an agreement of use with respect to the Equipment, that Customer does not in any way acquire title to or the ownership of the Equipment or any item thereof, that upon termination or cancellation of this Agreement for whatever reason, Customer shall immediately return the Equipment or permit its removal under paragraph 5, that Customer's sole right hereunder is to peaceably possess and use the Equipment provided it makes all payments when and as due.

11.2. In the event Customer fails to make payment required hereunder when such payment becomes due, Supplier may, in its discretion and without further liability whatever, terminate this Agreement and enter upon Customer's facility and remove the Equipment. Customer waives prior notice, pre-seizure hearing and judicial process as prior conditions to repossession of the Equipment or any item thereof. Customer is required to pay all expenses incurred in connection with the enforcement of any remedies, including all expenses of repossessing, storage, shipping, repairing, recertification, selling the Equipment and reasonable attorney fees. (Note: Expenses not to exceed 30% of the total Agreement value.)

12. NOTICES

To Supplier: Bio-Rad Laboratories, Inc.  
1000 Alfred Nobel Drive  
Hercules, CA 94547  
Attention: Shantara Kendrick

To Customer: Department of Health and Human Services  
221 State Street  
Augusta, ME 04333  
Attention: Nick Matluk

13. CERTIFICATION

Customer certifies that prior to the execution of this Agreement, Supplier offered to sell reagent test kits to Customer, and/or to reagent rent or sell the Equipment to Customer, separately, and that Customer has refused those offers, and has bound itself to the terms of this Agreement instead.

14. LIMITED WARRANTY

14.1. Supplier warrants and represents that the Equipment will perform in accordance with Supplier's standard warranty. The warranty period begins on Customer's Acceptance date and remains in effect for one year.

14.2. Warranty Exclusions. The warranties provided herein do not include:

- a. Damages caused by normal wear and tear, improper use or handling, or neglect.
- b. Damages caused by accident and disaster which will include, but not be limited to: fire, flood, water, wind, and electrical surge.
- c. Goods which have been repaired, altered or modified in any way or parts which have been replaced by Customer or any other person or persons (other than those employed by Supplier) without the prior written consent of Supplier.
- d. Any Goods sold as refurbished or used.
- e. Any Goods designated by Supplier as being in contact with sample or reagent streams or as consumable items (such as lamps or platinum wire) which are subject to normal wear and tear and should be replaced by Customer in the normal course.
- f. Any Goods sold through an unauthorized reseller.
- g. Non Supplier products supplied; these carry the warranty of the supplier or manufacturer and Supplier makes no claims regarding support of those products but will make reasonable attempts to transfer the warranty to Customer.

15. NO OTHER WARRANTIES.

THE EXPRESS WARRANTIES STATED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO SUPPLIER'S GOODS AND SERVICES AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. ALL OTHER WARRANTIES ARE EXPRESSLY DISCLAIMED, INCLUDING WITHOUT LIMITATION THOSE OF MERCHANTABILITY OR FITNESS FOR A SPECIFIC PURPOSE (WHETHER ARISING FROM STATUTE, OR OTHERWISE IN LAW, OR FROM A COURSE OF DEALING, OR USAGE OF TRADE) OR NONINFRINGEMENT. THIS WARRANTY IS NOT TRANSFERABLE FROM THE ORIGINAL PURCHASER TO A SUBSEQUENT OWNER. FURTHER, SUPPLIER IS NOT LIABLE IN CASES OF DELIBERATE, NEGLIGENT OR ACCIDENTAL MISUSE OF THE GOODS, USE WITH INAPPROPRIATE REAGENTS OR CONSUMABLES, DAMAGE CAUSED BY DISASTER, REPAIR OR MODIFICATIONS DONE BY ANYONE OTHER THAN SUPPLIER.

16. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SUPPLIER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, LOSS OR INACCURACY OF DATA, LOST REVENUES OR PROFITS OR INJURY TO THIRD PERSONS, WHETHER FORESEEABLE OR NOT, REGARDLESS OF WHETHER SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

17. CONFIDENTIALITY

Customer shall not publish, disseminate, or disclose to any third party (i) the terms and conditions of this Agreement, (ii) all financial terms and conditions contained in any quotation from Supplier, or (iii) any

information, in written or other tangible form, which has been conspicuously marked by Supplier as "confidential" or "proprietary" or if not so marked, is later summarized and confirmed as confidential in a writing transmitted to Customer within fifteen (15) days after disclosure. The foregoing restriction shall not apply to any information that: (i) is or becomes publicly available without Customer's breach of any obligations owed to Supplier; (ii) is known to Customer prior to Supplier's disclosure of such information to Customer; (iii) becomes known to Customer from a source other than Supplier without a breach of an obligation of confidentiality owed to Supplier.

18. NON-ASSIGNMENT.

Customer may not assign its rights under this Agreement, and any purported assignment in violation hereof shall be void without written permission.

19. ENTIRE AGREEMENT

This Agreement (including any attachments specifically referred to in this Agreement and any documents incorporated herein by reference) and any invoice issued by Supplier hereunder contain the entire agreement between Supplier and Customer with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreement, written and oral, regarding such subject matter. This Agreement and the terms and conditions of any invoice issued by Supplier hereunder shall entirely supersede any terms or conditions which may be in Customer's purchase or order form or its agent's invoice. Any terms or conditions contained in any such form or invoice of Customer shall be null and void, except for those specific terms concerning quantity, billing directions, and shipping instructions, and any additional terms specifically accepted by Supplier.

20. SEVERABILITY

Some states, countries or jurisdictions do not allow the exclusion or limitation of incidental, consequential or special damages, or the exclusion of implied warranties, or other terms hereof, so such terms may not apply. Any decision by a court of competent jurisdiction invalidating or holding unenforceable any part of this Agreement shall not affect the validity and enforceability of any other part of this Agreement.

21. GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the United States of America and of the State of Maine without regard to conflict of laws.

22. AMENDMENT; WAIVER

This Agreement may be amended or modified only by a written instrument executed by the parties hereto. The waiver of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision hereof.

23. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together shall be considered one and the same instrument.

AGREED TO and ACCEPTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Bio-Rad Laboratories, Inc.

Customer

By:  \_\_\_\_\_  
141C56EE355B40E...

By: \_\_\_\_\_

Shantara Kendrick

Supervisor II Title

Purchase Order Number

THIS AGREEMENT IS VALID ONLY IF EXECUTED PRIOR TO AUGUST 30, 2023.

**EXHIBIT A**

## GEENIUS SYSTEM PRODUCTS AND PRICE SCHEDULE

### Section 1: EQUIPMENT SCHEDULE

Catalog #	Description	QTY
92465	Geenius Reader (Existing)	1

### Section 2: PRICE SCHEDULE

2.1 Pricing is based on the minimum annual volumes listed below. Cost per kit will cover the rental of the Equipment, Supplier Silver Signature Service, and reagent costs. Reagents will be billed when shipped with the freight to be paid by the Supplier.

#### 2.2 PRICE CHANGES

Until this Agreement is terminated, Supplier agrees the prices quoted below shall be fixed for Term. Fixed pricing is based on compliance to minimum annual volumes.

#### **Geenius**

Catalog #	Description	Minimum Annual Volume	Unit Price
72461	Geenius HIV-1/2 Supplemental Assay 20t	1	\$947.60
72339	Geenius HIV-1/2 Supplem Controls 2x120µL	1	\$45.32

### Section 3: MISCELLANEOUS

#### 3.1 TRANSPORTATION

3.1.1 Transportation charges, including freight and handling fees to (and where applicable, from) the place of business of Customer for the Equipment shall be borne by Supplier and for the Reagents shall be borne by Supplier.

4.1.2 No Goods returns will be accepted without the prior approval of Supplier. All claims must be received within five (5) days following receipt of the Goods. Customer must obtain a return authorization number and return the Goods by the specified courier following the approved temperature guidelines. The Goods must be returned in original condition. Supplier reserves the right to charge a restocking fee for conforming Goods.