UNIVERSITY OF NORTH CAROLINA HOSPITALS

GENERAL PURCHASE ORDER TERMS & CONDITIONS

SECTION 1: CHANGE

Hospitals reserves the right to change, modify and/or cancel this Purchase Order upon issuance of a change notice. If the Hospitals is not notified in writing within 10 days after the issuance of the change order, the changed and/or modification and/or cancellation is considered accepted by the Contractor.

SECTION 2: INDEMNITY

As a condition of this order and fulfilling any part of it, Contractor agrees to indemnify and hold harmless the Hospitals, including its trustees, officers, directors, employees and agents, from any claim, damage, liability, injury expense or loss arising out of directly or indirectly, the Contractor's performance or nonperformance (including performance or nonperformance of any subcontractors) under this Agreement. Contractor agrees to indemnify and hold harmless the Hospitals against all liability to third parties (other than liability solely the fault of Hospitals) arising from or in connection with any defect in the goods and/or actual or claimed violation of the third party's trade secrets, trademark, copyright or patent rights in connection with the sale and/or use of the goods. This indemnity obligation will survive the expiration or termination of this contract by either party.

SECTION 3: WARRANTY OF GOODS AND MATERIALS

Contractor expressly warrants that all goods will: conform to the drawings, specifications, samples or other descriptions furnished by the Hospitals or by the Contractor; meet requirements; be of good materials and workmanship and free from defect. This express warranty shall not be waived by reason of acceptance of the goods or payment made by the Hospitals. Contractor also warrants that all items sold or furnished under this order have been produced sold, delivered and furnished in compliance with all applicable laws and regulations. Contractor shall execute and deliver such documents as may be required to effect or to evidence compliance. All laws and regulations applicable to such things are incorporated in this contract by reference.

CONTRACTOR WARRANTS THAT GOODS SUPPLIED UNDER THIS AGREEMENT ARE MERCHANTABLE AND FIT FOR THE PURPOSE FOR WHICH THEY ARE PURCHASED, OF THE BEST QUALITY AND FREE FROM DEFECTS IN DESIGN, MATERIAL, WORKMANSHIP, AND TITLE, AND SHALL CONFIRM IN ALL RESPECTS TO THE TERMS OF THIS CONTRACT, AND OF THE BEST OF QUALITY, IF NO QUALITY IS SPECIFIED. IF WITHIN ONE YEAR FROM THE DATE OF ACCEPTANCE BY HOSPITALS, THESE ITEMS, OR ANY PART THEREOF, ARE OR BECOME DEFECTIVE, CONTRACTOR SHALL THEREUPON CORRECT SUCH NONCONFORMITY AT ITS SOLE EXPENSE. THE CORRECTIVE WORK SHALL BE PERFORMED IN THE MOST EXPEDITIOUS MANNER CONSISTENT WITH HOSPITALS REQUIREMENTS AND IN A MANNER CONCURRED IN BY HOSPITALS. THE SPECIFIED ONE-YEAR WARRANTY SHALL APPLY EVEN THOUGH THE STANDARD WARRANTY FOR A PARTICULAR PRODUCT OR SERVICE IS MORE LIMITED UNLESS CONTRACTOR REQUESTS SUBSTITUTION OF THE STANDARD WARRANTY. SUCH REQUESTS MUST BE MADE IN WRITING WITHIN FIFTEEN DAYS OF RECEIPT OF THIS CONTRACT OR FIFTEEN DAYS PRIOR TO DELIVERY, WHICHEVER IS EARLIER, AND INCLUDE COMPLETE TERMS OF THE ALTERNATIVE WARRANTY.

SECTION 4: WARRANTY OF SERVICES

The Contractor warrants, acknowledges, and confirms that, prior to submitting a proposal for the Services, the Contractor has examined all of the specifications, directions and conditions relating to the Services, visited the site, investigated the scope of the project and difficulties which may be encountered in performing the Services, and assumes full and complete responsibility for, all risk in connection with, said Services.

All work shall be accomplished in a professional and workmanlike manner by qualified, careful, and efficient personnel using good, pertinent, scientific and technical procedures, practices and standards.

In the event any portion of the work fails to comply with the appropriate standard(s), and Contractor is so notified in writing within ninety (90) days after completion of this Contract or discovery of the non-conformance, Contractor will correct the work at its own expense or, at Hospitals's option, will refund the amount of the compensation paid for such portion.

SECTION 5: YEAR 2000 COMPLIANCE

The contractor warrants that each product delivered under this contract shall be able to accurately process date data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries (including, but not limited to, between the dates 12/31/1999 and 01/01/2000 and leap year calculations) when used in accordance with the product documentation provided by the contractor, with the date field contiguous e.g., mm/dd/yyyy and the year (yyyy) date specified as four characters. If the contract requires that the products must perform as a system in accordance with the foregoing warranty, then that warranty shall apply to those products as a system. Notwithstanding any provision to the contrary in the contractor's standard warranty provisions or any other provision in or

applicable to this contract, the remedies available under this Year 2000 Warranty shall include repair or replacement of any non-compliant product. Nothing in this warranty shall be construed to limit any right or remedies under this contract with respect to defects other than Year 2000 performance.

SECTION 6: ELECTRICAL EQUIPMENT COMPLIANCE

Equipment or materials supplied under this purchase order/contract shall comply with the applicable sections of the North Carolina State Building Code including, but not limited to, the suitability requirements of the National Electric Code. Suitability shall be evidenced by listing and labeling.

SECTION 7: STATE AND LOCAL TAXES

Any sales and use taxes shall be invoiced as a separate item. UNC Hospitals shall not be responsible for any other taxes, including but not limited to, personal property tax and income tax assessed on the Contractor or the services, goods, hardware, software, and/or equipment provided under this Agreement.

SECTION 8: SAFE HARBOR

Contractor agrees that it will fully and accurately satisfy its responsibilities, as seller of products or services covered by this Agreement, under the Safe Harbor Regulations promulgated under the Social Security Act and Medicare and Medicaid Patient & Program Protection Acts.

SECTION 9: PAYMENT

For satisfactory performance of the services described herein, Hospitals shall pay Contractor the compensation provided for in this contract. Payment shall be made within thirty (30) days after Hospitals' receipt of Contractor's invoice for services and costs hereunder, prepared in such form and detail as Hospitals may specify. Contractor shall not incur costs for performance of services in excess of the dollar amount stated on the face of this contract without prior written authorization of Hospitals' Purchasing Department.

SECTION 10: STATE LAWS

This contract shall be governed by, subject to, and construed according to the laws of the State of North Carolina.

SECTION 11: CANCELLATION AND EQUITABLE ADJUSTMENTS

Hospitals, by written notice, may change or terminate all or part of this contract for Hospitals' convenience. If such a change results in an increase or decrease in costs to be incurred or time needed to complete performance of this contract, the Hospitals and Contractor will make a fair and equitable modification of their rights and obligations under this contract, provided however that Hospitals will not compensate Contractor for any services not performed or goods not shipped by the date of such change or termination, if such goods are standard items of Contractor's inventory. Contractor's claim for an equitable adjustment under this paragraph must be submitted to Hospitals in writing within 30 days of receipt of a notice of change or termination; otherwise, all such claims of contractor shall be deemed to have been waived. No such adjustment shall be made in favor of Contractor with respect to any goods which are Contractor's standard stock.

SECTION 12: RIGHT TO AUDIT

If this contract has a value or cost of $10,000.00 or more over a twelve-month period, then until the expiration of four years after contract completion, the Contractor shall make available, upon written request of a government and/or Hospitals' official, this contract and such documents necessary to certify the nature and extent of the costs incurred by Hospitals. The Contractor is also responsible for providing documents concerning any subcontracts with a value and cost of $10,000.00 or more. Contractor agrees to refund to Hospitals any overpayments disclosed by an audit.

Additionally, the North Carolina State Auditor shall have access to persons and records as a result of all contracts or grants entered into by UNC Hospitals accordance with North Carolina General Statute 147-64.7. The Contractor shall retain all records for a period of four (4) years following completion of this Agreement.

SECTION 13: PUBLICITY

Contractor shall not in any way or in any form publicize or advertise in any manner the fact it is providing products or services to the Hospitals without the express written approval of the Hospitals' Public Relations Department, obtained in advance, for each item of advertising or publicity. However, nothing herein shall preclude Contractor from listing the Hospitals on its routine client list for matters of reference.

SECTION 14: **INDEPENDENT CONTRACTOR**

The Contractor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such employees shall not be employees of, or have any individual contractual relationship with UNC Hospitals.

SECTION 15: **ADVERTISING**

The Contractor shall not use the award of this Agreement or its participation in this Agreement as part of any news release or commercial advertising without the prior written consent of UNC Hospitals.

SECTION 16: **TAXES**

Any sales and use taxes shall be invoiced as a separate item. UNC Hospitals shall not be responsible for any other taxes, including but not limited to, personal property tax and income tax assessed on the Contractor or the services, goods, hardware, software, and/or equipment provided under this Agreement.

SECTION 17: EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract [or purchase order], the contractor/vendor agrees to comply with all Federal, state and local laws respecting discrimination in employment and non-segregation of facilities including, but not limited to, requirements set out at 41 CFR §§60-1.4, 60-300.5 and 60-741.5, which equal opportunity clauses are hereby incorporated by reference.