NOTICE OF AWARD OF CONTRACT

TO: SEAL ANALYTICAL, INC.
10520-C BAEBR ROAD
MEQUON, WI 53092

DATE ISSUED: March 28, 2014

CURRENT CONTRACT NO: 555-14

CONTRACT TITLE: DES - OEM PARTS, MAINT. & SOFTWARE UPDATES FOR DISCRETE ANALYZER

THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

Your firm is awarded the above referenced contract. The contract term covered by this Notice of Award is effective IMMEDIATELY and expires on OCTOBER 17, 2019.

The contract documents consist of the terms and conditions of Agreement No. 555-14, including any exhibits, attached or amendments thereto.

CONTRACT PRICING:

1. Refer to Agreement 555-14 - Exhibit B for pricing

ATTACHMENTS:

1. Agreement 555-14
2. Attachment A & B

EMPLOYEES NOT TO BENEFIT:

NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

VENDOR CONTACT: Laticia Potter
TELEPHONE NO.: 262-241-7900

VENDOR EMAIL: lpotter@seal-us.com

COUNTY CONTACT: Bernie Raiford
TELEPHONE NO.: 703-228-6831

COUNTY EMAIL: braiford@arlingtonva.us

CONTRACT AUTHORIZATION

Ivette Gonzalez, CPPB
Procurement Officer

DISTRIBUTION

3/25/14
BID FOLDER: 1
ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201

AGREEMENT NO. 555-14

THIS AGREEMENT (hereinafter "Agreement" or "Contract") is made, on the date of execution by the County, between Seal Analytical, Inc., Mequon Technology Center, 10520-C Baehr Road, Mequon, WI 53092 ("Contractor"), a Delaware Corporation authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("County"). The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS
The contract documents consist of this Agreement, Exhibit A ("Scope of Work"), and Exhibit B ("Pricing Sheet") ("Contract Documents").

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents and the remaining Contract Documents shall be complementary to each other and if there are any conflicts the most stringent terms or provisions shall prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to the parties agreement which is not contained in the Contract Documents. The Contract Documents may be referred to herein below as the "Contract" or the "Agreement."

2. SCOPE OF WORK
The Contractor agrees to perform the services described in the Contract Documents (hereinafter "the Work"). The primary purpose of the Work is to provide OEM parts, consumables, supplies, preventive and corrective maintenance, software updates and technical support for Seal Analytical Discrete Analyzer. The Contract Documents set forth the minimum work estimated by the County and the Contractor to be necessary to complete the Work. It shall be the Contractor’s responsibility, at the Contractor’s sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor’s responsibility to manage the details and execution of the Work.

3. CONTRACT TERM
The Work shall commence on upon the execution of the Agreement by the County, and shall be completed no later than October 17, 2019 (Contract Term), subject to any modifications as provided for in the Contract Documents regarding the Contract Term. No Work shall be deemed complete until it is accepted by the Project Officer.

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4. **CONTRACT AMOUNT**
The County will pay the Contractor in accordance with the terms of the Payment paragraph below, and Exhibit B for the Contractor's completion of the Work described and required in the Contract Documents. The Contractor agrees that it shall complete the Work for the total amount specified in this section ("Contract Amount") unless such amount is modified as provided in this Agreement.

5. **PAYMENT**
Payment will be made by the County to the Contractor within thirty (30) days after receipt by the County Project Officer of an invoice for work done which is reasonable and allocable to the Contract and which has been performed to the satisfaction of the Project Officer. The Project Officer will either approve the invoice or require corrections. The number of the County Purchase Order pursuant to which authority goods or services have been performed or delivered shall appear on all invoices.

6. **PROJECT OFFICER**
The performance of the Contractor is subject to the review and approval of the County Project Officer ("Project Officer") who shall be appointed by the Director of the Arlington County department or agency requesting the work under this Contract. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its work pursuant to the Contract Documents.

7. **ADJUSTMENTS FOR CHANGE IN SCOPE**
The County may order changes in the Work within the general scope of the Work consisting of additions, deletions or other revisions. No claim may be made by the Contractor that the scope of the work or that the Contractor's services have been changed requiring adjustments to the amount of compensation due the Contractor unless such adjustments have been made by a written amendment to the Contract signed by the County and the Contractor. If the Contractor believes that any particular work is not within the scope of the Work or is a material change or otherwise will call for more compensation to the Contractor, the Contractor must immediately notify the Project Officer after the change or event occurs and within ten (10) calendar days thereafter must provide written notice to the Project Officer. The Contractor's notice must provide to the Project Officer the amount of additional compensation claimed, together with the basis therefor and documentation supporting the claimed amount. The Contractor will not be compensated for performing any work unless a proposal complying with this paragraph has been submitted in the time specified above and a written Contract amendment has been signed by the County and the Contractor and a County purchase order is issued covering the cost of the services to be provided pursuant to the amendment.
8. ADDITIONAL SERVICES
The Contractor shall not be compensated for any goods or services provided except those included in Exhibit A and included in the Contract Amount unless those goods or services are covered by a written amendment to this Contract signed by the County and the Contractor, and a County Purchase Order is issued covering the expected cost of such services.

Additional services agreed upon by the parties will be billed at the rates set forth in Exhibit B unless otherwise agreed by the parties in writing.

9. REIMBURSABLE EXPENSES
No reimbursable expenses are allowed under this Contract. The Contract Amount includes all costs and expenses of providing to the County the services described in this Contract.

10. PAYMENT OF SUBCONTRACTORS
The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by any subcontractor under this Contract:

a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or

b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.
11. **NON-APPROPRIATION**
All funds for payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia. In the event of non-appropriation of funds by the County Board of Arlington County, Virginia for the goods or services provided under this Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the then current fiscal year or when the appropriation made for the then current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the County shall not be obligated under this Contract beyond the date of termination specified in the County’s written notice.

12. **REQUIREMENTS CONTRACT (ESTIMATED QUANTITIES)**
During the Contract Term, the Contractor will furnish all of the items or services described in the Contract Documents if so requested by the County. The Contractor understands and agrees that this is a requirements contract and the County will have no obligation to the Contractor if no, or fewer, items or services are required or requested by the County. Any quantities which are included in the Contract Documents are the present expectations of those who are planning for the County for the period of the Contract. The amount is only an estimate and the Contractor understands and agrees that the County is under no obligation to the Contractor to buy that amount, or any amount, as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The Contractor further understands that the County may require goods and/or services in excess of the estimated annual contract amount and that such excess shall not give rise to any claim for compensation other than at the unit prices set forth in this Contract.

13. **COUNTY PURCHASE ORDER REQUIREMENT**
County purchases are authorized only if a County Purchase Order is issued in advance of the transaction, indicating that the ordering agency has sufficient funds available to pay for the purchase. Such a Purchase Order is to be provided to the Contractor by the ordering agency. The County will not be liable for payment for any purchases made by its employees without appropriate purchase authorization issued by the County Purchasing Agent. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense.

14. **EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED**
During the performance of this Contract, the Contractor agrees as follows:

A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis
prohibited by state law related to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an Equal Opportunity Employer.

C. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.

E. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

15. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED
In accordance with §2.2-4311.1 of the Code of Virginia, 1950, as amended, the Contractor acknowledges that it does not, and shall not during the performance of this Contract for goods and/or services in the Commonwealth, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.

16. TO BE MAINTAINED BY CONTRACTOR
During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor by Arlington County in accordance with the Arlington County Purchasing Resolution, the employees of which contractor are prohibited from engaging in the unlawful manufacture,
sale, distribution, dispensation, possession or use of any controlled
substance or marijuana during the performance of the contract.

17. WARRANTY
The Contractor warrants to furnish the services described herein at the
times and places and in the manner and subject to the conditions set
forth. The Contractor shall enter upon and complete the performance of
services with all due diligence and dispatch and shall exercise the
highest degree of skill and competence.

All goods and materials provided to the County shall be fully
guaranteed by the Contractor against factory defects. Any defects
which may occur as the result of either faulty material or workmanship
by the manufacturer within the period of the manufacturer's standard
warranty shall be corrected by the Contractor at no expense to
Arlington County. The Contractor shall provide evidence of all
manufacturers' warranties to the Project Officer at the time of
delivery. All goods and materials are also guaranteed by the
Contractor against defects resulting from the use of inferior or faulty
materials or workmanship for one (1) year from the date of final
acceptance by the County in addition to and irrespective of any
manufacturer's or supplier's warranty. No date other than the date of
final acceptance shall govern the effective date of the Guaranty,
unless that date is agreed upon by the County and the Contractor in
advance and in a signed writing.

18. UNSATISFACTORY WORK
If any of the work done, or material or equipment provided, by the
Contractor is unsatisfactory to the County, the Contractor shall, on
being notified by the County, immediately remove at the Contractor's
expense such unsatisfactory work or material or equipment and replace
the same with work or material or equipment satisfactory to the County
and, in the event the Contractor fails within fifteen (15) days after
receipt of written notice to remove improper or unsuitable work or
material or equipment and replace it with suitable and satisfactory
work or material or equipment, the County shall have the right, but not
the obligation, to remove the rejected work or material or equipment
and replace it with proper work or material or equipment at the expense
of the Contractor. This paragraph applies during the Contract Term,
and during any warranty or guarantee period. The County shall be
entitled to offset such expense against any sums owed by the County to
the Contractor under this Contract. If the Project Officer and the
County deem it expedient not to require correction or replacement of
the work which has not been done in accordance with the Contract, an
appropriate adjustment to the Contract Amount may be made therefore.

19. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE
The Contract shall remain in force for the Contract Term and until the
County determines that all of the following requirements and conditions
have been satisfactorily met: the County has accepted the Work, and
thereafter until the Contractor has met all requirements and conditions
relating to the Work under the Contract Documents, including warranty
and guarantee periods. However, the County shall have the right to
terminate this Contract sooner if the Contractor is in breach or
default or has failed to perform satisfactorily the Work required, as determined by the County in its discretion.

If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) within at least sixteen (16) days before termination or the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period or as otherwise specified in the notice, the Contract may be terminated for the Contractor's failure to provide satisfactory Contract performance. Upon such termination, the Contractor may apply for compensation for Contract services satisfactorily performed by the Contractor, allocable to the Contract and accepted by the County prior to such termination unless otherwise barred by the Contract ("Termination Costs"). In order to be considered, such request for Termination Costs, with all supporting documentation, must be submitted to the County Project Officer within fifteen (15) days after the expiration of the Cure Period. The County may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination shall be immediate after notice from the County to the Contractor (unless the County in its discretion provides for an opportunity to cure) and the Contractor shall not be permitted to seek Termination Costs.

Upon any termination pursuant to this section, the Contractor shall be liable to the County for all costs incurred by the County after the effective date of termination, including costs required to be expended by the County to complete the Work covered by the Contract, including costs of delay in completing the Work or the cost of repairing or correcting any unsatisfactory or non-compliant work performed or provided by the Contractor or its subcontractors. Such costs shall be either deducted from any amount due the Contractor or shall be promptly paid by the Contractor to the County upon demand by the County. Additionally, and notwithstanding any provision in this Contract to the contrary, the Contractor is liable to the County, and the County shall be entitled to recover, all damages to which the County is entitled by this Contract or by law, including, and without limitation, direct damages, indirect damages, consequential damages, delay damages, replacement costs, refund of all sums paid by the County to the Contractor under the Contract and all attorney fees and costs incurred by the County to enforce any provision of this Contract.

Except as otherwise directed by the County in the notice, the Contractor shall stop work on the date of receipt of notice of the termination or other date specified in the notice, place no further orders or subcontracts for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated, and terminate all vendors and subcontracts and settle all outstanding liabilities and claims. Any purchases after the date of termination contained in the notice shall be the sole responsibility of the Contractor.
In the event any termination for cause, default, or breach shall be found to be improper or invalid by any court of competent jurisdiction then such termination shall be deemed to have been a termination for convenience.

20. **TERMINATION FOR THE CONVENIENCE OF THE COUNTY**

The performance of work under this Contract may be terminated by the County's Purchasing Agent in whole or in part whenever the Purchasing Agent shall determine that such termination is in the County's best interest. Any such termination shall be effected by the delivery to the Contractor of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance of the work under this Contract is terminated and the date upon which such termination becomes effective. The Contractor will be entitled to receive compensation for all Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the County prior to such termination and any other reasonable termination costs as negotiated by the parties, but no amount shall be allowed for anticipatory profits.

After receipt of a notice of termination and except as otherwise directed, the Contractor shall stop all designated work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services or facilities except as are necessary for the completion of such portion of the work not terminated; immediately transfer all documentation and paperwork for terminated work to the County; and terminate all vendors and subcontracts and settle all outstanding liabilities and claims.

21. **INDEMNIFICATION**

The Contractor covenants for itself, its employees, and subcontractors to save, defend, hold harmless and indemnify the County, and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards, and commissions (collectively the "County" for purposes of this section) from and against any and all claims made by third parties or by the County for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, demands or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the work called for by the Contract Documents. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If, after notice by the County, the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor shall be liable for and reimburse the County for any and all expenses, including but not limited to, reasonable attorneys fees incurred and any settlements or payments made. The Contractor shall pay such expenses upon demand by the County and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

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22. **INTELLECTUAL PROPERTY INDEMNIFICATION**

The Contractor warrants and guarantees that no intellectual property rights (including, but not limited to, copyright, patent, mask rights and trademark) of third parties are infringed or in any manner involved in or related to the services provided hereunder.

The Contractor further covenants for itself, its employees, and subcontractors to save, defend, hold harmless, and indemnify the County, and all of its officers, officials, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, for or on account of any trademark, copyright, patented or unpatented invention, process, or article manufactured or used in the performance of this Contract, including its use by the County. If the Contractor, or any of its employees or subcontractors, uses any design, device, work, or materials covered by letters patent or copyright, it is mutually agreed and understood, without exception, that the Contract Amount includes all royalties, licensing fees, and any other costs arising from the use of such design, device, work, or materials in any way involved with the Work. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If, after Notice by the County, the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor shall be liable for and reimburse the County for any and all expenses, including but not limited to, reasonable attorneys fees incurred and any settlements or payments made. The Contractor shall pay such expenses upon demand by the County and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

23. **OWNERSHIP AND RETURN OF RECORDS**

This Contract confers no ownership rights to the Contractor nor any rights or interests to use or disclose the County’s data or inputs.

The Contractor agrees that all drawings, specifications, blueprints, data, information, findings, memoranda, correspondence, documents or records of any type, whether written or oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of the County’s request for services under this Contract, are the exclusive property of the County (“Record” or “Records”), and all such Records shall be provided to and/or returned to County upon completion, termination, or cancellation of this Contract. The Contractor shall not use, willingly allow, or cause such materials to be used for any other purpose other than performance of all obligations under the Contract without the written consent of the County. Additionally, the Contractor agrees that the Records are confidential records and neither the Records nor their contents shall be released by the Contractor, its subcontractors, or other third parties; nor shall their contents be disclosed to any person other than the Project Officer or his or her designee. The Contractor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Contract shall be referred to the Project Officer or his or her designee for response. At the County's
request, the Contractor shall deliver all Records to the Project Officer, including "hard copies" of computer records, and at the County’s request, shall destroy all computer records created as a result of the County’s request for services pursuant to this Contract.

The Contractor agrees to include the provisions of this section as part of any contract or agreement the Contractor enters into with subcontractors or other third parties for work related to work pursuant to this Contract.

No termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating this section of the Contract.

24. **CONFIDENTIAL INFORMATION**
The Contractor, and its employees, agents, and subcontractors, hereby agree to hold as confidential all County information obtained as a result of its Work under this Contract. Confidential information includes, but is not limited to, nonpublic personal information, personally identifiable health information, social security numbers, addresses, dates of birth, other contact information or medical information about a person, information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans, expertise and any information entrusted to any affiliate of the parties. The Contractor shall take reasonable measures to ensure that all of its employees, agents, and subcontractors are informed of, and abide by, this requirement.

25. **ETHICS IN PUBLIC CONTRACTING**
This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as any state or federal law related to ethics, conflicts of interest, or bribery, including by way of illustration and not limitation, the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.), and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its offer was made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

26. **COUNTY EMPLOYEES**
No employee of Arlington County, Virginia, shall be admitted to any share in any part of this Contract or to any benefit that may arise therefrom which is not available to the general public.
27. **FORCE MAJEURE**
The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, or an act of God beyond control of the Contractor, and outside and beyond the scope of the Contractor's then current, by industry standards, disaster plan, that make performance impossible or illegal, unless otherwise specified in the Contract.

The County shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, or an act of God beyond control of the County that make performance impossible or illegal, unless otherwise specified in the Contract.

28. **AUTHORITY TO TRANSACT BUSINESS**
The Contractor shall pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the Contract Term of this Contract. A contract entered into by a Contractor in violation of this requirement is voidable, without any cost or expense, at the sole option of the County.

29. **RELATION TO COUNTY**
The Contractor is an independent contractor and neither the Contractor nor its employees or subcontractors will, under any circumstances, be considered employees, servants or agents of the County. The County will not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Furthermore, the County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the County for its employees.

30. **ANTI-TRUST**
By entering into this Contract, the Contractor conveys, sells, assigns and transfers to the County all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States or the Commonwealth of Virginia, relating to the goods or services purchased or acquired by the County under this Contract.
31. **REPORT STANDARDS**

Reports or written material prepared by the Contractor in response to the requirements of this Contract or a request of the Project Officer shall, unless otherwise provided for in the Contract, meet standards of professional writing established for the type of report or written material provided, shall be thoroughly researched for accuracy of content, shall be grammatically correct and not contain spelling errors, shall be submitted in a format approved in advance by the Project Officer, and shall be submitted for advance review and comment by the Project Officer. The cost of correcting grammatical errors, correcting report data, or other revisions required to bring the report or written material into compliance with these requirements shall be borne by the Contractor.

When submitting documents to the County, the Contractor shall comply with the following guidelines:

- All submittals and copies shall be printed on at least thirty percent (30%) recycled-content and/or tree-free paper;
- All copies shall be double-sided;
- Report covers or binders shall be recyclable, made from recycled materials, and/or easily removable to allow for recycling of report pages (reports with glued bindings that meet all other requirements are acceptable);
- The use of plastic covers or dividers should be avoided; and
- Unnecessary attachments or documents not specifically asked for should not be submitted, and superfluous use of paper (e.g. separate title sheets or chapter dividers) should be avoided.

32. **AUDIT**

The Contractor agrees to retain all books, records and other documents related to this Contract for at least five (5) years after final payment. The County or its authorized agents shall have full access to and the right to examine any of the above documents during this period and during the Contract Term. If the Contractor wishes to destroy or dispose of records (including confidential records to which the County does not have ready access) within five (5) years after final payment, the Contractor shall notify the County at least thirty (30) days prior to such disposal, and if the County objects, shall not dispose of the records.

33. **ASSIGNMENT**

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award, or any or all of its rights, obligations, or interests under this Contract, without the prior written consent of the County.

34. **AMENDMENTS**

This Contract shall not be amended except by written amendment executed by persons duly authorized to bind the Contractor and the County.
35. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES
Notwithstanding any provision to the contrary herein, no provision of
the Arlington County Purchasing Resolution or any applicable County
policy is waived in whole or in part.

36. DISPUTE RESOLUTION
All disputes arising under this Agreement, or its interpretation,
whether involving law or fact, or extra work, or extra compensation or
time, and all claims for alleged breach of Contract shall be submitted
to the Project Officer for decision at the time of the occurrence or
beginning of the work upon which the claim is based, whichever occurs
first. Such claims shall state the facts surrounding it in sufficient
detail to identify it together with its character and scope. In
accordance with the Arlington County Purchasing Resolution, claims
denied by the Project Officer may be submitted to the County Manager in
writing no later than 60 days after final payment. The time limit for
final written decision by the County Manager in the event of a
contractual dispute, as that term is defined in the Arlington County
Purchasing Resolution, is fifteen (15) days. Procedures for
considering contractual claims, disputes, administrative appeals, and
protests are contained in the Purchasing Resolution, incorporated
herein by reference, and available upon request from the Office of the
Purchasing Agent. The Contractor shall not cause a delay in the Work
pending a decision of the Project Officer, County Manager, County
Board, or a court.

37. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION
This Contract and the work performed hereunder shall be governed in all
respects by the laws of the Commonwealth of Virginia and the
jurisdiction, forum, and venue for any litigation with respect thereto
shall be in the Circuit Court for Arlington County, Virginia, and in no
other court. In performing the Work under this Contract, the
Contractor shall comply with applicable federal, state, and local laws,
ordinances and regulations.

38. ARBITRATION
It is expressly agreed that nothing under the Contract shall be subject
to arbitration, and any references to arbitration are expressly deleted
from the Contract.

39. NONEXCLUSIVITY OF REMEDIES
All remedies available to the County under this Contract are
cumulative, and no such remedy shall be exclusive of any other remedy
available to the County at law or in equity.

40. NO WAIVER
The failure of either party to exercise in any respect a right provided
for in this Contract shall not be deemed to be a subsequent waiver of
the same right or any other right.

41. SEVERABILITY
The sections, paragraphs, sentences, clauses and phrases of this
Contract are severable, and if any phrase, clause, sentence, paragraph
or section of this Contract shall be declared invalid by a court of
competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Contract.

42. **NO WAIVER OF SOVEREIGN IMMUNITY**
Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by the County pursuant to this Contract shall constitute or be construed as a waiver of either the sovereign or governmental immunity of the County. The parties intend for this provision to be read as broadly as possible.

43. **SURVIVAL OF TERMS**
In addition to any numbered section in this Agreement which specifically state that the term or paragraph survives the expiration of termination of this Contract, the following sections if included in this Contract also survive: INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP AND RETURN OF RECORDS; AUDIT; INTELLECTUAL PROPERTY INDEMNIFICATION; AND WARRANTY.

44. **HEADINGS**
The section headings in this Contract are inserted only for convenience and are not to be construed as part of this Contract or a limitation on the scope of the particular section to which the heading precedes.

45. **AMBIGUITIES**
Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

46. **NOTICES**
Unless otherwise provided herein, all notices and other communications required by this Contract shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

**TO THE CONTRACTOR:**
Lalicia Potter  
Technical Sales & Support Director  
SEAL Analytical, Inc.  
Mequon Technology Center  
10520-C Baehr Road  
Mequon, WI 53092

**TO THE COUNTY:**
Bernie Raiford, Project Officer  
Arlington County  
2900 South Eads Street  
Arlington, Virginia 22202

AND
Richard D. Warren, Jr., Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201

47. NON-DISCRIMINATION NOTICE
Arlington County does not discriminate against faith-based organizations.

48. INSURANCE REQUIREMENTS
The Contractor shall provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force the coverage below prior to the start of any Work under this Contract and upon any contract extension. The Contractor agrees to maintain such insurance until the completion of this Contract or as otherwise stated in the Contract Documents. All required insurance coverages must be acquired from insurers authorized to do business in the Commonwealth of Virginia, with a rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of the A.M. Best Co. Guides, and acceptable to the County. The minimum insurance coverage shall be:

a. Workers Compensation - Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers liability with limits of $100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.

b. Commercial General Liability - $1,000,000 combined single limit coverage with $2,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit shall apply to this Contract. Evidence of Contractual Liability coverage shall be typed on the certificate.

c. Business Automobile Liability - $1,000,000 Combined Single Limit (Owned, non-owned and hired).

d. The Contractor shall carry Errors and Omissions insurance which will pay for injuries arising out of errors or omissions in the rendering, or failure to render services or perform Work under the contract, in the amount of $1,000,000.

e. Additional Insured - Arlington County, and its officers, elected and appointed officials, employees, and agents shall be named as an additional insureds on all policies except Workers Compensation and Auto and Professional Liability; and evidence of the Additional Insured endorsement shall be typed on the certificate.
f. Cancellation - If there is a material change or reduction in coverage the Contractor shall notify the Purchasing Agent immediately upon Contractor's notification from the insurer. Any policy on which the Contractor has received notification from an insurer that the policy has or will be cancelled or materially changed or reduced must be replaced with another policy consistent with the terms of this Contract, and the County notified of the replacement, in such a manner that there is no lapse in coverage. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.

g. Any insurance coverage that is placed as a "claims made" policy must remain valid and in force, or the Contractor must obtain an extended reporting endorsement consistent with the terms of this Contract, until the applicable statute of limitations has expired, such date as determined to begin running from the date of the Contractor's receipt of final payment.

h. Contract Identification - The insurance certificate shall state this Contract's number and title.

The Contractor must disclose the amount of any deductible or self insurance component applicable to the General Liability, Automobile Liability, Professional Liability, Intellectual Property or any other policies required herein, if any. The County reserves the right to request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible. Thereafter, at its option, the County may require a lower deductible, funds equal to the deductible be placed in escrow, a certificate of self-insurance, collateral, or other mechanism in the amount of the deductible to ensure protection for the County.

The Contractor shall require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation insurance in the same form and manner as specified for the Contractor. The Contractor shall furnish subcontractors' certificates of insurance to the County immediately upon request by the County.

No acceptance or approval of any insurance by the County shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.

The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the Work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.
The Contractor shall be as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self insurance for all or any part of the insurance required, provided that the Contractor can demonstrate financial capacity and the alternative coverages are submitted to and acceptable to the County. The Contractor must also provide its most recent actuarial report and provide a copy of its self insurance resolution to determine the adequacy of the insurance funding.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

AUTHORIZED SIGNATURE: ____________________________
NAME AND TITLE: Richard D. Warren, Jr.
DATE: 3/28/14

SEAL ANALYTICAL, INC.

AUTHORIZED SIGNATURE: ____________________________
NAME AND TITLE: Lalicia Potter
DATE: 14 March 2014

Technical Sales & Support Dir.


**EXHIBIT A**

**SCOPE OF SERVICE**

Arlington County Water Pollution Control Bureau ("WPCB") purchased an A92 Discrete Analyzer Serial Number 090614 in December 2007.

The Discrete Analyzer at the Arlington County Water Pollution Control Bureau laboratory is used to test the process samples and permit samples (outfall G01) for Ammonia, Nitrate, and Nitrite daily to meet VPDES permit as set forth by EPA, DEQ and DCLS regulatory bodies.

The Contractor shall provide all necessary goods and services to maintain the analyzer fully operational.

The Contractor shall keep the analyzer performing according to manufacturer specifications, as detailed in the Customer Support Manual, to meet Quality Assurance/Quality Control and VPDES permit requirements, to maintain laboratory certification, and to produce data with a "Degree of Confidence."

At a minimum, the Contractor shall provide the following goods, parts, supplies, consumables, services, and all other sundries for the A92 Discrete Analyzer to be properly operable as part of the annual maintenance. (Note - part numbers are generic and/or sub components and subject to change. See Exhibit C):

1. One preventive maintenance visit annually to perform the following:
   
   - **Measurement System**
   
   - **Aspiration System**
   
   - **Sampling System**
Install Black connector and gripper on Primary Fluid line. Replace Sample Probe (5125-C). Replace Tube D (TUA328). Connect Tube D to Tube B (Cd Line) with CD Coil Sleeve (5719).

- **Reaction Tray**
  - Clean Optical sensors. Lubricate Tray guide wheels and Static follower bearing. Clean Reaction Tray.

- **Dispensing System**

- **Power Supplies**
  - Verify units work within specification parameters and adjust or replace as needed - Digital (Motors) (M3/16(Yellow)); Digital (Motors) (M3/16(Grey)); Digital (Motors) (M3/16(Gray)); Digital (Motors) (M3/16(Green)); Digital (Circuits) (M3/16(Gray)); Analog (+15 TP MFCB Adjust P3); Analog (-15 TP MFCB Adjust P2); Lamp (Across M2 Adjust P1 Analog PCB); Sample Tray Heater (Across M7)

- **System Checks and Optimization**
  - Check/Clean Cooling fans, replace as needed.
  - Check/set Mechanical Adjustments (Maintenance).
  - Check/Adjust Probe up position. Prime Syringe and Check Operation. Check Probe Cleaner Operation.
  - Calibrate Reagent Sensor. Set Detector Gain (High Filter to 8.9V). Set Detector Offset (0.0030V).
  - Aspiration Wash fill volume (0.4 - 0.2ml two cycles).
  - Aspiration Pump Volume (0.3 - 0.8 ml two cycles).
  - Check/Adjust Aspiration (1' tubing at output 170-210 steps). Check Reagent Compartment Temp (12°C - 18°C). Reaction Ring Temp - 1 segment full after 60 min.

- **Documentation (Print and Include)**
  - Water Baseline. Measurement Diagnostic (0.0004).
  - Dye Test CC.0.0007-SD 15 reps, 1.3. Update Service Card.

2. In addition to the annual preventive maintenance visit, the Contractor shall provide one (1) day emergency on-site visit to solve major technical issues, as determined by the County Project Officer, which cannot be resolved through technical support. “On-site” is defined as provided at the Arlington County Water Pollution Control Plant.

The Contractor shall be on-site within 24 to 48 hours from receipt of call from the County Project Officer.
3. The Contractor shall also provide technical on-site, phone, and e-mail support to Arlington County WPCB laboratory staff to troubleshoot all/any software, methods, and/or any hardware problems that may arise with the Analyzer. The response time for all inquiries shall be as follows and shall meet both the Contractor and WPCB hours of operation.
   - Schedule: Monday to Friday 8 a.m. to 6 p.m. CST
   - Same day technical support call back
   - Unlimited number of technical support hours

4. The Contractor shall maintain software in good working order by providing Arlington County WPCB Laboratory free AQ2 software upgrades within thirty (30) days of release and any service patches as revisions are made. All software upgrades and enhancements provided to the County by the Contractor shall be subject to the terms and conditions of this Agreement.

5. The Contractor shall provide all updated methods revisions to Arlington County WPCB laboratory free of charge. The Contractor shall notify Arlington County, within 30 days, of such revision in writing for laboratory certification requirements.

6. The Contractor shall also sign and submit the following Reports to Arlington County WPCB Laboratory, within thirty (30) days, to keep on file for laboratory Certification compliance.
   - AQ2 12 Month Maintenance Report
   - Customer maintenance training report
   - AQ2 Water Baseline Report
   - Dye 660 Calibration Report
   - 660 Dye Test Report

The Contractor shall provide a one (1) year warranty for parts and labor.
A. **PARTS**

Cost of parts and consumables used during then annual preventive maintenance are included in the annual maintenance fee below. All parts, consumables and supplies are purchased F.O.B. Destination, Freight added in Arlington County as designated in this Contract.

1. **Price List**

For additional parts and consumables, the Contractor shall provide items at a 20% discount. All dollar values noted below (Exhibit C) are shown post 20% discount. Initial price list shall remain firm until October 17, 2015.

2. **Price adjustments**

The Contract unit prices shall remain firm throughout the Contract Term, unless the Contractor requests a price adjustment, and the County approves such an adjustment, in accordance with the following procedure:

A. The Contractor may submit a written request for price adjustment to the County not less than sixty (60) days prior to October 17 of any given year of the contract ("Anniversary Date").

B. Requests for adjustments to unit prices shall not exceed the percentage of escalation/de-escalation in the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, Urban Areas ("CPI-U") for the twelve (12) month period ending on the March of each year of the Contract.

Any adjustments to unit prices approved by the County as a result of the procedure set forth in A and B above, shall become effective the day after the current Anniversary Date and shall be binding on both parties for the remainder of the Contract Term unless an adjustment is requested the Contractor and approved by the County in a subsequent year, as set forth above.

If the Contractor and the County do not agree on the requested adjustment using the procedure set forth in A and B above by the thirtieth (30th) calendar day prior to the Anniversary Date, the County may in its sole discretion terminate the Contract.

B. **PREVENTIVE MAINTENANCE**

Hardware and Software Maintenance fee shall be as follows:

<table>
<thead>
<tr>
<th>DATES COVERED</th>
<th>AMOUNT</th>
<th>PAYMENT DUE DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/18/14 - 10/17/15</td>
<td>$5,670</td>
<td>Net 30 Days. Payment will be made before Preventive Maintenance on site visit is scheduled.</td>
</tr>
<tr>
<td>10/18/15 - 10/17/16</td>
<td>$5,670</td>
<td></td>
</tr>
<tr>
<td>10/18/16 - 10/17/17</td>
<td>$5,897</td>
<td></td>
</tr>
<tr>
<td>10/18/17 - 10/17/18</td>
<td>$5,897</td>
<td></td>
</tr>
<tr>
<td>10/18/18 - 10/17/19</td>
<td>$5,897</td>
<td></td>
</tr>
</tbody>
</table>
C. EMERGENCY ON-SITE VISIT

The annual maintenance fee above shall include:
- Phone and email technical support as described above
- Free AQ2 Software upgrades
- Updates method revisions
- All costs related to one (1) annual preventive maintenance visit which include but are not limited to travel expenses, labor and parts.
- All travel expenses and labor costs for one (1) eight-hour day on-site emergency visit.

Additional on-site emergency visits will be charged as follows:
- Travel: $400 per day for expenses plus air fare reimbursed at cost
- Service labor: $150 per hour, 4 hour minimum.
The Contractor shall not charge any additional cost for on-site visits.

Annual fee does not include service parts replaced during emergency visit nor PC, monitor, and printer.

D. ON-SITE TRAINING

The Contractor shall provide training at a 20% discount.

On-site training shall be charged as follows:
- Travel: $400 per day for expenses plus air fare reimbursed at cost
- $1200 per day
## EXHIBIT C
### Generic Parts List

**AQ2 Customer Parts List**

<table>
<thead>
<tr>
<th>Part</th>
<th>Description</th>
<th>Package</th>
<th>Service Contract Pricing (20% discount)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5000</td>
<td>Reaction Segments (18 reactions wells/segment)</td>
<td>100</td>
<td>$71.20</td>
</tr>
<tr>
<td>5010</td>
<td>Reagent Containers (wedge) (43 mL)</td>
<td>50</td>
<td>$52.00</td>
</tr>
<tr>
<td>5385</td>
<td>1.2 mL sample cups (for 100 position tray)</td>
<td>2000</td>
<td>$87.20</td>
</tr>
<tr>
<td>6015</td>
<td>2 mL Sample Cups (for 57 position tray)</td>
<td>1000</td>
<td>$34.40</td>
</tr>
<tr>
<td>5050</td>
<td>Reagent Container (wedge) Caps (closed)</td>
<td>50</td>
<td>$12.00</td>
</tr>
<tr>
<td>5060</td>
<td>Reagent Container (wedge) Caps (placard)</td>
<td>50</td>
<td>$12.00</td>
</tr>
<tr>
<td>AQ12M</td>
<td>12 Month Essential Maintenance Parts Kit</td>
<td>1</td>
<td>$1,288.00</td>
</tr>
<tr>
<td>AQ6M</td>
<td>6 Month Essential Maintenance Parts Kit</td>
<td>1</td>
<td>$684.00</td>
</tr>
<tr>
<td>AQ3M</td>
<td>3 Month Essential Maintenance Parts Kit</td>
<td>1</td>
<td>$74.40</td>
</tr>
<tr>
<td>5100</td>
<td>Lamp Assembly</td>
<td>1</td>
<td>$127.20</td>
</tr>
<tr>
<td>5110</td>
<td>Aspiration Probe</td>
<td>1</td>
<td>$52.00</td>
</tr>
<tr>
<td>5125-S</td>
<td>New Style Sampler Probe</td>
<td>1</td>
<td>$143.20</td>
</tr>
<tr>
<td>5125</td>
<td>Sampler Probe (Obsolete)</td>
<td>1</td>
<td>$111.20</td>
</tr>
<tr>
<td>MA000102</td>
<td>Probe Cleaner</td>
<td>1</td>
<td>$103.20</td>
</tr>
<tr>
<td>5140</td>
<td>Pump Tube pkg 6</td>
<td>1</td>
<td>$31.20</td>
</tr>
<tr>
<td>5150</td>
<td>Tubing Nipple (plastic)</td>
<td>1</td>
<td>$36.00</td>
</tr>
<tr>
<td>5160</td>
<td>Syringe 'O' ring</td>
<td>1</td>
<td>$7.12</td>
</tr>
<tr>
<td>5195</td>
<td>Syringe Piston &amp; Syringe Glass body</td>
<td>1</td>
<td>$214.40</td>
</tr>
<tr>
<td>5676</td>
<td>Cuvette Cleaning Solution - 250 mL</td>
<td>1</td>
<td>$12.00</td>
</tr>
<tr>
<td>5210</td>
<td>Cadmium Reduction Coil</td>
<td>1</td>
<td>$156.00</td>
</tr>
<tr>
<td>5719</td>
<td>Cadmium Coil Connection Tubing</td>
<td>1</td>
<td>$1.60</td>
</tr>
<tr>
<td>5671</td>
<td>Cuvette - Inlet Tubing</td>
<td>1</td>
<td>$22.88</td>
</tr>
<tr>
<td>5672</td>
<td>Cuvette - Outlet Tubing</td>
<td>1</td>
<td>$22.88</td>
</tr>
<tr>
<td>001016</td>
<td>Wash / Waste Bottle 5 Liter size</td>
<td>1</td>
<td>$39.20</td>
</tr>
<tr>
<td>5350</td>
<td>57 Position Sample Tray</td>
<td>1</td>
<td>$180.00</td>
</tr>
<tr>
<td>5380</td>
<td>100 Position Sample Tray</td>
<td>1</td>
<td>$390.00</td>
</tr>
<tr>
<td>5500</td>
<td>Complete Tool Kit</td>
<td>1</td>
<td>$108.00</td>
</tr>
<tr>
<td>000313</td>
<td>Air Filler Element</td>
<td>1</td>
<td>$1.84</td>
</tr>
<tr>
<td>8032177</td>
<td>BD Kjeldahl Digestion Granules 100 g</td>
<td></td>
<td>$19.00 (no discount)</td>
</tr>
<tr>
<td>8032178</td>
<td>BD Kjeldahl Digestion Granules 500 g</td>
<td></td>
<td>$45.00 (no discount)</td>
</tr>
</tbody>
</table>

Prices valid as of 1/24/2014 and will remain valid for one year, to coincide with dates of service contract.
10/18/2014 - 10/17/2015