

STANDARD TERMS AND CONDITIONS

1. GENERAL: The Purchase Order and these Standard Terms and Conditions contain all of the terms and conditions that comprise the complete and final agreement ("Agreement") between the CITY OF HOPE, CITY OF HOPE NATIONAL MEDICAL CENTER and/or BECKMAN RESEARCH INSTITUTION OF THE CITY OF HOPE (each and collectively, "Purchaser") and the vendor identified on the Purchase Order ("Vendor") respecting the goods described on the Purchase Order ("Goods"). By delivering the Goods, Vendor accepts this Agreement upon its exact terms and conditions. Any additional or different terms or conditions proposed by Vendor constitute a counteroffer which must be accepted in writing by Purchaser. Notwithstanding any other provision herein, Purchaser reserves the right to terminate this Agreement at any time prior to Vendor's acceptance.

2. SHIPMENT AND PACKAGING: The Goods are sold F.O.B. City of Hope, City of Hope National Medical Center and/or Beckman Research Institution of the City of Hope, 1500 East Duarte Road, Duarte, California 91010, unless otherwise indicated on the Purchase Order. Vendor will arrange transportation to Purchaser at the address specified on the Purchase Order by common carrier at the lowest available commercial shipping rate, unless otherwise indicated on the Purchase Order. Any documents necessary to enable Purchaser to obtain the Goods from a carrier must be delivered to Purchaser at least three (3) days prior to delivery of the Goods. All Goods must be properly packaged and each package must be properly marked and Purchaser's purchase order number must be shown on all package labels. All expenses for package are to be borne by Vendor and expenses of transportation are to be prepaid by Vendor.

3. DELIVERY: If Vendor fails to make delivery of Goods in the manner described herein by the delivery date set forth on the reverse side hereof ("Delivery Date"), Purchaser may, by written notice to Vendor, terminate its obligations hereunder in whole or in part and pursue any available remedies. Goods shall be delivered in a single lot unless otherwise specified on the reverse side hereof and Purchaser need not accept partial deliveries.

4. RISK OF LOSS: Vendor will bear all risk of loss to the Goods until the earlier of (i) Final Acceptance by Purchaser in accordance with paragraph 10, or (ii) thirty (30) days after delivery of the Goods in accordance with paragraph 3.

5. INSPECTION AND TESTING RIGHTS OF PURCHASER: Notwithstanding any prior payment therefore, all Goods are subject to inspection, testing and final acceptance by Purchaser after arrival at the ultimate destination. If the Goods are to be incorporated into plant or other operating facility or equipment, Purchaser's inspection and testing of the Goods may be

made under operating conditions after the Goods have been installed. If upon inspection or testing, such Goods or any portion thereof are found to be non-conforming, unsatisfactory, defective or of inferior quality or workmanship or fail to meet any guarantees or operating or other specifications contained herein or any other requirements of this Purchase Order, then without prejudice to any other rights or remedies, Purchaser may return the Goods or any part thereof to Vendor, and all amounts theretofore paid by Purchaser to Vendor on account of the purchase price of such returned Goods, together with any costs incurred by Purchaser in connection with the original delivery, or return of such Goods, shall be repaid to Purchaser by Vendor. Neither the inspection nor failure to make inspection nor acceptance of Goods shall release Vendor from any of the warranties or other provisions of this Agreement nor impair Purchaser's right to reject non-conforming Goods. Purchaser reserves the right, even after it has paid for and accepted said Goods, to make a claim against Vendor on account of any Goods which do not prove to be satisfactory or are defective, irrespective of Purchaser's failure to notify Vendor of a rejection of non-conforming Goods or revocation of acceptance thereof, or to specify with particularity any defect in non-conforming Goods after revocation of acceptance thereof.

6. INSTALLATION: To the extent set forth in the Purchase Order, Vendor shall install the Goods at Purchaser's designated location at such date and time as mutually agreed upon by Purchaser and Vendor. Vendor shall use its best efforts to assure that the installation is carried out using safe practices, means and methods to avoid injury or damage to persons, property and the environment, including without limitation the use of barriers, enclosures and watchmen where reasonably indicated or as directed by Purchaser. Vendor shall plan, manage and carry out the work in a manner that minimizes to the extent reasonably possible the impacts of the construction on Purchaser's operations, including noise, traffic congestion, dust and other matters that are reasonably likely to disturb or annoy hospital patients, guests and/or employees if not adequately controlled. Vendor at all times shall keep the installation site free from accumulation of waste materials or rubbish caused by its operations. At the completion of the installation, Vendor shall remove all its waste materials and rubbish from and about the installation as well as all its tools, construction equipment, machinery and surplus materials. Vendor warrants that (a) each of its personnel assigned to perform installation services under this Agreement shall have the proper skill, training, background, and if applicable, licensure and/or certification so as to be able to perform in a competent and professional manner and that all work will be performed in a commercially

reasonable manner and in accordance with industry standards; and (b) neither it nor any of the personnel that it provides under this Agreement, either directly or indirectly or through subcontractors, have been debarred, penalized by, convicted, sanctioned, suspended, excluded or otherwise ineligible to participate in any state or federal healthcare or reimbursement program (including Medicaid or Medicare). Purchaser shall have the right to require replacement of any Vendor personnel providing installation services under this Agreement for any reason that does not constitute unlawful discrimination. Vendor shall ensure that personnel providing installation services under this Agreement comply with all applicable federal, state, county and municipal laws, ordinances, regulations, orders, Joint Commission standards and Purchaser's policies and procedures while on Purchaser's property as advised by Purchaser at the time of installation.

7. PRICE: The price of the Goods (less any discount available for early payment) is set forth on the Purchase Order, and includes any and all installation charges. Vendor warrants that the price charged for the Goods is not higher than the price charged to other similar customers for similar quantities of Goods of similar quality unless Vendor presents written justification, acceptable to Purchaser for such price differential.

8. TAXES: Vendor shall promptly pay to the appropriate agencies all taxes, including without limitation, sales and use taxes, arising from transfer of the Goods hereunder, including any sales taxes collected from Purchaser.

9. PAYMENT: (a) Purchaser will reject any shipment sent C.O.D., and have such shipment returned to Vendor at Vendor's sole risk and expense; (b) Payment will be made by Purchaser after Final Acceptance as described in paragraph 10; (c) Discounts offered by Vendor for early payment by Purchaser will be computed from the latest of the following dates: (i) the Delivery Date, (ii) the date of actual delivery if accepted by Purchaser, or (iii) the date an acceptable invoice is received. Payment shall be deemed made for purposes of earning the discount on the date of the mailing of Purchaser's check. Invoices must be rendered with an original and two (2) legible copies.

10. FINAL ACCEPTANCE: Purchaser shall be deemed to have accepted the Goods supplied hereunder only after such Goods have been approved by Purchaser in the manner hereinafter described ("Final Acceptance"). Purchaser shall inspect and test the Goods after delivery and installation and notify Vendor in writing within sixty (60) days after receipt of the Goods, if Purchaser deems the Goods, or any commercial unit thereof, nonconforming. If Purchaser deems Goods to be nonconforming, Purchaser will specify in a rejection notice to Vendor, Purchaser's reason for deeming such Goods to be nonconforming. Vendor, with Purchaser's written approval, may have thirty (30) days from the date of Purchaser's rejection notice to cure or replace nonconforming Goods and redeliver conforming Goods to Purchaser at Vendor's sole risk and expense. Thereafter, Purchaser shall notify Vendor within fourteen

(14) days of its acceptance or rejection or such cured or replaced Goods. Should all or any commercial unit of such Goods be deemed nonconforming by Purchaser after such inspection(s), Purchaser may, after giving notice of rejection, proceed with its available remedies as described in paragraph 13. The use of any commercial unit of the tendered Goods for purposes of inspection only shall not be deemed an acceptance of the Goods or such commercial unit. After Final Acceptance, Purchaser may revoke its acceptance, in whole or in part, as to nonconforming Goods instances in which a reasonable final inspection would not have uncovered such nonconformity. Purchaser shall give written notice to Vendor its revocation of acceptance, specifying the reason for deeming the Goods nonconforming. Vendor, with Purchaser's written approval, shall have thirty (30) days from the date of Purchaser's revocation of acceptance notice to cure or replace nonconforming Goods and redeliver conforming Goods to Purchaser at Vendor's sole risk and expense. Thereafter, Purchaser shall notify Vendor within fourteen (14) days of its acceptance or rejection of such cured or replaced Goods. If such Goods are not then deemed conforming by Purchaser, Purchaser may proceed with its remedies as described in paragraph 13.

11. WARRANTIES: In placing the Purchase Order, Purchaser is relying on Vendor's skill and judgment in selecting and providing the proper Goods and any applicable services for Purchaser's particular use. Vendor warrants to Purchaser and its successors in interest that the Goods and services covered hereby will correspond with the description of the same on the face of the Purchase Order, will conform to all applicable specifications, will be new and of the best quality unless otherwise specified, will be fit for the purpose for which they are to be used and will conform in all respects both in the manufacture and use thereof with all applicable safety order or regulations of city, county and state where the Goods are to be used. Vendor also warrants that said Goods are free and clear of all liens and encumbrances whatsoever and that Vendor has a good and marketable title to same, and Vendor agrees to hold Purchaser and its successors in interest free and harmless against any and all claimants to said Goods. Vendor also warrants that all warranties on Goods and services supplied by it and made available generally to its customers shall run, and that all warranties on Goods and services supplied to it by others and made available generally to the customer of such other supplies shall also run to Purchaser, its successors, assigns and customers.

12. PATENTS, TRADEMARKS AND COPYRIGHTS: Vendor represents that it has investigated all specifications, including any furnished by Purchaser, in connection with the Goods, and based on such investigation and past experience and superior knowledge with respect to such Goods, has determined that the production thereof will not infringe any patent, trademark or copyright. Vendor warrants to Purchaser and its successor in interest that the manufacture, sale or use of the Goods and any services covered by this order, whether manufactured in accordance with

Purchaser's specifications or otherwise, do not and will not infringe upon any patent, trademark or copyright and Vendor shall indemnify and hold Purchaser and its successors in interest free and harmless from and against any and all claims, demands, costs and liabilities, including legal expenses arising out of any such infringement or claim of infringement. Purchaser is relying upon the experience, skill and superior knowledge of Vendor with respect to the Goods and makes no representation that Vendor will be safe in manufacturing the Goods as required under this Agreement. In no event shall Purchaser or its successors in interest be liable to Vendor for any patent, copyright or trademark infringement or claim thereof. Vendor shall not settle any patent, copyright or trademark infringement claim with an admission of liability or wrongdoing by, or imposes any obligations on, Purchaser, without Purchaser's prior written consent, which consent shall not be unreasonably withheld.

13. REMEDIES: If any warranty or other term or condition of this Agreement is breached or repudiated by Vendor, Purchaser may, at its election, pursue any or all of the following courses of action: (i) return to Vendor the tendered nonconforming Goods and recover from Vendor any portion of the purchase price paid and recover all damages to which Purchaser is entitled by law; (ii) Purchaser may retain any commercial unit which it deems to be conforming and return all nonconforming Goods and make a reasonable allowance from the purchase price, and recover all damages to which the Purchaser is entitled by law; and (iii) Purchaser may accept nonconforming Goods and make a reasonable allowance from the purchase price for such nonconformity, and recover all damages to which Purchaser is entitled by law. Purchaser assumes no obligations with respect to resale of perishable Goods, or Goods rapidly declining in value, for Vendor's account, or to "cover" or procure substitute Goods in the open market. The foregoing remedies are in addition to all other remedies available at law or equity or as contained in this Agreement, including incidental and consequential damages, and shall not be considered exclusive. Any nonconforming Goods returned to Vendor shall be returned at Vendor's sole expense, including, without limitation, the cost of storing, shipping, handling and insuring the return of such nonconforming Goods.

14. ADEQUATE ASSURANCE: If any products of Vendor, whether or not they are of the type described herein, are the subject of an action brought by any federal or state administrative or regulatory agency, Purchaser shall have the right to demand assurances that all Goods to be delivered hereunder fully meet applicable federal and state standards and are not violative of any federal, state or local law, ordinance, regulation or administrative guideline. If demanded, Vendor will furnish such assurance, in writing, within ten (10) days of demand.

15. INDEMNIFICATION: Vendor shall indemnify and save harmless (and at Purchaser's request, defend) Purchaser and all other persons and organizations cooperating in the conduct of the business of Purchaser and its affiliates and each of their employees or agents,

form and against any and all claims, loss, damages, liabilities, costs, expenses or obligations whatsoever, for or in connection with injury (including death) or damage to any person or property, resulting from or in any way connection with Vendor's performance hereunder or any default by Vendor or breach of its obligations hereunder. The foregoing indemnity and hold harmless obligation of Vendor includes and applies without limitation to any strict liability imposed by law and to injury to damage to indemnitees, Vendor or third parties, or any or all of them, and their respective property, employees, agents and affiliates, regardless of how any such injury or damage may be caused or suffered and even if the same be or is alleged to be contributed to or suffered by reason of the concurrent or contributory negligence, whether affirmative or passive, or any indemnitee. Notwithstanding the foregoing, Vendor's liability hereunder shall not include any responsibility for or obligation to indemnify and save any indemnitee harmless from loss, damage or expense arising from the sole negligence or willful misconduct of any indemnitee. Vendor shall not settle any claim with an admission of liability or wrongdoing by, or imposes any obligations on, Purchaser, without Purchaser's prior written consent, which consent shall not be unreasonably withheld.

16. CALIFORNIA LAW: The construction and performance of this Agreement shall be construed under the internal laws of the State of California without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of California to the rights and duties of the parties. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be commenced in federal court in the Central District of California or in state court in the County of Los Angeles, California, and each party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding.

17. COMPLIANCE WITH LAW: Vendor warrants and agrees that all Goods delivered pursuant this Agreement shall be produced, sold and delivered to Purchaser in compliance with and conforming to all applicable laws and government orders, rules and regulations, and that the prices for such Goods are not in excess of any applicable price established by law or governmental regulation. Vendor shall furnish to Purchaser upon request certificates or other evidence showing compliance with this paragraph.

18. DISCOUNTS: Vendor will, to the extent applicable, fully and accurately report to Purchaser all discounts (including but not limited to rebates and credits) as required by 42 C.F.R. Section 1001.952(h). Vendor will report such discounts on each invoice or statement provided to Purchaser, clearly delineating the discount provided for such invoiced Goods. Each invoice or statement shall list separately discounts applied to capital equipment from discounts applied to disposables and other items which are reported as operating expenses.

19. EQUAL EMPLOYMENT OPPORTUNITY: The Equal Employment Opportunity Clause of Section 202 of Executive Order 11246 of September 25, 1965 and the

like provision of any subsequent Executive Order related to equal employment opportunity and any implementing rules and regulations of the United States Secretary of Labor are incorporated herein by this reference.

20. CANCELLATION IN CERTAIN CASES: Time is of the essence hereof. If Vendor shall default in performance hereof or breach any of its obligations hereunder or if Vendor becomes insolvent or a trustee or receiver of Vendor's business or assets is appointed by any court or if Vendor shall make an assignment for the benefit of creditors, then in any of such events, Purchaser may cancel this Agreement in whole or in part by written or telegraphic notice to Vendor, and Purchaser shall have no liability or obligation whatsoever to Vendor by reason of or resulting from such cancellation.

21. PUBLICITY: Vendor will not have the right to identify Purchaser or any of its affiliates as a client or employer or otherwise use the name, logos or trademarks of Purchaser or of Purchaser's affiliates in connection with this Agreement without Purchaser's prior written consent in its sole discretion.

22. ENTIRE AGREEMENT: Except as otherwise provided herein, this Agreement constitutes the entire agreement between the parties and supersedes all previous communications between them, either oral or written. All such previous communications are hereby abrogated and withdrawn, and no stipulations, representations or agreements by Purchaser or any of its officers, agents or employees shall be binding on Purchaser unless contained in this Agreement or other written contract signed by authorized representatives of each party, and no local, general or trade customs or previous course of dealing or performance shall alter or vary the terms hereof.

23. NO WAIVER; SEVERABILITY: The waiver by Purchaser of any term, condition or provision herein stated shall not be construed to be a waiver of any other term, condition or provision hereof, nor shall such waiver be deemed a waiver of a subsequent breach of the same term, condition or provision, nor shall it be deemed a waiver of any provisions in any subsequent order. If any provision of this Agreement shall be held by any court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

24. ASSIGNMENT: This Agreement shall not be assignable or delegated by either party hereto without the written consent of the other.

25. INTEGRATION: This writing is intended by the parties as a final expression of this Agreement and is intended also as a complete and exclusive statement of the terms of the agreement between the parties. No course or prior dealing between the parties and no usage of the trade shall be relevant to supplement or explain any term used herein. Acceptance or acquiescence in the course of performance rendered hereunder shall not be relevant to determine the meaning of this Agreement.

26. NOTICES: Any notice, demand, or communication required or permitted to be given by an provision hereunder shall be deemed to have been sufficiently

given if delivered personally to the party or to an officer of the party to whom the same is directed, or if sent by registered or certified mail, postage and charges prepaid addressed as follows: If to Purchaser, Attention: Director of Materiel Services, City of Hope, 1500 East Duarte Road, Duarte, California 91010; if to Vendor, at the address specified on the front hereof. Any such notice shall be deemed to be given on the date on which the same is delivered, if delivered personally, or on the date on which the same is deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as aforesaid.

27. ATTORNEYS' FEES: In the event of any default or breach of any of the warranties or conditions arising hereunder, the losing party shall pay, on demand, all reasonable fees, costs and expenses of counsel incurred by the prevailing party as a result of such default or breach.

28. MODIFICATION OR AMENDMENT: This Agreement may be modified or amended only in a subsequent writing executed by authorized representatives of Purchaser and Vendor.