



# COMMONWEALTH of VIRGINIA

## Department of General Services

Division of Purchases and Supply

May 20, 2009

1111 East Broad Street  
P.O. Box 1199  
Richmond, Virginia 23218-1199  
(804) 786-3842  
FAX (804) 225-3707

### **NOTICE OF CONTRACT TERMINATION**

Mr. Robert Stickel  
LifeSavers, Inc.  
39 Plymouth Street  
Fairfield, NJ 07004  
[bob@lifesaversinc.com](mailto:bob@lifesaversinc.com)

**Subject: Breach of Contract Deficiency and Notice of Contract Termination**

Dear Mr. Stickel:

To recap the events that lead up to this termination measure: In July 2008, the Division of Purchases and Supply received notification from Prior Art, Ltd. that defibrillator cabinets supplied by LifeSavers, Inc. under Master Agreement E-194-407-08/E-147-407-09 infringed two patents owned by Prior Art. This notice of infringement constituted a breach of the implied warranty of non-infringement provided for in § 8.2-312 of the Code of Virginia.

At the time, you indicated that LifeSavers was pursuing a variety of responses to resolve Prior Art's allegations of infringement. Based on your representations, the Commonwealth renewed Master Agreement E194-407-08 on the express condition that no further purchases of any sort may be made or accepted under the Agreement unless and until the Division of Purchases and Supply notifies LifeSavers in writing that it is authorized to proceed. LifeSavers, Inc. was allowed a 30 day cure period (see attached Cure Letter of October 30, 2008) to correct the alleged patent infringement deficiencies in the goods provided or be declared in default of its contractual obligations. To date, LifeSavers has taken no corrective action to resolve the outstanding allegations of infringement and the Division of Purchases and Supply has never authorized LifeSavers to accept purchases during the renewal term.

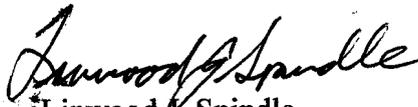
Accordingly, pursuant to General Terms and Conditions, subsection DEFAULT, LifeSavers Inc. has been placed in default and the Contract between LifeSavers, Inc. and the Commonwealth of Virginia is hereby terminated. In addition to this termination, the Commonwealth reserves the right to exercise all legal and equitable remedies available to rectify LifeSavers's breach, including but not limited to repurchase of the affected goods at LifeSavers' expense and invocation of LifeSavers'

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obligation of indemnification. You will be notified of any additional purchase, administrative or other costs for which LifeSavers becomes liable as a result of this default. Refer to the Vendors Manual, Chapter 7, Section 7.14 (<http://eva.virginia.gov/learn-about-eva/vendors-manual.htm>).

Based on the above, the eVA vendor account established for LifeSavers, Inc. has been suspended. LifeSavers, Inc. is hereby suspended from conducting business with the Commonwealth of Virginia for a period of one year or earlier if a corrective action has been executed and proof of such action has been provided to the Division of Purchases and Supply. Refer to the Vendors Manual, Chapter 7, Section 7.24 (<http://eva.virginia.gov/learn-about-eva/vendors-manual.htm>).

Very truly yours,



Linwood S. Spindle  
Deputy Director

**Certified Mail, Return Receipt Requested**

LJS/tmm

c: DGS/DPS Contract Compliance Section  
Carrie Smith Nee, Assistant Attorney General  
Fran Finch, Manager Statewide Contracts  
Tina Mizelle, Statewide Contract Officer



# COMMONWEALTH of VIRGINIA

## Department of General Services

Division of Purchases and Supply

October 30, 2008

1111 East Broad Street  
P.O. Box 1199  
Richmond, Virginia 23218-1199  
(804) 786-3842  
FAX (804) 225-3707

Mr. Robert Stickel  
LifeSavers, Inc.  
39 Plymouth Street  
Fairfield, NJ 07004

Subject: Notice of Contract Deficiency and Required Action

Dear Mr. Stickel:

In July 2008, the Division of Purchases and Supply received notification from Prior Art, Ltd. that defibrillator cabinets supplied by LifeSavers, Inc. under Master Agreement E-194-407-08 infringe two patents owned by Prior Art. This notice of infringement constitutes a breach of the implied warranty of non-infringement provided for in § 8.2-312 of the Code of Virginia. You have indicated that LifeSavers is pursuing a variety of responses to resolve Prior Art's allegations of infringement, but the matter remains unresolved. Accordingly, LifeSavers is hereby directed to correct the deficiencies in the goods provided under the Master Agreement within 30 days of the date of this letter or be declared in default of its contractual obligations. If LifeSavers is declared in default, the Commonwealth will exercise all legal and equitable remedies available to rectify LifeSavers's breach.

In light of your representations that LifeSavers is actively attempting to satisfy the deficiencies in its performance, the Commonwealth is willing to renew Master Agreement E194-407-08 under the following conditions: 1) no further purchases of any sort may be made or accepted under the Agreement unless and until the Division of Purchases and Supply notifies LifeSavers in writing that it is authorized to proceed; 2) LifeSavers agrees to modify the Agreement to include an express warranty of non-infringement for all goods purchased under the Agreement and 3) LifeSavers accepts an obligation to indemnify all purchasers under the Agreement. A modification agreement implementing this conditional renewal is enclosed for your execution. The modification agreement must be signed no later than 3:00 p.m., October 31, 2008 and immediately returned to me (fax 804-786-5413 or email [tina.mizelle@dgs.virginia.gov](mailto:tina.mizelle@dgs.virginia.gov)) for execution by the Commonwealth. The Commonwealth reserves the right to terminate the renewal term if the deficiencies in LifeSavers's performance are not satisfactorily resolved within the period specified above. In addition, your firm will not be solicited for any additional contracts until this matter is satisfactorily resolved.

Sincerely,

A handwritten signature in black ink that reads "Tina M. Mizelle".

Tina M. Mizelle, VCO  
Statewide Contract Officer  
804-786-1603

CSN/tmm  
c: DGS/DPS Contract Compliance Section  
Carrie Smith Nee, Assistant Attorney General  
Fran Finch, Manager Statewide Contracts