

B. Table of Contents

This Agreement consists of the following sections:

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EXHIBITS

- A. Scope of Services - Public Access Defibrillators
- A-1 Scope of Services - Automated External Defibrillators
- B. Contractor's Unit Prices for Devices and Accessories
- C. Equal Employment Opportunity
- D. Drug Policy Compliance Agreement
- E. Drug Policy Compliance Declaration
- F. Certification of No Safety Impact Positions

C. Parts Incorporated

The above described exhibits are incorporated into this Agreement.

D. Controlling Parts

If a conflict among the sections and exhibits arises, the sections control over the exhibits.

E. Signatures

The Parties have executed this Agreement in multiple copies, each of which is an original.

**MEDTRONIC EMERGENCY
RESPONSE SYSTEMS, INC.**

By: *Lorayne France*
Name: L. Munnay LORANCE
Title: Sr. Pricing & Contracting Mgr.

ATTEST/SEAL (if a corporation)
WITNESS (if not a corporation)

By: *Heath D. Albright*
Name: HEATH D. ALBRIGHT
Title: PROPOSAL ANALYST

APPROVED:

Talun Wells
City Purchasing Agent

APPROVED AS TO FORM:

Mayra Ramona
Assistant City Attorney
L.D. No.0350500404001

CITY OF HOUSTON, TEXAS

Signed by:

Bill White
By: _____
Mayor

Donna Russell

ATTEST/SEAL:

Donna Russell
City Secretary

Phil Bahil
Chief, Houston Fire Department

COUNTERSIGNED BY:

Annise D. Parker
May Ann Grant
City Controller

DATE COUNTERSIGNED:

6/30/05



II. DEFINITIONS

As used in this Agreement, the following terms have the meanings set out below:

"Agreement" means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Contractor.

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.

"Countersignature Date" means the date shown as the date countersigned on the signature page of this Agreement.

"Devices" mean the two types of defibrillators being purchased under this Agreement.

"Director" means a physician appointed by the Mayor as Physician Director of Emergency Medical Services to manage the City's Emergency Medical Services (EMS) and is responsible for the design and management of City's AED program.

"Documentation" means Contractor's service and operator manuals for Contractor's LIFEPAK CR Plus, LIFEPAK 500 AED and Supplies being provided to City under this Agreement.

"LIFEPAK CR Plus means a Public Access Defibrillator (PAD) which is a computerized medical device that analyzes a person's heart rhythm and tells the first aid provider if and when to deliver a shock, called defibrillation, to the victim of sudden cardiac arrest which may help reestablish effective heart rhythm when the first aid provider administers the shock by placing the device's pads on the victim's body. Contractor's LIFEPAK CR PLUS with the specifications detailed in Exhibit "A" can be programmed by City as a semi-automatic defibrillator without pediatric electrodes (though the device is capable of pediatric defibrillation, the Director has the

option to purchase pediatric electrodes at any time during the term of this Agreement), so that the Device may be distributed for use by various City Departments.

“LIFEPAK 500 AED means an Automated External Defibrillator which is a computerized medical device that analyzes a person’s heart rhythm and tells the first aid provider if and when to deliver a shock, called defibrillation, to the victim of sudden cardiac arrest which may help reestablish effective heart rhythm when the first aid provider administers shock by placing the device’s pads on the victim’s body. Contractor’s LIFEPAK 500 AED with the specifications detailed in Exhibit “A-1” can be programmed by City as a semi-automatic defibrillator with pads for use on children for use by the City’s first responders and Emergency Medical Technicians.

“Notice to Proceed” means a written communication from the Director to Contractor instructing Contractor to begin performance.

“Parties” mean all the entities set out in the Preamble who are bound by this Agreement.

“Purchasing Agent” means the City’s Purchasing Agent or the person he or she designates.

“Supplies” mean Contractor’s replacement kit for the battery charger and two electrodes that come together as a pack for use in both types of defibrillators being purchased under this Agreement.

“Test” means the programming of Devices by the Director and operation of the Devices during the period prior to Acceptance to ensure that the Devices perform self-tests and function according to Documentation.

“User City Department” means the department placing an order for the defibrillators for use in locations that are under their jurisdiction, but such use shall be under the direct supervision of the City’s EMS Director.

III. DUTIES OF CONTRACTOR

A. Scope of Services

In consideration of the payments specified in this Agreement, Contractor shall provide all labor, material, and supervision necessary to perform the services described in Exhibits "A" and "A-1".

B. Coordinate Performance

Contractor shall coordinate its performance with the Director and other persons that the Director designates. Contractor shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

C. Payment of Subcontractors

Contractor shall make timely payments to all persons and entities supplying labor, materials, or equipment for the performance of this Agreement. CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR'S FAILURE TO MAKE THESE PAYMENTS. Contractor shall submit disputes relating to payment of MWBE subcontractors to arbitration in the same manner as any other disputes under the MWBE subcontract.

D. RELEASE

CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH,

DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

E. INDEMNIFICATION

CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

- (1) CONTRACTOR'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
- (2) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND
- (3) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY,

WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

F. INDEMNIFICATION - PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT

CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY ALLEGING THAT THE CITY'S USE OF ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS CONTRACTOR FURNISHES DURING THE TERM OF THIS AGREEMENT INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. CONTRACTOR SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.

CONTRACTOR SHALL NOT SETTLE ANY CLAIM ON TERMS WHICH PREVENT THE CITY FROM USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS WITHOUT THE CITY'S PRIOR WRITTEN CONSENT.

WITHIN 60 DAYS AFTER BEING NOTIFIED OF THE CLAIM, CONTRACTOR

SHALL, AT ITS OWN EXPENSE, EITHER (1) OBTAIN FOR THE CITY THE RIGHT TO CONTINUE USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS OR, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS. IF NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE CITY MAY RETURN THE EQUIPMENT, SOFTWARE, OR DOCUMENTS, OR DISCONTINUE THE PROCESS, AND CONTRACTOR SHALL REFUND THE PURCHASE PRICE.

G. INDEMNIFICATION - SUBCONTRACTOR'S INDEMNITY

CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

H. INDEMNIFICATION - PROCEDURES

(1) Notice of Claims. If the City or Contractor receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- (a) a description of the indemnification event in reasonable detail,
- (b) the basis on which indemnification may be due, and
- (c) the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to

indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims

(a) Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Contractor shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to whether or not it will defend the claim. If Contractor does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

(b) Continued Participation. If Contractor elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Contractor does not fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

I. Insurance

Contractor shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, in duplicate form, before beginning its performance under this Agreement. All policies except Workers' Compensation must name the City as an additional insured. The issuer of any policy (1) shall have a Certificate of Authority to transact insurance business in Texas or (2) shall

be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide. Contractor shall maintain the following insurance coverages in the following amounts:

- (1) Commercial General Liability insurance including Contractual Liability insurance:
 - \$500,000 per occurrence; \$1,000,000 aggregate
- (2) Workers' Compensation including Broad Form All States endorsement:
 - Statutory amount
- (3) Products Liability
 - \$1,000,000 per occurrence
- (4) Automobile Liability insurance
 - \$1,000,000 combined single limit

Defense costs are excluded from the face amount of the policy.
Aggregate Limits are per 12-month policy period
unless otherwise indicated.

All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City, and that it shall give 30 days written notice to the City before they may be canceled, materially changed, or nonrenewed. Within the 30 day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or nonrenewed so as to maintain in effect the required coverage. If Contractor does not comply with this requirement, the City Purchasing Agent, at his or her sole discretion, may

- (1) immediately suspend Contractor from any further performance under this

Agreement and begin procedures to terminate for default, or

- (2) purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

J. Warranties

Contractor warrants that it shall perform all work in a good and workmanlike manner, meeting the standards of quality prevailing in Harris County, Texas for work of this kind. Contractor shall perform all work using trained and skilled persons having substantial experience performing the work required under this Agreement.

With respect to any parts and goods it furnishes, Contractor warrants:

- (1) that all items are free of defects in title, design, material and workmanship,
- (2) that each item meets or exceeds the manufacturer's specifications and requirements for the equipment, structure, or other improvement in which the item is installed,
- (3) that each replacement item is new, in accordance with original equipment manufacturer's specifications, and of a quality at least as good as the quality of the item which it replaces (when the replaced item was new), and
- (4) that no item or its use infringes any patent, copyright, or proprietary right.

K. Contractor's Five-Year Warranty

- (i) Contractor warrants that all LIFEPAK CR Plus and LIFEPAK 500 AED defibrillators shipped to the City under this Agreement shall be free from defects in workmanship and materials for a period of five years from the date of Director's Acceptance of that Device as set out in Section IV, E below. Contractor shall repair or replace defective LIFEPAK CR Plus and LIFEPAK 500 AED Devices provided

to City under this Agreement, when such defective Devices fail to function when used according to Contractor's Documentation.

- (ii) The City shall follow the procedure set out below to file a warranty claim:

The Director shall call Contractor's service department at 1-800-442-1142, provide the service department with the serial number of the Device and the physical address of the City department where the Device is located (Contractor shall provide the Director with 30 days' notice in writing regarding the change in its service department's telephone number 1-800-442-1142). In response, Contractor shall dispatch an experienced service technician to the site address provided by the Director within 48 hours. Contractor's service technician shall repair the Device or provide the Director with a loaner Device that meets or exceeds the Devices that are currently being purchased by the City. In the event Contractor's service technician determines that the Device cannot be repaired on site and provides the City with a loaner Device, then Contractor's service technician shall have the Device repaired at Contractor's facility and return the repaired Device to the City site for that Device. Upon returning the repaired Device, Contractor shall take back the loaner Device provided to City. Contractor is responsible for making arrangements to ship Devices and for all shipping charges for the same.

L. Contractor's EventCheck Point-of-Sale Subscription Service

Subject to the allocation of funds and in the event the City purchases Contractor's EventCheck Point-of-Sale (POS) service, Contractor shall provide the POS service for the LIFEPAK CR Plus Device for which the Director purchases such service.

The Director shall follow the procedure set out below to get POS service:

- 1) Call Contractor's service department at 1-800-442-1142 (Contractor shall provide the Director with 30 days' written notice of a change in its service department number, 1-800-442-1142) with the serial number and location of Device.
- 2) Contractor's service representative shall respond to the Director's call in 48 hours and conduct the following:
 - (a) inspection of the Device with the serial number called in by the Director at the City site where the Device is located
 - (b) download event data from the Device
 - (c) EventCheck Inspection Procedure
 - (d) replenish the Device with two QUIK-PAK Electrodes and one CHARGE-PAK battery charger
 - (e) send an electronic copy of patient event recorded to location provided by Director
 - (f) print paper copies of service report (Documentation of service visit)

Contractor's service representatives shall conduct an initial inspection of all Devices upon Acceptance of the Devices by the Director and in the event the Device fails the initial inspection, Contractor shall replace the Device with a new working Device. In consultation with the Director, Contractor's service representatives shall conduct the initial inspection of LIFEPAK CR Plus Devices purchased by City at City sites where the Director locates such Devices.

After the initial inspection and during the term for which POS services are purchased, Contractor shall provide POS services on Devices for which such services have been purchased

whenever the Director requires such services to be provided on Devices identified by the Director and at City locations where such Devices are located. In the event the Devices fail the POS check, Contractor shall repair the Devices so that the repaired Devices work according to their Documentation and the requirements of this Agreement.

M. Contractor's Warranty - Supplies

Contractor warrants that Supplies it provides under this Agreement will be free of any defects in workmanship or materials for the period starting on the date of Acceptance and ending 90 days thereafter. During the warranty period, Contractor shall replace defective Supplies provided to City under this Agreement, when such Supplies fail to function according to Contractor's Documentation.

N. Confidentiality - Protection of City's Interest

Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, "the Information") that they receive, or to which they have access, in strictest confidence. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section.

O. Licenses and Permits

Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against his or her license.

P. Compliance with Laws

Contractor shall comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances.

Q. Compliance with Equal Opportunity Ordinance

Contractor shall comply with the City's Equal Employment Opportunity Ordinance as set out in Exhibit "C".

R. Drug Abuse Detection and Deterrence

(1) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

(2) Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):

- (a) a copy of its drug-free workplace policy,
- (b) the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "D," together with a written designation of all safety impact positions and,
- (c) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "F."

If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on

completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "E." Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

(3) Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

(4) Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

S. Delivery of Defibrillators

Contractor shall ship all City orders for LIFEPAK 500 AED, LIFEPAK CR Plus Defibrillators and Supplies to the Houston Fire Department, Attn: EMS Division, 500 Jefferson Street, 15th Floor, Houston, TX 77002, along with invoices that list the User City Department that placed the order (which was duly countersigned by the City's EMS Director), within 30 days from the date of receipt of such orders. Contractor's price for LIFEPAK 500 AED and LIFEPAK CR Plus Devices and Supplies listed in Exhibit "B" includes the cost of shipping the Devices and Supplies to City FOB Destination.

IV. DUTIES OF THE CITY

A. Payment Terms

Subject to the allocation of funds and upon Acceptance of LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies by the Director as detailed in Sections IV, G and H below, City shall pay

and Contractor shall accept the unit prices set out in Exhibit "B" for the Devices and Supplies purchased under this Agreement. City has the option to buy EventCheck Point-of-Sale (POS) subscription services for LIFEPAK CR Plus Devices, effective the date of Acceptance, at \$75.00 a Device for the first year and \$95.00 a Device for subsequent years. Contractor's prices for the Devices, Supplies and POS subscription services are valid for five years from the date of Countersignature of this Agreement.

B. Addition of Devices

During the term of this Agreement, in the event Contractor offers other comparable or newer model Devices, the Director has the option to request Contractor in writing for such Devices in place of or in addition to the Devices detailed in Exhibits "A" and "A-1". In the event the Director requests Contractor in writing for additional Devices not listed in Exhibits "A" and "A-1" of this Agreement, then Contractor shall provide additional Devices requested by Director at the rates the parties negotiate and agree upon in writing at the time the Director requests Contractor in writing for such additional Devices. As of the effective date, such additional Devices shall be subject to this Agreement as if it had been a part, but fees for such additional Devices shall start to accrue only as of the effective date. During the term of this Agreement, the cost of additional Devices approved by the Director shall not exceed \$25,000.00 per change order and the total cost of all change orders shall not exceed 25% of the total contract price. The Director shall approve such additional Devices by means of a change order in the manner set out in Section IV, (I) below.

C. Deletion of Devices

At any time during the term of this Agreement, the Director may notify Contractor in writing to delete certain Devices provided by Contractor to City under this Agreement. On receiving the

notice, Contractor shall discontinue providing the City with Devices deleted by the Director effective the day Contractor receives the notice or the date stated in the notice. After Contractor submits an invoice to the City for such Devices provided prior to the date of the Director's notice, Contractor shall exclude all charges for Devices deleted by the Director from invoices submitted after such charges have been paid.

D. Method of Payment

The City shall pay on the basis of invoices submitted by Contractor and approved by the User Department Director, showing the Devices and Supplies shipped and the unit prices for the same. The City shall pay Contractor within 30 days of the receipt and approval of the invoices.

E. Taxes

The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

F. Method of Payment - Disputed Payments

If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the User Department Director shall temporarily delete the disputed item and pay the remainder of the invoice. The User Department Director shall promptly notify Contractor of the dispute and request remedial action. If the dispute is settled in favor of the Contractor, Contractor shall include the disputed amount on a special invoice submitted to the City for payment.

G. Acceptance - LIFEPAK CR Plus, LIFEPAK 500 AED and Supplies

Beginning promptly after delivery of each City order of LIFEPAK CR Plus, LIFEPAK 500

AED Devices and Supplies, the City shall Test the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies for 30 business days (the "Trial Period"), with Contractor providing Support Services via telephone at 1-800-442-1142 between 8:00 A.M and 5:00 P.M., Eastern Time, (excluding Contractor holidays).

If during the Trial Period, the Tests the City conducts indicate that the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies are not performing in accordance with Contractor's Documentation or the requirements of this Agreement, Contractor will have 30 business days to correct the problem(s), at which time the City will have an additional 15 business days to re-Test the corrections.

The City shall notify Contractor of any non-conformity between the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies and the Documentation provided by Contractor and provide documentation of such non-conformity to Contractor as soon as practicable after discovery.

The City shall accept the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies when: (i) the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies and related Documentation have been completely delivered, and (ii) the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies have, by the end of the 30-day Trial Period passed City Tests by successfully operating in accordance with Contractor's Documentation and the requirements of this Agreement. The City shall reject the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies if at the end of the 30-day Trial Period (plus any time the City provides to Contractor to correct defects) when the City conducted the Tests, the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies have not performed in accordance with Contractor's Documentation and Contractor is unable to correct the deficiency.

If the City rejects the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies it will be returned to Contractor at no cost to the City and the City will not pay for the use of the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies. Contractor shall return to the City all sums paid to it under this Agreement within 30 days of rejection of the LIFEPAK CR Plus, LIFEPAK 500 AED Devices and Supplies. The City reserves all other available rights at law or in equity.

H. Limit of Appropriation

(1) The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.

(2) In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of \$0.00 to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:

(3) The City makes a supplemental allocation by sending a notice signed by the CIO and the City Controller to Contractor in substantially the following form:

"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"

TO: [Name of Contractor]
FROM: City of Houston, Texas (the "City")
DATE: [Date of notice]
SUBJECT: Supplemental allocation of funds for the purpose of the "[title of this Agreement]" between the City and (name of Contractor) countersigned by the City Controller on (Date of Countersignature) (the "Agreement").

I, (name of City Controller), City Controller of the City of Houston, certify that the supplemental sum of \$ _____, upon the request of the Director, has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This supplemental allocation has been charged to such appropriation.

The aggregate of all sums allocated for the purpose of such Contract, including the Original Allocation, and all supplemental allocations (including this one), as of the date of this notice, is \$ _____.

SIGNED:

(Signature of the City Controller)
City Controller of the City

REQUESTED:

(Signature of the Director)
Director, City User Department

(4) The Original Allocation plus all supplemental allocations are the Allocated Funds. The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement, and it has no other remedy in law or in equity against the City and no right to damages of any kind.

I. Changes

At any time during the term of this Agreement, the Director may issue a Change Order to add Devices as set out in Section IV, (B) above. The Director shall authorize Contractor to provide such additional Devices by means of a Change Order in the manner set out below:

- (1) At any time during the Agreement Term, the Director may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this Agreement.

Contractor shall furnish the services or deliverables in the Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

(2) The Director will issue the Change Order in substantially the following form:

CHANGE ORDER

TO: [Name of Contractor]
FROM: City of Houston, Texas (the "City")
DATE: [Date of Notice]
SUBJECT: Change Order under the Agreement between the City and [Name of Contractor] countersigned by the City Controller on [Date of countersignature of the Agreement]

Subject to all terms and conditions of the Agreement, the City requests that Contractor provide the following:

[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]

Signed:

[Signature of Director]

(3) The Director may issue more than one Change Order, subject to the following limitations:

(a) Council expressly authorizes the Director to approve a Change Orders up to \$25,000. A Change Order of more than \$25,000 must be approved by the City Council.

- (b) If a Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor.
- (c) The Total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.

(4) Whenever Contractor receives a Change Order, Contractor shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Contractor shall complete the work within the time prescribed. If no time for completion is prescribed, Contractor shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Contractor is required to perform under this Agreement, Contractor may request a time extension for the completion of the work. The Director's decision regarding a time extension is final.

(5) A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the Original Agreement, and is subject to the terms and conditions of the Original Agreement as if it had originally been a part of the Agreement.

(6) Change Orders are subject to the Allocated Funds provisions of this Agreement.

J. Access to Site

Contractor may enter and leave the premises at all reasonable times without charge. Contractor and its employees may use the common areas and roadways of the premises where the devices are located, together with all facilities, equipment, improvement, and services provided in connection with the premises for common use. This excludes parking for Contractor's personnel.

Contractor shall repair any damage caused by its or its employees as a result of its use of the common areas.

V. TERM AND TERMINATION

A. Contract Term

This Agreement is effective on the Countersignature Date and remains in effect for five years ("Initial Term) unless sooner terminated under this Agreement.

B. Renewals

If the City Purchasing Agent at the request of City User Departments, makes a written request for renewal to Contractor at least 30 days before expiration of the then-current term and if sufficient funds are allocated, then, upon expiration of the Initial Term this Agreement is renewed for five years on the same terms and conditions except that rates for the Devices and Supplies shall be at rates negotiated by the City Purchasing Agent and Contractor. If the City Purchasing Agent is advised by User City Departments not to renew this Agreement, then the City Purchasing Agent shall notify Contractor of non-renewal at least 30 days before the expiration of the Initial Term.

C. Termination for Convenience by City

The City Purchasing Agent may terminate this Agreement at any time by giving 90 days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies which exist now or in the future.

On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up

to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in Section IV, A unless the fees exceed the allocated funds remaining under this Agreement.

TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

D. Termination for Cause

If Contractor defaults under this Agreement, the City Purchasing Agent may either terminate this Agreement or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies which exist now or in the future. Default by Contractor occurs if:

- (1) Contractor fails to perform any of its duties under this Agreement;
- (2) Contractor becomes insolvent;
- (3) all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or
- (4) a receiver or trustee is appointed for Contractor.

If default occurs, the City Purchasing Agent may, but is not obligated to, deliver a written notice to Contractor describing the default and the termination date. The City Purchasing Agent, at

his or her sole option, may extend the termination date to a later date. If the City Purchasing Agent allows Contractor to cure the default and Contractor does so to the City Purchasing Agent's satisfaction before the termination date, then the termination is ineffective. If Contractor does not cure the default before the termination date, then the City Purchasing Agent may terminate this Agreement on the termination date, at no further obligation of the City.

VI. MISCELLANEOUS

A. Independent Contractor

Contractor is an independent contractor and shall perform the services provided for in this Agreement in that capacity. The City has no control or supervisory powers over the manner or method of Contractor's performance under this Agreement. All personnel Contractor uses or provides are its employees or subcontractors and not the City's employees, agents, or subcontractors for any purpose whatsoever. Contractor is solely responsible for the compensation of its personnel, including but not limited to: the withholding of income, social security, and other payroll taxes and all workers' compensation benefits coverage.

B. Force Majeure

1. Timely performance by both parties is essential to this Agreement. However, neither party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Contractor. The event of Force Majeure may permit a reasonable delay in performance but does not excuse a party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Contractor, riots, strikes, court orders, and the acts

of superior governmental or military authority, and which the affected party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn or other factors of general application; or an event that merely makes performance more difficult, expensive or impractical. Force Majeure does not entitle Contractor to extra Reimbursable Expenses or payment.

2. This relief is not applicable unless the affected party does the following:
 - (a) uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and
 - (b) provides the other party with prompt written notice of the cause and its anticipated effect.

3. The City Purchasing Agent will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days. The decision of the City Purchasing Agent is final.

4. The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

5. If the Force Majeure continues for more than 10 days from the date performance is affected, the City Purchasing Agent may terminate this Agreement by giving 7 days' written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT UP TO THE TIME THE WORK IS HALTED DUE TO FORCE MAJEURE.**

C. Severability

If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

D. Entire Agreement

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind, exist between the Parties regarding this Agreement.

E. Written Amendment

Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Contractor. The City Purchasing Agent and Director are only authorized to perform the functions specifically delegated to him or her in this Agreement.

F. Applicable Laws

This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.

Venue for any litigation relating to this Agreement is Harris County, Texas.

G. Notices

All notices required or permitted by this Agreement must be in writing and are deemed delivered on the earlier of the date actually received or the third day following: (1) deposit in a United States Postal Service post office or receptacle; (2) with proper postage (certified mail, return receipt requested); and (3) addressed to the other party at the address set out in the preamble of this

Agreement or at such other address as the receiving party designates by proper notice to the sending party.

H. Captions

Captions contained in this Agreement are for reference only, and therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

I. Non-Waiver

If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

An approval by the City Purchasing Agent, Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The City Purchasing Agent and Director are not authorized to vary the terms of this Agreement.

J. Inspections and Audits

City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least 4 years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

K. Enforcement

The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents

and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

L. Ambiguities

If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

M. Survival

Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

N. Publicity

Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Director.

O. Parties In Interest

This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

P. Successors and Assigns

This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of the City.

Q. Business Structure and Assignments

Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the City Purchasing Agent's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest as described in §9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

Contractor shall not delegate any portion of its performance under this Agreement without the City Purchasing Agent's prior written consent.

R. Remedies Cumulative

Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

S. CONTRACTOR DEBT

IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH

NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FOR ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFORE.

EXHIBIT "A"

SCOPE OF SERVICES - PUBLIC ACCESS DEFIBRILLATORS

- I) Contractor warrants that Contractor's:
- a) 80403 - 000024 - LIFEPAK CR Plus Defibrillator, capable of Semiautomatic operation, using AHA voice prompts to check for breathing and Energy 200-, with 2pr QUIK-PAK pacing/defibrillation/ECG electrodes with REDI-PAK preconnect system, 1 CHARGE PAK, AMBU Mask and 1 installed protocol card and compatible with Infant/Child Reduced Energy Defibrillation meets City's requirements for a Public Access Defibrillator (PAD) to be used by lay people with minimal first aid training to assist adult patients in need of basic life support and that:
 - 1) performs Lead II interpretative algorithms and automatic defibrillation with voice and/or visual prompts
 - 2) is supplied with a spare set of electrodes, manual of operations, battery and charging device, soft carry case, orientation video, implementing guidelines and First responder #2 AMBU Mask Kit #3011042-001 at no extra charge
 - 3) utilizes a truncated exponential biphasic waveform with voltage and current duration compensation for patient impedance
 - 4) puts out energy output that is accurate to within plus or minus ten percent into a 50 ohm load and to within plus or minus 15% into a 15 ohms to 100 ohms load
 - 5) is capable of delivering 360j into a 50 ohms load

- 6) is equipped with three energy settings, can be configured by users from 200j to 360j, and is delivered with City's preferred energy sequence
- 7) has a turn on prompt such as a voice prompt, "Call for help now" or a sequence of beeps
- 8) provides a choice of voice prompts for patient assessment such as "Check for pulse", "Check for breathing" or "Check for signs of circulation"
- 9) can be set to any one of 74 time zones
- 10) can be set to flexible or fixed energy protocols
- 11) can be set to user's choice of identification of up to 20 letters or numbers that are displayed in the clinical data report
- 12) can be pre-configured by Contractor to City's preferences in terms of set-ups and medical protocols prior to shipping an order
- 13) allows operators to:
 - a) conduct a rhythm analysis without pressing the analyze key button
 - b) deliver a shock by pressing the shock control button
 - c) operate without pressing the shock control button
- 14) is capable of guiding operators through procedures with a combination of voice prompts, flashing LEDs and visual prompts
- 15) has alert electrode placements with visual prompts and flashing LEDs
- 16) is capable of prompting the operator to perform CPR for a defined period of time following each three-shock sequence or indicate that no shock is advised
- 17) can be delivered with City's preferred CPR time set on them

- 18) is capable of alerting operator, when in use, that the battery is low by displaying whether device is ready for use
- 19) displays only an integrated easy-to-open electrode pack when the device is turned on to avoid confusing the operator
- 20) displays other indicators once the electrode pack is open and the shock control button is visible
- 21) performs a weekly self-test and alerts the operator if the device needs to be serviced
- 22) logs the results of self-tests for later reading by operator
- 23) performs more extensive monthly self-tests
- 24) tests the capacity of the battery and battery charger every month
- 25) displays test results using icons such as “OK”, “low battery”, “replace CHARGE-PAK and electrode pack” and “service required”, that are clearly visible even when the device is in a bracket or carry case or when the device is not turned on or is not open

Physical Specifications

- 26) has a molded handle and rubber molded bumpers on the perimeter
- 27) does not exceed 4.2 inches in height, 8 inches in width, and 9.5 inches in depth (inclusive of handle)
- 28) is available with or without a shock control button
- 29) includes an integrated lid that protects the electrode pack and controls
- 30) weighs 4.5 pounds with the battery charger and electrodes

Shock Advisory Algorithm

- 31) completes an analysis in less than 9 seconds
- 32) detects patient movements such as movements caused by excessive breathing, administering CPR or the motion of the vehicle
- 33) stops rhythm analysis when external factors cause patient's movements and audibly notifies the operator that movements are detected and resumes analysis when such movements subside
- 34) identifies tachycardia, based in part, on the following criteria:
 - (a) minimum heart rate that is greater than or equal to 120 beats per minute
 - (b) no apparent P waves
 - (c) QRS widths greater than 160 milliseconds

Environmental and Testing Criteria

- 35) operates in temperatures ranging from 32 to 122 degrees Fahrenheit
- 36) can be stored in temperatures ranging from 40 to 158 degrees Fahrenheit for up to one week even with electrodes and battery installed in the devices
- 37) meets or exceeds water resistance measures of IEC 60529/EN 60529 IPX4 and is "Splash Proof" even when electrodes are connected and the lid is either open or closed
- 38) meets or exceeds MIL-STD-810E method 516.4, Procedure 1, when subjected to shocks with 40g, 6-9ms pulse, ½ sine each axis
- 39) meets or exceeds MIL-STD-810E, method 514.4, Helicopter vibration equal to Category 6 (3.75 Grms) and Ground Mobile - Category 8 (3.15 Grms)

Event Documentation

- 40) is capable of storing at least 20 minutes of continuous patient ECG and scene audio in internal memory (i.e. without the use of external storage media)
- 41) stores two patient cases in internal memory even when power is disconnected
- 42) permits patient information to be downloaded:
 - a) via a wireless communication IRDA adapted to a PC
 - b) in less than 20 seconds and permits the transfer of clinical and test log data (based on a five minute episode)
 - c) with the option to synchronize its clock with the clock on the PC
 - d) in the form of a summary report or complete clinical data

Reports

- 43) are loaded with software such as LIFENET DT Express that allow operators to download patient data, edit patient demographics and print event data or test logs
- 44) are loaded with software such as CODE-STAT Suite 4.1 or higher, that allow operators to continuously replay ECGs, review test logs and edit clinical data comments
- 45) integrate patient treatment timelines and ECG segments for statistical analysis and generate reports using the CODE-STAT medical informatics system 4.1 or higher

Batteries

- 46) operate using a permanently installed battery(which cannot be removed from the device)
- 47) include separate battery charger that recharges the internal energy cell
- 48) can be operated in an emergency without the battery charger
- 49) when fully charged, provide 30, 360J shocks or 210 minutes of on time
- 50) come equipped with a battery charger that is synchronized with the defibrillation electrodes so that when either needs to be replaced, the icon indicates that the battery is low even when the device is not on or the lid is closed

Electrodes

- 51) are equipped with electrodes that are capable of monitoring ECG, pacing de-fibrillations and synchronizing cardio-versions (do not require connecting cables to perform these functions)
- 52) are equipped with electrodes that come in a protective package that is mounted to the device to prevent accidental loss or damage, with a label that indicates how the electrodes may be removed from the package, are easy to remove with the use of one hand, and are mounted on a single backing with a tab for each electrode, and which when removed has a label that indicates where the electrodes are to be placed on the patient
- 53) are capable of being carried with the electrodes already connected to the therapy port and operate without the use of a permanent patient cable as the patient cable is integrated into the disposable electrode
- 54) can be used with the QUIK-COMBO system and thus can be used with

- any manufacturer's electrodes with no special connectors
- 55) are equipped with a regular cable 3.5 feet in length
 - 56) with a minimum conductive adhesive contact area of 12.8 inches
 - 57) are configured to have their battery charger replaced every 2 years from the date of manufacture with an icon visible even when the device is not turned on or is not open, to indicate when it is time to replace the battery

Accessories

- 58) come with instructions in an operator's handbook that describes in complete detail how a user can operate the device
- 59) come with on-line training on how to use the device and such training is updated to serve as a refresher course for operators

Training

- 60) Contractor shall provide a separate device for training operators that:
 - (a) does not emit any energy and shall be manufactured for use on a mannequin used to train people in CPR techniques.
 - (b) has all the physical characteristics of a regular device with a label that clearly indicates that the unit is a training device.
 - (c) simulates all the sequences and controls necessary to operate the device
 - (d) allows the instructor to simulate various patient scenarios to train students
 - (e) allows the instructor to operate the unit using a wireless device to change the scenarios being used to demonstrate patient conditions to students
 - (f) is equipped with electrodes that can be used 50 times on a mannequin to train students

(g) is equipped with four alkaline batteries that use D cells and therefore can be purchased in retail outlets

61) Contractor's in-house clinical specialists shall assist City trainers with answers to questions regarding training, the device itself and protocol to be followed by users

Technical Support and Maintenance

62) In consultation with the Director, Contractor's certified technicians shall service and maintain the units on City sites where the Director has located such Devices.

EXHIBIT "A-1"

SCOPE OF SERVICES - AUTOMATED EXTERNAL DEFIBRILLATORS

II) Contractor warrants that Contractor's:

b) 81401 - 000004 - LIFEPAK 500 AED, three-button operation, ADAPTIV biphasic with Ship Kit with 2 Quik Combo/Redi-Pak, plus 1 non-rechargeable Lithium Battery and 1 Soft Case, compatible with infant/child reduced energy defibrillation electrodes meets the City's requirements for an Automated External Defibrillator to be used by first responders and Emergency Medical Technicians (EMTs) to assist adult patients in need of basic life support and that:

- 1) performs a Lead II interpretative algorithm, can be manually and automatically operated using voice and visual prompts
- 2) is equipped with an AED unit, two lithium batteries and includes a soft case
- 3) utilizes a truncated exponential waveform
- 4) is capable of delivering defibrillator shocks in patterns of 200 and 300 joules according to the guidelines of the American Heart Association
- 5) has three settings to operate device:
 - a) an operator key or button to initiate rhythm analysis of patient
 - b) an automatic analysis of the second and third rhythms of each three-shock sequence administered with no operator button or key
 - c) an automatic analysis of all rhythms without an operator button or key

- 6) guides the operator through various procedures by using voice prompts, flashing LEDs and screen messages
- 7) prompts the operator to perform CPR for a defined period of time following each three-shock sequence or indicates that no shock is advised
- 8) is calibrated to the City's specifications regarding CPR time; but allows City operators to change the length of CPR time or to delete CPR prompts altogether without using a separate set up card
- 9) continuously monitors the operator, detects shock rhythms even when not performing ECG rhythm analysis or prompting the operator with CPR prompts
- 10) displays time, the number of shocks delivered, energy level of the last shock administered, time remaining while administering CPR and other prompts required to operate the device

Self-Testing

- 11) runs a daily self-test, classifies faults as major or minor, alerts the operator when device needs to be serviced and prints all test results as reports
- 12) conducts an extensive monthly self-test
- 13) checks battery and battery charger every other week
- 14) allows user to test the device without using a rhythm simulator and prints test results as a report

Physical Specifications

- 15) weighs less than 8 pounds with battery, has a molded handle

- 16) measures 4 inches in height, 10.5 inches in width and 11.6 inches in depth (inclusive of handle)

Shock Advisory Algorithm

- 17) analyzes ECG in less than 9 seconds
- 18) is capable of detecting ventricular fibrillation and distinguishing such rhythms from patient movements caused by patient's labored breathing or CPR or the movements of the vehicle transporting the patient
- 19) stops rhythm analysis when it detects that movements are caused by other factors listed above, notifies operator by visual or audible prompts of such movements and resumes analysis only when such external movements subside
- 20) identifies ventricular tachycardia based on the following criteria:
 - (a) heart rate greater than or equal to 120 beats per minute
 - (b) no apparent P waves
 - (c) QRS widths greater than 160 milliseconds
- 21) identifies ventricular fibrillation based on peak-to-peak ECG amplitude measuring at least 0.08 mV.
- 22) analyzes consecutive 2.7-second segments of the ECG and advises operator whether a shock needs to be administered only when two out of three consecutive ECG segments analyzed indicate the need for a shock

Environmental and Testing Criteria

- 23) operates in temperatures ranging from 32 to 122 degrees Fahrenheit

- 24) can be stored in temperatures ranging from 22 to 149 degrees Fahrenheit without battery or electrodes and at the same temperatures for a week when battery or electrodes are installed in the device
- 25) withstands atmospheric pressures ranging from 760mmHg to 429mmHg
- 26) withstands relative humidity ranging from 10 to 95%
- 27) meets or exceeds water resistance of IEC 60529/EN 60529 IPX4 “Splash Proof” even with electrodes or connector cover installed
- 28) withstands shocks of MIL-STD-810E, Method 516.4, Procedure 1, 40g, 6-9ms pulse, ½ sine each axis
- 29) withstands vibrations of MIL-STD-810E, Method 514.4, Category 10
- 30) can be used in an aircraft since it meets or exceeds RTCA/DO-160C, “Environmental Conditions and Test Procedures for Airborne Equipment”

Event Documentation

- 31) is equipped with enough internal memory to store at least 20 minutes of ECG readings together with scene audio information, and 80 minutes of continuous ECG readings without any scene audio
- 32) stores two patient cases and such storage is not affected by power failure
- 33) allows patient information to be downloaded in the following ways:
 - (a) via a designated printer connected to the device to which summary of events and ECG readings can be printed
 - (b) via a modem (Hayes AT) using a designated telephone number for remote downloading of data to a central computer

- (c) via a PC by using the software on the device to get both recent and prior patient case summaries
- 34) allows the clock on the device to be synchronized with clock on PC
- 35) integrates patient treatment history and ECG readings into CODE-STAT SUITE data management system for statistical analysis and to generate reports

Batteries

- 36) operates on non-chargeable, sealed lithium sulfur dioxide (LiSO₂) batteries, with capacity for 312 discharges at 360J, and a shelf life of 5 years
- 37) automatically switches the device off when it is not connected to a patient and the operator has not pressed any buttons for 15 minutes
- 38) automatically checks the device every day when not in use
- 39) alerts the operator when battery is low by using icons, screen and voice prompts

Electrodes

- 40) uses electrodes capable of monitoring ECG readings, pacing defibrillations and synchronizing cardioversions
- 41) uses electrodes that do not require any special cables to connect to electrodes made by other manufacturers
- 42) is portable with electrodes connected to therapy port
- 43) uses electrodes that operate without the use of a permanent patient cable

- 44) uses electrodes that are compatible with QUIK-COMBO connection system thus allowing device to be connected to electrodes made by other manufacturers without the use of any special connecting cable
- 45) uses a defibrillation cable that is 3.5 feet long
- 46) uses electrodes that have a minimum conductive adhesive gel contact area of 12.8 in²

Training

- 47) Contractor shall provide a separate device for training or an external ECG rhythm simulator that can be used with any device
- 48) In the event Contractor provides a separate training device, then that device shall not deliver any energy and that device shall be made for use on a mannequin used to demonstrate CPR techniques
- 49) Contractor shall equip the training device with interactive software that simulates operation in multiple patient rescue scenarios and documents trainee performance
- 50) Contractor shall equip the training device with electrodes that can be used 50 times on a training mannequin
- 51) Contractor shall provide in-service training videos with the training device
- 52) Contractor shall provide the City with access to in-house clinical specialists capable of answering questions raised by City trainers on the device, training lessons and the protocols used in administering the device

Technical Support

- 53) During Contractor's 5-year warranty period, Contractor shall provide the City with certified technicians to service the devices supplied under this Agreement at City sites identified by Director.

EXHIBIT "B"

**CONTRACTOR'S UNIT PRICES FOR
DEVICES AND ACCESSORIES**

<u>CATALOG # / DESCRIPTION</u>		<u>UNIT PRICE</u>
1.	<p><u>6515-0204549-00</u> <u>81401-000004 - LIFEPAK 500 AED, three-button operation, ADAPTIV biphasic with:</u> <u>Includes: Ship Kit with 2 Quik Combo/Redi-Pak, plus 1 Lithium Battery (Non-rechargeable) and 1 Soft Case. Compatible with Infant/Child Reduced Energy Defibrillation Electrodes. 5 yr. warranty</u></p>	<u>\$1,595.00</u>
2.	<p><u>6515-0196577-00</u> <u>80403-000024 - LIFEPAK CR Plus Difibrillator, Semiautomatic operation, AHA voice prompt: Check for breathing, Energy: 200:</u> <u>Includes: 2 pr QUIK-PAK pacing/defibrillation/ECG electrodes with REDI-PAK preconnect system, 1 CHARGE PAK, AMBU Mask and 1 installed protocol card. Compatible with Infant/Child Reduced Energy Defibrillation Electrodes. 5 yr. Warranty.</u></p>	<u>\$1,695.00</u>
3.	<p><u>6515-0301199-00</u> <u>11403-000001 - Replacement kit for CHARGE-PAK charging unit and two QUIK-PAK:</u> <u>QUIK-PAK pacing/defibrillation/ECG electrodes with charge- PAK for LifePak CR Plus.. Includes 2 sets electrodes and 1 CHARGE-PAK charging unit.</u></p>	<u>\$88.40</u>
4.	<p><u>21330-001051 - EventCheck POS:</u> <u>Provides Medtronic factory-authorized EventCheck Product Inspection, replacement of 2 sets of QUIK-PAK electrodes and CHARGE-PAK and download of patient data. Automatically renewed annually at list price from date of original device sale.</u></p>	<p><u>6515-0301198-00</u> <u>Year 1 - \$75.00</u></p> <p><u>6515-0301198-01</u> <u>Years 2 to 5 - \$95.00</u></p>

EXHIBIT "C"
EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.

2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.

3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.

5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.

6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT "D"

DRUG POLICY COMPLIANCE AGREEMENT

I, _____ as an owner or officer of
(Name) (Print/Type) (Title)

(Contractor)

(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

Date

Contractor Name

Signature

Title

Initials Any employee who tested positive was immediately removed from the City worksite consistent with the Mayor's Policy and Executive Order No. 1-31.

Initials I affirm that falsification or failure to submit this declaration timely in accordance with established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

(Date)

(Typed or Printed Name)

(Signature)

(Title)

EXHIBIT "F"

CONTRACTOR'S CERTIFICATION
OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT

(Name) (Title)
as an owner or officer of _____ (Contractor)
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.18 of Executive Order No. 1-31, that will be involved in performing _____.
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

(Date) (Typed or Printed Name)

(Signature)

(Title)

ACTION: R SCREEN: SUSF USERID: E072
FUNCTION: ORG:

06/14/05 03:27:44 PM

DOCUMENT SUSPENSE

S	BATCH	DOCUMENT	TYPE	AGCY	NUMBER	STAT	APPRV	LAST DATE	LAST USER	PROCESS DATE (YYMMDD)
.	.	60	RX	PE10CTF0217	PEND5	0000A	040908	P083482		
.	.	60	RX	PE10CTF0218	SCHED	00000	040908	P083482		
.	.	60	RX	PE10CTF0219	SCHED	00000	040908	P083482		
.	.	60	RX	PE10CTF0221	PEND5	0000A	041005	P083482		
.	.	60	RX	PE10CTF0228	REJCT	00000	050121	P083482		
.	.	60	RX	PE10CTF0232	ACCPY	00000	050602	E084725		
.	.	60	RX	PE10CTF0233	HELD	0000A	050128	P083482		
.	.	60	RX	PE10CTF0238	HELD	0000A	050524	P083482		
.	.	60	RX	PE10CTF0239	PEND5	0000A	050524	P083482		
.	.	60	RX	PE10CTF0240	ACCPY	0000Y	050608	E084725		
.	.	60	RX	PE12CTF0506	PEND5	0000A	041109	F109977		

#15
Medtronic

A 513 NOT IN SUSP

B NV susfi. Rx 513

no Rx 513

ACTION: R SCREEN: SUSF USERID: E072
 FUNCTION: ORG:

06/14/05 03:28:04 PM

D O C U M E N T S U S P E N S E

S E L	BATCH	AGCY	NUMBER	TYPE	AGCY	NUMBER	STAT	APPRV	LAST DATE	LAST USER	PROCESS DATE (YYMMDD)
.	.	60	PE20CTF0392	RX	60	PE20CTF0392	REJCT	0000	041122	E077521	
.	.	60	PE20CTF0397	RX	60	PE20CTF0397	HELD	0000A	041206	E077521	
.	.	60	PE20CTF0401	RX	60	PE20CTF0401	ACCP	0000	050531	E113051	
.	.	60	PE20CTF0402	RX	60	PE20CTF0402	HELD	0000A	050111	E077521	
.	.	60	PE20CTF0408	RX	60	PE20CTF0408	ACCP	0000Y	050601	E113051	
.	.	60	PE20CTF0412	RX	60	PE20CTF0412	REJCT	0000	050426	E077521	
.	.	60	PE20CTF0415	RX	60	PE20CTF0415	ACCP	0000Y	050607	E113051	
.	.	60	PE20CTF0416	RX	60	PE20CTF0416	REJCT	0000	050613	E077521	
.	.	60	PE20CTF0417	RX	60	PE20CTF0417	HELD	0000A	050614	E077521	
.	.	60	PE21CTF0097	RX	60	PE21CTF0097	ACCP	0000	050610	E113051	
.	.	60	PE21CTF0239	RX	60	PE21CTF0239	ACCP	0000Y	050609	E113051	