



Contract Number  
**24-375**

SAP Number  
4400024074

## Department of Public Health

|                                    |                                          |
|------------------------------------|------------------------------------------|
| Department Contract Representative | Rebecca Saucedo                          |
| Telephone Number                   | (909) 725-5426                           |
| Contractor                         | QIAGEN LLC                               |
| Contractor Representative          | Bridget Sandusky                         |
| Telephone Number                   | (619) 288-9444                           |
| Contract Term                      | March 20, 2024 through February 26, 2029 |
| Original Contract Amount           | \$1,250,000                              |
| Amendment Amount                   | \$0                                      |
| Total Contract Amount              | \$1,250,000                              |
| Cost Center                        | 9300191000                               |

### Briefly describe the general nature of the contract:

Approve the Master Purchase Agreement with QIAGEN, including non-standard terms, for the purchase of QuantiFERON® test kits used to test for latent tuberculosis infection, in a total amount not-to-exceed \$1,250,000, effective March 20, 2024 through February 26, 2029.

#### FOR COUNTY USE ONLY

Approved as to Legal Form

Adam Ebright, County Counsel

Date 04/23/24

Reviewed for Contract Compliance

►

Date \_\_\_\_\_

Reviewed/Approved by Department

Joshua Dugas, Director

Date 04/22/24



## **MASTER PURCHASE AGREEMENT**

This Master Purchase Agreement (the "Agreement") is entered into, effective as of this 20th day of March, 2024 (the "Effective Date") by and between QIAGEN, LLC ("QIAGEN"), a California limited liability company located at 19300 Germantown Road, Germantown, MD 20874 and San Bernardino Public Health ("Customer") located at 150 East Holt BLVD, 1<sup>st</sup> Floor, Ontario, CA 91761.

### **WITNESSETH**

WHEREAS, QIAGEN desires to sell its products, including consumables, kits and supplies ("Products"), and its instrumentation ("Equipment") (collectively "Goods"), as well as its support services ("Services") to Customer under this Agreement; and

WHEREAS, Customer desires to purchase such QIAGEN Goods and Services;

NOW THEREFORE, in consideration of the terms of this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, QIAGEN and Customer (collectively the "Parties") hereby agree as follows:

### **1. THE CONTRACT.**

1.1 It is a condition of this Agreement that any provisions printed or otherwise contained in any purchase order for the Goods or Services or in any acknowledgement, acceptance or other document from the Customer relating to this Agreement which are inconsistent with or in addition to the terms and conditions herein shall have no force or effect and shall not constitute any part of this Agreement of purchase or sale.

1.2 All Exhibits attached hereto shall be governed by the terms of this Agreement. In the event of any conflict between this Agreement and any Exhibits, the Exhibits shall govern with respect to the product line reference therein, or to the extent the service described is more specific or specialized than standard terms.

1.3 Any provision of Services by QIAGEN to Customer shall be governed by the additional terms and conditions set forth in Exhibit B.

### **2. TERM.**

This Agreement is effective as of the Effective Date set forth above and shall continue in full force and effect until the later of 02/26/2029 (the "Term"), or through the expiration of any applicable Exhibit.

### **3. PRICING.**

3.1 All prices are subject to change once per year (on or about September 1<sup>st</sup>) with sixty (60) days prior notice to Customer unless otherwise specifically provided in a written Quotation or Exhibit signed by an authorized QIAGEN representative.

3.2 Prices are the Confidential Information of QIAGEN.

3.3 All orders from Customer are binding upon Customer and may be accepted by QIAGEN, at QIAGEN's option, either by sending an order acknowledgement or confirmation, or by delivering the resulting Goods and Services to Customer.

### **4. TITLE, RISK OF LOSS, SHIPPING**

4.1 Title and Risk of Loss. All Goods are shipped FCA QIAGEN's facility, with shipping and handling fees prepaid and added to the invoice amount. Title and risk of loss or damage to the Goods and any deliverables of the Services shall pass to Customer upon QIAGEN's making delivery to a carrier at such facility in good condition, consigned to Customer, or as Customer may direct. QIAGEN may change freight carriers without notice. If shipment fails to be delivered as scheduled, Customer shall be responsible for pursuing a claim with the freight company and QIAGEN shall provide reasonable cooperation with such endeavor.

4.2 Delivery. Representations as to delivery dates are approximate only, unless QIAGEN has given an expressly binding commitment. If a shipment fails to be delivered as scheduled, Customer shall be responsible for pursuing a claim with the freight company and QIAGEN shall provide reasonable cooperation with such endeavor. Partial delivery or performance of Goods and Services under this Agreement shall be permitted unless Customer has expressly stated in writing on the face of the QIAGEN Sales Document or on the Customer's purchase order that partial delivery will not be accepted.



4.3 Shipment. If this Agreement calls for more than one shipment of Goods or delivery of Services, each shipment and delivery shall constitute a separate sale under the terms and conditions of this Agreement and Customer agrees to accept each shipment and delivery and pay each invoice in full when due at the contract prices regardless of controversies relating to other delivered or non-delivered Goods or Services. If Customer fails to accept or pay for shipment or delivery, or in the event a dispute arises concerning QIAGEN's performance hereunder, then QIAGEN may, without prejudice to any other lawful remedy and without any liability to Customer, (i) defer further performance hereunder until acceptance or payment by Customer of all previous shipments and deliveries or until the dispute shall have been resolved, or (ii) terminate this Agreement with respect to any unaccepted or undeliverable portion, in which case, Customer shall be responsible for any expense or loss sustained by QIAGEN in connection with this Agreement.

## 5. PAYMENT TERMS.

5.1 The full amount of each invoice for Goods and Services hereunder shall be paid net thirty (30) days from the date of the invoice (terms contingent upon creditworthiness). If QIAGEN deems in its sole discretion that by reason of the financial condition of Customer or otherwise, the continuance or production or shipment on the terms specified is not justified, QIAGEN may require full or partial payment in advance.

5.2 Payment by check, credit card, or wire transfer will be effective only after these instruments have cleared and been paid. Credit cards will be accepted at time of each order only for processing on invoice date. Any discounts and expenses shall be borne by Customer.

5.3 QIAGEN reserves the right to assess a late fee equal to one and one-half percent (1.5%) per month or, if lower, the maximum amount permitted by applicable law, on all amounts not paid when due, calculated on a daily basis beginning with the 1st day following the invoice due date. Any check or remittance received from or for the account of Customer may be accepted and applied by QIAGEN against any indebtedness owing by Customer, without prejudice to, or the discharge of, the remainder of any such indebtedness regardless of any condition, provision, statement, legend or notation appearing on, referring to or accompanying any check or remittance.

5.4 Upon default and placing of Customer's account for collection or repossession of equipment, Customer agrees to reimburse collection costs, legal fees and court costs incurred by QIAGEN in connection therewith.

5.5 Customer agrees to pay for Goods according to QIAGEN's payment terms and does hereby grant to QIAGEN a purchase money security interest in any Goods until such time as it is fully paid. Customer will assist QIAGEN in taking necessary action to perfect and protect QIAGEN's security interest. In the event of default by Customer, QIAGEN shall be entitled to any of the rights and remedies provided by law or in equity, including but not limited to repossession of the product.

6. **TAXES.** Taxes will be based on shipment destination and any applicable local/state taxes are the responsibility of Customer. In those states where QIAGEN collects local/state sales taxes, QIAGEN will add such taxes to the invoices and remit to the appropriate taxing authority. If Customer is a not-for-profit corporation or otherwise exempt from the payment of Federal, state or local excise, sales or use taxes, Customer shall provide QIAGEN with written notice of such exempt status with purchase order and QIAGEN shall reflect such exemptions in its invoice(s). Customer will provide QIAGEN with tax exemption numbers and certificates prior to first order.

## 7. LIMITED WARRANTY.

7.1 Subject to the limitations of Section 8 below and unless otherwise expressly provided herein, QIAGEN warrants as follows:

(a) Product Warranty. QIAGEN warrants that, at the time of shipment, the Products sold by it are free from defects in materials and workmanship and conform to QIAGEN's specifications (the "Specifications"), if any, that accompany the Products. QIAGEN agrees to replace any defective or non-conforming Product (provided that such nonconformity was not caused by misuse or negligence of Customer) if Customer provides notice to QIAGEN within thirty (30) days after receipt. No claim will be honored if Customer fails to notify QIAGEN within the period specified.

(b) Equipment Warranty. QIAGEN warrants that all new instrumentation manufactured by QIAGEN will correspond to the specifications and be free from defects in workmanship and materials for a period of twelve (12) months from the original date of shipment. Repair or replacement of defective parts will be provided to Customer during this time period provided the QIAGEN instrumentation is operated under conditions of normal and proper use, but not in the event of damage caused by Customer. If any part or subassembly proves to be defective, it will be repaired or replaced at QIAGEN's sole option, subsequent to inspection at the factory, or in the field by an authorized factory representative, provided that such defect manifested under normal and proper use. A detailed description of QIAGEN's warranty conditions is set out in Exhibit B.

7.2 Customer agrees that QIAGEN's sole liability, and Customer's sole and exclusive remedy, pursuant to any claim of any kind against QIAGEN, including without limitation any claim in contract, negligence or strict liability shall be, at QIAGEN's option (a) redelivery of any non-conforming Goods or re-performance of any non-conforming Services or (b) a refund of the price allocable to the non-conforming Goods or Services.



**7.3 Returns.** Returned Goods (other than defective Goods) must be returned freight prepaid by the Customer and will not be accepted without prior written authorization of QIAGEN. The Goods must be returned in their original packaging and in resaleable condition. Customer must obtain authorization for all returns of Goods from a QIAGEN Customer Relations or Technical Services Representative. A Returned Good Authorization number shall be assigned and must be included in the shipping documentation. Some Goods may not be eligible for return due to regulatory or storage requirements.

a) **Non-Conforming Goods.** If Customer chooses to return nonconforming (i.e., does not conform to Specifications) Products under the Product Warranty, QIAGEN will assess the Product to verify the nonconformance. If the Product is found to be non-conforming, QIAGEN shall send a replacement within forty-eight (48) hours for all stocked items. If Customer is asked by QIAGEN to return the nonconforming Product, QIAGEN will pay for the return shipping charges as well.

b) **Customer Ordering Error.** Products ordered in error are returnable within thirty (30) days after shipment was started by QIAGEN; provided that the Products being returned remain unopened and suitable for resale, as determined by QIAGEN in its sole discretion. Customer must pay for the return freight. A credit shall be issued for the invoice price of the returned Product less (1) a restocking fee of the greater of twenty percent (20%) of the return value or twenty-five dollars (\$25.00) and (2) freight costs incurred by QIAGEN for the shipment to and/or from Customer. Special orders, non-stocked items, and discontinued reagents may not be returned.

**7.4** THE LIMITED WARRANTY IN SECTION 7.1 ABOVE IS EXPRESSLY IN LIEU OF ANY AND ALL OTHER WARRANTIES AND QIAGEN HEREBY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION (A) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR (B) ANY IMPLIED WARRANTY THAT ANY USE OF THE GOODS OR SERVICES WILL NOT VIOLATE OR INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHTS OF THIRD PARTIES, WITH RESPECT TO THE GOODS OR SERVICES, OTHER THAN AS EXPRESSLY SET FORTH IN SECTION 7.1 ABOVE.

## **8. LIMITATION OF LIABILITY AND REMEDY.**

**8.1** CUSTOMER ACKNOWLEDGES AND AGREES THAT THE AMOUNTS WHICH QIAGEN IS CHARGING HEREUNDER DO NOT INCLUDE ANY CONSIDERATION FOR QIAGEN'S ASSUMPTION OF THE RISK OF CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH USE OF THE GOODS OR SERVICES BY CUSTOMER. ACCORDINGLY, CUSTOMER AGREES THAT QIAGEN SHALL NOT IN ANY EVENT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS OR OTHER ECONOMIC LOSS, ARISING IN CONNECTION WITH CUSTOMER'S USE OF OR INABILITY TO USE THE GOODS OR SERVICES. THIS LIMITATION OF LIABILITY WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE AND INDEPENDENT OF ANY FAILURE OF ESSENTIAL PURPOSE OF THE LIMITED WARRANTY AND REMEDIES PROVIDED HEREUNDER.

**8.2** QIAGEN's liability for breach of warranty or for any loss or damage resulting from any other cause whatsoever, including alleged negligence, shall not exceed the lesser of (i) the cost of correcting any non-conformities in the Goods or Services or (ii) the cost of replacing the Goods or re-performing the Services. In no event (including unenforceability of the above limitations and independent of any failure of essential purpose of the limited warranty and remedies provided hereunder) shall QIAGEN's aggregate liability for damages under this Agreement exceed the purchase price previously paid by Customer for the non-conforming Goods or Services. The parties acknowledge that the limitations set forth in this Section 8.2 are integral to the prices charged under this Agreement and that, were QIAGEN to assume any further liability other than as set forth herein, such prices would of necessity be set substantially higher. Customer expressly agrees that this limitation of damages and remedies shall constitute the exclusive remedies and measure of damages available to Customer and all other remedies and measures of damages which might otherwise be available under the law of any jurisdiction are hereby waived by Customer.

**8.3** Without limitation to the generality of the foregoing limitation, QIAGEN shall not be liable for any damage or loss caused by the improper or unapproved use of the Goods.

## **9. TERMINATION**

**9.1 Termination for Default.** If either party shall default in a material manner with respect to its performance or obligations or covenants under this Agreement, (including without limitation, Customer's failure to pay outstanding amounts due), the other party shall give the defaulting party written notice of such default, and the defaulting party shall have thirty (30) days to cure such default. If such default is not cured within such 30 day period, the notifying party shall have the right, upon written notice to the defaulting party and without prejudice to any other rights the non-defaulting party may have, to terminate this Agreement. In the event of Customer's default, Customer shall promptly pay for any shortfall in its purchase commitment at the time of termination.

QIAGEN LLC.

19300 Germantown Road  
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181 Bay Street  
Suite 4400  
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9.2 Termination for Insolvency or Bankruptcy. Either party may, in addition to any other remedies available to it by law or in equity, terminate this Agreement by written notice to the other party in the event the other party shall become insolvent, make an assignment for the benefit of its creditors, or have any case or proceeding voluntarily initiated by or commenced against or other action taken by or against it in bankruptcy or seeking reorganization, liquidation, dissolution of winding-up or any other relief under any bankruptcy, insolvency, reorganization or other similar act or law of any jurisdiction now or hereafter in effect, and any such event shall have continued for sixty (60) days undismissed, unbonded and undischarged.

## 10. GOVERNING LAW AND ARBITRATION; CLASS ACTION WAIVER.

10.1 Governing Law. Subject to Section 10.1.5, this Agreement and any claims, disputes or causes of action relating to or arising out of this Agreement shall be construed, unless otherwise prohibited by law, in accordance with and governed by the laws of the State of Maryland without giving effect to the conflict of laws principles thereof. All claims under this Agreement which cannot be amicably settled shall be submitted to binding arbitration as set forth below.

10.1.2 Mandatory Binding Arbitration. Prior to arbitration, the parties shall seek informal resolution of disputes. The process shall be initiated with written notice of one party to the other, describing the dispute with reasonable particularity. The other party shall respond within ten (10) calendar days. Each party shall promptly designate an executive with requisite authority to resolve the dispute, and the first meeting shall occur within 10 calendar days from the response described above. If the dispute is not resolved within 10 calendar days of the first meeting, either party may proceed to arbitration as set forth below.

10.1.2.1 The parties agree that any claim or dispute between them, and any claim by either of party against any agent, employee, successor, or assign of the other, related to this Agreement, including any dispute as to the validity or applicability of this arbitration clause, shall be resolved by binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, except where those rules are intentionally varied by the parties herein or pursuant to mutual agreement. The parties expressly agree that the arbitration shall be conducted in Washington, DC, in the English language, and under Maryland law, unless the parties mutually agree otherwise or the arbitrator determines that under applicable law, the arbitration is to take place in a location other than Washington, DC or that the laws of a State other than Maryland governs. To the extent permitted by applicable law. The prevailing party shall be entitled to a reimbursement of all of its reasonable attorney fees and arbitration costs by the other party. The arbitration award shall be final.

10.1.2.2 The parties enter into this arbitration agreement in connection with a transaction involving interstate commerce. Accordingly, this arbitration agreement, and any proceedings thereunder, shall be governed by the Federal Arbitration Act ("FAA") 9 USC 1-16. Any award by the arbitrator may be entered as a judgment in any court having jurisdiction.

10.1.3 Class Action Waiver. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ARBITRATION SHALL PROCEED SOLELY ON AN INDIVIDUAL BASIS WITHOUT THE RIGHT FOR ANY CLAIMS OR DISPUTES TO BE ARBITRATED OR LITIGATED ON A CLASS ACTION BASIS OR ON BASES INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF OTHERS OR ANY GOVERNMENTAL BODY OR THE PUBLIC. DISPUTES MAY NOT BE JOINED OR CONSOLIDATED UNLESS AGREED TO IN WRITING BY ALL PARTIES.

TO THE EXTENT EITHER PARTY IS PERMITTED BY LAW OR COURT OF LAW TO PROCEED WITH A CLASS OR REPRESENTATIVE ACTION AGAINST THE OTHER, THE PARTIES AGREE THAT: THE PREVAILING PARTY SHALL NOT BE ENTITLED TO RECOVER ATTORNEYS' FEES OR COSTS ASSOCIATED WITH PURSUING THE CLASS OR REPRESENTATIVE ACTION (NOT WITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT); AND (II) THE PARTY WHO INITIATES OR PARTICIPATES AS A MEMBER OF THE CLASS WILL NOT SUBMIT A CLAIM OR OTHERWISE PARTICIPATE IN ANY RECOVERY SECURED THROUGH THE CLASS OR REPRESENTATIVE ACTION.

10.1.4 Waiver of Rights, Including Trial By Jury. By agreeing to arbitration, the parties understand and agree that they are waiving their rights to maintain other available resolution processes, such as a court action or administrative proceeding, to settle their disputes. The rules in arbitration are different. There is no judge or jury, and review of an arbitrator's decision is very limited. EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL INVOLVING ANY CLAIMS OR DISPUTES.

10.1.5. Right to Seek Injunctive Relief. This Agreement does not preclude either party from seeking injunctive relief in a court of law in accordance with applicable law.



## 11. GENERAL

**11.1 Notices.** Notices and other communications required or contemplated by this Agreement shall only be effective if delivered in writing to the party for whom intended at its "Invoice Address" if to Customer, or QIAGEN, Legal Department, 19300 Germantown Road, Germantown, MD 20874, if to QIAGEN, either by postage prepaid, return receipt requested, registered or certified mail, nationally recognized, overnight courier, such as Federal Express or UPS. Notice not given in writing shall be effective only if acknowledged in writing by a duly authorized representative of the party to whom it was given.

**11.2 Force Majeure.** QIAGEN shall not be liable for any delay in performance or nonperformance as the result of war, fire, flood, accidents, acts of God, terrorism, embargoes, acts of third parties, acts of governmental authority or any agency or commission thereof, breakdown of equipment, shortages of material, labor or power, labor strikes, work stoppage or labor unrest, or any other cause beyond QIAGEN's reasonable control. If any of the foregoing events occurs, QIAGEN may make deliveries of the Goods and Services proportionate to production and/or postpone the shipment or delivery period of the Goods and Services to a reasonable time after the difficulty has ceased, or QIAGEN may, at its option upon notice given to Customer within twenty (20) days after the commencement of any such event, declare this Agreement terminated and all rights and liabilities of QIAGEN and Customer, except with respect to Goods and Services previously shipped or performed or in QIAGEN's inventory, shall cease and terminate. QIAGEN shall have no obligation to buy in the open market any article to be used in QIAGEN's manufacture or processing when the supplier thereof has defaulted in delivery.

**11.3 Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assignable by Customer without QIAGEN's prior written consent; except that Customer may assign this Agreement, without the prior consent of QIAGEN, to the successor to all or substantially all of the business of Customer as long as the successor or surviving entity in such transaction agrees to be bound, in writing, by the terms and provisions of this Agreement, and written notice of such assignment is provided to QIAGEN prior to consummation of the transaction. This Agreement shall be assignable by QIAGEN.

**10.4 Waiver.** The waiver by a party hereto of any breach of or default under any of the provisions of this Agreement shall not be effective unless in writing and the failure of a party to enforce any of the provisions of this Agreement or to exercise any right there under shall not be construed as a waiver of such right.

**10.5 Severability.** If any provision hereof is determined to be invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability, and the balance of this Agreement shall be interpreted as if such provision were so excluded. In addition, the part that is ineffective shall be reformed in a mutually agreeable manner so as to as most closely approximate, to the extent possible, the intent of the parties hereto.

**10.6 General Compliance.** Each of the Parties represents and warrants to the other party that it will comply with all applicable laws, rules or regulations ("Applicable Laws"), including, but not limited to, applicable federal, state and local laws, rules, regulations and guidelines relating to the manufacturing, quality control, packaging, labeling, handling, shipping, importation, exportation and storage of Products, HIPAA, Medicare and Medicaid billing and referral requirements and the Federal Food, Drug and Cosmetic Act. It is the intention of the Parties that this Agreement be administered in accordance with the federal anti-kickback statute (Title 42, United States Code, Section 1320a-7b(b)). Accordingly, insofar as required by such statute or by the discount safe harbor regulations at 42 CFR § 1001.952(h), Customer shall fully and accurately report in applicable cost reports and provide information upon request to Medicare, Medicaid and other federal health care programs on all discounts and price reductions under this Agreement.

**10.7 HIPAA Compliance.** The Parties acknowledge that use of the Products and Equipment by Customer may be subject to the requirements of HIPAA and the related privacy and security regulations, and other current and future laws, rules and regulations regarding collecting, accessing, using, disclosing, electronically transmitting, securing, and storing protected health information of patients ("PHI"). The Parties acknowledge that PHI is not required for QIAGEN's performance of this Agreement and that QIAGEN is neither a "Covered Entity" nor a "Business Associate" of Customer under HIPAA. If in the performance of any Services that are related to the provision of Goods under this Agreement, QIAGEN or its employees, representatives, or agents inadvertently or incidentally obtain or gain access to PHI on paper, tape, diskette, CD or other tangible media, in instruments or computers, electronically displayed, or verbally disclosed, QIAGEN agrees that it shall not use, disclose, or reproduce, in any manner, any such PHI (including, without limitation, laboratory results and patient demographic information) and shall promptly report such disclosure to Customer.

**10.8 Confidential Information.** Each party shall use Confidential Information (information of a proprietary or sensitive nature that is not readily available through sources in the public domain) of the other party only for purposes of this Agreement. Otherwise, except as may be required by law neither party shall use, publish nor disclose, or cause anyone else to use, publish or disclose, any Confidential Information of the other party. The restrictions on disclosure and use hereunder shall not apply to any information which: (a) is or

QIAGEN LLC.

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becomes generally available to the public, other than as a result of disclosure by the party receiving the information pursuant to this Agreement; (b) was made available to other third persons on a non-confidential basis by the disclosing party prior to the execution of this Agreement; (c) becomes available on a non-confidential basis from a third person, which third person was not itself under an obligation to maintain the confidentiality of such information; or (d) is required by law, regulations, including securities and other disclosure law, subpoena or court order to be disclosed. The provisions set forth in this Section 10.9 shall survive the expiration or other termination of this Agreement regardless of the cause of termination.

**10.9 Non-Discrimination.** Neither Customer nor QIAGEN shall discriminate in the performance of this Agreement because of race, color, sex, sexual orientation, age, religion, handicap, marital status, or national origin in violation of any applicable federal, state, or local law or regulation.

**10.10 Indemnification.** Customer shall indemnify QIAGEN, defend and assume the settlement of, and the defense of any suit or suits or other legal proceedings brought to enforce all losses, damages, injuries, claims, demands, and expenses ("Liability") arising out of the use of Goods purchased by Customer hereunder, regardless of where, how, and by whom used, and shall pay all judgments entered in any such suit or suits or other legal proceedings, except for Liability resulting from QIAGEN's gross negligence or willful misconduct. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding termination of this Agreement, whether by expiration of time, by operation of law, or otherwise.

**10.11 Use and Handling of Products.**

Customer shall handle and use the results of the products in conformity with (a) good laboratory practice, (b) all applicable laws and regulations, guidelines and decisions of judicial or regulatory bodies, (c) any patent and other proprietary rights of third parties, or (d) in accordance with its negotiated status or classification for each product purchased.

**10.12 No Transfer or Resale.** Unless otherwise expressly agreed to in writing by a duly authorized representative of QIAGEN,

**10.12.1** The purchase of QIAGEN products of equipment conveys to Customer only the non-transferable right for Customer to use the quantity of products or equipment and components of products purchased in compliance with the applicable intended use statement, limited use statement or limited label license, and

**10.12.2** Customer shall not transfer or resell, transfer, exchange, or otherwise assign the products or equipment, or any portion of them, without first obtaining the prior written consent of QIAGEN, which consent may be granted or withheld by QIAGEN in its sole discretion.

**10.13** Except as otherwise agreed in writing by QIAGEN's authorized representative, the purchase of products only conveys to Customer the non-transferable right for Customer only to use the quantity of products and components of products purchased in compliance with the applicable intended use statement, limited use statement or limited label license. Unless otherwise authorized, no right to resell the products, or any portion of them, is conveyed.

**10.14 Entire Agreement.** The provisions set forth in this Agreement, including any mutually agreed to Amendments and any incorporated Addendums, constitute the entire understanding of the Parties on the subject matter hereof and there are no other agreements between QIAGEN and Customer with respect to the Goods or Services. This Agreement, including any attachments, exhibits or schedules hereto or delivered herewith, represent the entire agreement between the parties with respect to the subject matter hereof. No amendment or modification of the terms of this Agreement shall be binding on either party unless in writing and signed on behalf of each party.

**10.15 Survival.** The provisions of this Agreement that may be reasonably interpreted or construed as surviving the expiration or termination of this Agreement (including, without limitation, confidentiality and governing law) shall so survive for the period specified, or if no such period, for the applicable statute of limitations.

**10.16 Independent Contractors.** The Parties are independent contractors and nothing in this Agreement will constitute the Parties to be partners, nor constitute one party the agent of the other party, nor constitute the relationship of a joint venture. Neither party shall have, or shall represent that it has, the authority or power to act for or to undertake or create any obligation or responsibility, express or implied, on behalf of, or in the name of the other party.

**10.17 Counterparts and Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which will together be deemed to constitute one agreement. The Parties agree that the execution of this Agreement by exchanging pdf signatures, and/or by industry standard electronic signature software, shall have the same legal force and effect as the exchange of original signatures. In any proceeding arising under or relating to this Agreement, each Party hereby waives any right to raise any defense or waiver based upon execution of this Agreement by means of such electronic signatures or maintenance of the executed agreement electronically.



QIAGEN, L.L.C.

Signature

Roland Sackers

Name

CFO

Title

April 30, 2024

Date

San Bernardino County Public Health

Signature

Dawn Rowe

Name

Chair, Board of Supervisors

Title

MAY 07 2024

Date

QIAGEN  
LEGAL

SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIRMAN OF THE BOARD  
LYNNA MONELL  
Clerk of the Board of Supervisors  
of the County of San Bernardino  
By \_\_\_\_\_  
Deputy



QIAGEN LLC.

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## Exhibit A

### PRICING

| Catlog No. | Description                                                     | 01/01/2024-<br>12/31/2024 | 01/01/2025-<br>12/31/2025 | 01/01/2026-<br>12/31/2026 | 01/01/2027-<br>12/31/2027 | 01/01/2028-<br>12/31/2028 |
|------------|-----------------------------------------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| 633536     | QuantiFERON-TB Gold Plus Tubes<br>Nil, TB1,TB2, Mitogen (50/ct) | \$1,019.75                | \$1,050.35                | \$1,081.86                | \$1,103.49                | \$1,125.56                |
| 622433     | QuantiFERON-TB Gold Plus<br>Dispenser Pack (25ct )              | \$531.91                  | \$547.86                  | \$564.30                  | \$575.58                  | \$587.10                  |
| 622130     | QuantiFERON-TB Gold Plus ELISA                                  | \$120.99                  | \$124.62                  | \$128.36                  | \$130.93                  | \$133.54                  |
| 622832     | QuantiFERON-TB Gold Plus ELISA<br>Reference Lab Pack            | \$1,212.08                | \$1,248.44                | \$1,285.90                | \$1,311.61                | \$1,337.85                |

- A) **Purchase of Requirements.** Customer hereby agrees to purchase all of its requirements for IGRA testing for Mycobacterium Tuberculosis Infection ("TB Test") from QIAGEN during the term of this Agreement.
- B) **Alternative Technology.** The Parties acknowledge that although Customer has agreed to purchase all of its requirements for the TB Test from QIAGEN, it is possible that Customer's individual physician customers may request the use of an alternative technology for Tuberculosis testing, and in such cases, Customer shall have the right to accommodate such requests provided that: (i) such alternative testing does not exceed 10% of the total testing volume for Customer in any given calendar month; and (ii) Customer provides QIAGEN with reasonably detailed written documentation to support its compliance with this provision, including without limitation, the percentage described in subsection (i) of this provision.
- C) **Annual Pricing for Contract Term.** The Annual period ("Annual period") for pricing calculation will be defined as January 1<sup>st</sup> through December 31<sup>st</sup>.
- D) **Remedy.** In the event Customer fails to comply with the foregoing provisions, QIAGEN shall have the right to adjust the price set forth in Exhibit A to a price commensurate with the actual volume purchase for the products. In this case, the new price shall be effective as of the date on which QIAGEN provides written notice to the Customer and shall apply to any purchases by Customer for the next 12 month period during the term of the Term of the Agreement. After such 12 month period has passed, Customer may request, and QIAGEN may agree to provide, a "re-set" of the requirements obligation described in subsections (A) through (C). Thereafter, any failure of Customer to comply with the requirements obligation shall again follow the process set forth herein.



## WARRANTY CONDITIONS

| Product                            | Warranty  | Milestone                                                |
|------------------------------------|-----------|----------------------------------------------------------|
| New instrument sale                | 12 months | Shipment (or installation complete if done by QIAGEN)    |
| Refurbished / used instrument sale | 6 months  | Shipment (or installation complete if done by QIAGEN)    |
| Evaluation                         | 3 months  | Shipment (or installation complete if done by QIAGEN)    |
| Warranty on a replacement part     | 3 months  | Shipping date, cost of shipping if needed paid by QIAGEN |
| Warranty on repair labor           | 1 month   | Work completed, travel paid by QIAGEN                    |

### QIAGEN LLC.

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