



Agenda Cover Memorandum

Meeting Date: February 11, 2013

Item Title: Authorize Purchase Order from Zoll Medical Corporation, Chelmsford, Massachusetts, for Fire Department Cardiac Monitor/Defibrillator Replacements

Action Requested:

Approval
 For discussion
 Feedback requested
 For your information

Staff Contact: Michael A. Zywanski, Fire Chief

Phone Number: 847-318-5259

Email Address: mzywansk@parkridgefd.org

Background:

At the January 14th Committee of the Whole Meeting, Fire Department Staff presented an agenda item requesting approval to authorize Staff to replace five existing Zoll Cardiac Monitor/Defibrillators. During the discussion, the City Council requested that the item be deferred until the next Committee of the Whole Meeting to allow Staff time to research budgetary questions and answer additional questions regarding the purchase.

Attached to this Cover Memorandum is a memo from Staff to the Acting City Manager providing answers to those questions and offering additional information regarding the need for the replacement Cardiac Monitor/Defibrillators. Staff still is recommending the purchase of the Zoll Cardiac Monitor/Defibrillators at this time, and have elaborated as to the reasons why in the memo to the Acting City Manager. If this purchase is approved at the council, the subsequent required budget transfer outlined in the memo to the Acting City Manager would be presented for approval at the subsequent COW.

Recommendation:

Move approval of a Purchase Order to Zoll Medical Corporation of Chelmsford, Massachusetts for five (5) Zoll X-Series Cardiac Monitor/Defibrillators, Batteries, Chargers and Patient Cables in the amount of \$153,314.05.

Budget Implications:

Does Action Require an Expenditure of Funds: Yes No

If Yes, Total Cost: \$153,314.05

If Yes, is this a Budgeted Item:
 Yes No Requires Budget Transfer

If Budgeted, Budget Code (Fund, Dept, Object) 100-2021-990800

Attachments:

- Zoll Medical Corporation Quotation
- Dixie Medical Trade-In Quotation
- Memorandum to the Acting City Manager



**CITY OF PARK RIDGE
FIRE DEPARTMENT**

MEMORANDUM

DATE: February 6, 2013
TO: Shawn Hamilton, Acting City Manager
FROM: Michael A. Zywanski, Fire Chief
SUBJECT: Information for the City Council Regarding Replacement of Zoll Cardiac Monitor/Defibrillators

PURPOSE:

To provide answers to the City Council questions regarding the need to replace aging Field-Use Cardiac Monitor/Defibrillators used by Park Ridge Fire Department Paramedics.

BACKGROUND:

At the Committee of the Whole Meeting, Monday, January 14, 2013, the City Council considered the Fire Department request for approval for the replacement of five (5) aging Zoll Cardiac Monitor/Defibrillators. During the Council discussions, questions we raised by the Alderman regarding the following.

1. *Is the requested replacement of the Cardiac Monitors a budgeted item in the current FY13 budget?*
2. *If so, what is the budgeted amount?*
3. *If the request is not a currently budgeted item, what will be the source of funds to make the procurement?*
4. *Is the replacement of the Cardiac Monitor/Defibrillators an urgent need, or can this wait until the FY14 fiscal year starting May 1, 2013.*
5. *Should this purchase have gone through the Bid Process?*

DISCUSSION:

As presented in the Committee of the Whole Meeting on January 14th, the Fire Department has completed an evaluation of the major brands of Cardiac Monitor/Defibrillators for Field use by trained Paramedics. Fire Department Staff are recommending the Zoll X-Series Cardiac Monitor/Defibrillator as the preferred device to replace the current Zoll M-Series units which are approaching ten years old. Total cost of the five X-Series Monitors plus batteries, chargers and patient cables, before trade-in is \$153,314.05. Trade-in of our old M-Series units will bring the City \$15,500, for a net cost of the new monitors of \$137,814.05. In response to the City Council questions listed above, Staff offers the following responses.

Questions #1, 2 and 3 Response: The replacement of Fire Department Cardiac Monitor/Defibrillators is a budgeted item in the FY13 Operating Budget, listed as Capital account 100-2021-990800. The line item was initially budgeted at \$152,000. The line item was placed into the FY13 Operating Budget as "Grant Funded", as the Fire Department Staff applied for a FEMA Grant in 2012 in order to offset this



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expenditure. If successful, the potential impact to the general fund for this expenditure would have been the ten percent match that would have been required from the City. Unfortunately, the City was not successful in obtaining the Grant, thereby increasing the impact to the general fund. The budget impact on the expenditure side, however, remained the same.

During FY13, there were three budget transfers, approved by council that reduced this original budgeted amount from \$152,000 for additional unbudgeted expenditures. Former Finance Director Stutts 1) transferred \$14,000 from this budgeted line item to fund a contract with an ADP Consultant during the implementation of the new Payroll System for the City. Two additional unbudgeted items and subsequent transfers funded 2) the Firefighter Training Academy tuition costs for three new recruit Firefighters and 3) to pay for the promotional testing services for the 2012 Battalion Chief and Fire Lieutenant Promotional Exams. Post these three budget transfers, the revised budgeted amount is \$109,819.00. leaving a deficit of \$43,495.05 in the Fire Department Capital Account to fully fund this expenditure. There are, however, funds that, while postponing other Fire Department Capital Projects (Building Maintenance), would eliminate the budget deficit. Therefore, the Fire Department and Finance Staff recommend a Budget Transfer of \$43,495.05 from the other Fire Department Capital Projects (Building Maintenance) account number 100-2021-996300 in order to facilitate the purchase.

In consultation with Finance Manager Oliven, it is confirmed that this entire expenditure would be booked in FY13, regardless of the offer to postpone half of the expenditure, interest free, for 365 days (outlined in the memo from January 14).

Finally, in prioritizing the Capital needs of the Fire Department, at this time, we fully recommend expending funds for necessary equipment in the aid of our residents and patients over the facility needs of our stations. Those facility needs are being reprioritized and will be addressed in current and future fiscal years.

Question #4 Response: The current Cardiac Monitor/Defibrillators used daily by our Fire Department Paramedics were procured and placed into service in 2002. According to the manufacturer and the American Hospital Association, the normal life cycle of Paramedic Field-Use Cardiac Monitor/Defibrillators is five to seven years. This is due to technology changes, parts obsolescence and increasing maintenance costs associated with older generation products. Staff conducted research into Food and Drug Administration (FDA) Guidance related to life expectancies of Cardiac Monitor/Defibrillators. The FDA does not produce a firm guideline for the life expectancy of Paramedic Field-Use Cardiac Monitor/Defibrillators, however, the FDA publishes data annually which indicates that as the age of these devices increases, the number and frequency of reported failures increases concomitantly. The FDA mandates all operators of patient medical devices to report product malfunctions and failures to the FDA within forty-eight hours of the occurrence. Finally, as an additional guideline, a review of the U.S. Army Medical Corps Guidelines for Life Expectancy of Medical Equipment indicates the life expectancy for Defibrillators in field use is eight (8) years and Cardiac Monitors in field use is five (5) years. The military field environment is the most similar field environment to Fire Department use of these devices.

The City's Cardiac Monitor/Defibrillators are currently outside of all of these guidelines for replacement. Moreover, citing the fact that these monitors are used on 73% of all EMS calls, combined with the increased maintenance for the existing monitors, now is the time to make this necessary investment.

Fire Department Staff recommends that the purchase of the new Zoll X-Series units as replacement for the current aging units be undertaken during this current fiscal year. Staff is basing this recommendation on the following facts. Orders for the X-Series units are currently running up to ninety (90) days for delivery, following receipt of the final order at the factory. Once the units are ready for delivery, all Fire

Department Paramedics must receive training on the units which can take up to two weeks to complete. Advocate Lutheran General EMS System will monitor the training. Following training, typically a short beta test period is conducted with the new units before the old units are traded in. Once all of these steps are completed, the new units are placed into service on our frontline ALS units. Total time from receipt of order to placing the units into service is approximately 120 days, which will be very close to June 1 of this year.

The Fire Department will continue to operate our existing Zoll M-Series units and will continue to have these units maintained according to manufacturer recommendations. The Fire Department has continuously maintained a rigorous monthly inspection and bi-annual maintenance program on the existing M-Series units as stipulated by the manufacturer. This has allowed us to extend the useful life of the existing monitors. Staff will continue to budget for and contract with an approved third party maintenance and repair vendor for these units until such time as they are no longer owned by the City.

Question #5 Response: Sales of Cardiac Monitor/Defibrillators for in-hospital and Paramedic Field-Use are only available direct from the manufacturer. These are the same Cardiac Monitor/Defibrillators found in use in hospital Intensive Care Units, Emergency Departments and Cardiac Catheterization Labs. The manufacturers of such units market and sell the units direct to hospitals, Fire Departments and Private Ambulance Services directly through their own manufacturer account and territory managers. There are no dealers or middlemen for these units. Currently, there are four major manufacturers of critical care Cardiac Monitor/Defibrillators for Paramedic Field-Use, all with varying options. The units from different manufacturers are not interchangeable. Each manufacturer has its own proprietary design, software and functionality. The most prudent approach to manufacturer selection is to have the product demonstrated, followed by a period of time in which the product is used side-by-side with other products from other manufacturers. During this “test” period, Paramedics evaluate the product based upon design, layout, functionality, features, patient monitoring capability, weight and speed of use. Through this evaluation, it was determined that the Zoll product was the preferred unit for our Department. Due to the proprietary products from each manufacturer, we are seeking Council approval to purchase the Zoll units which are sole source.

RECOMMENDATION:

Fire Department Staff recommends approval of the purchase of five (5) Zoll X-Series Cardiac Monitor/Defibrillators, batteries, chargers and patient cables.

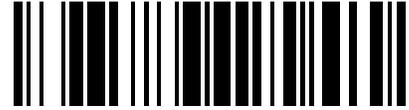
Bid Request

January 4, 2013

Dixie Medical, Inc.

Dixie Medical, Inc.
1185 West Main St
REMITTANCE: PO BOX 969
Franklin, TN 37064
Phone: 866-349-4363
FAX: 615-786-0896
Email: customerservice@dixiemed.com

11944



Vendor:

Zoll Medical Corp.
901 W. Devon Ave
Park Ridge, IL 60068
Phone:
Fax: 1-978-421-0050 FAX
Email: jamiesaltzman@zoll.com

Ship To:

Dixie Medical, Inc.
1185 West Main St
REMITTANCE: PO BOX 969
Franklin, TN 37064

Contact: Park Ridge F

Buyer	Payment Terms	FOB Point	Shipping Terms	Ship Via	Fulfillment Date
TOMMY WILKINS	NET 60 DAYS	Origin	Freight Collect	FedEx Ground	01/04/2013

Item #	Type	Number / Description	Unit Cost	Qty Ordered	Total Cost
1	Purchase	ZM12BiPSBA - Re-Certified ZOLL M SERIES 12-LEAD, BIPHASIC, PACING, SPO2, NIBP, AED	\$ 3,000.00	5 ea	\$ 15,000.00
2	Purchase	8050-0012-01 - Zoll 4x4 Battery Charger	\$ 250.00	2 ea	\$ 500.00

Please include Purchase Order # and Serial #s on all invoices.

SubTotal	\$ 15,500.00
TOTAL	\$ 15,500.00

Approval: _____ Date: _____



**GUIDELINES
2010 READY**

ZOLL Medical Corporation

Worldwide HeadQuarters
269 Mill Rd
Chelmsford, Massachusetts 01824-4105
(978) 421-9655 Main
(800) 348-9011
(978) 421-0015 Customer Support
FEDERAL ID#: 04-2711626

TO: Park Ridge Fire

901 West Devon Avenue
Park Ridge, IL 60068

Attn: **BC Tim Norton**

email: tnorton@parkridgefd.org
Tel: 847-652-2407

QUOTATION 130635 V:2

DATE: January 09, 2013

TERMS: SPECIAL

FOB: Shipping Point

FREIGHT: Prepay and Add

ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
1	601- 2231011- 01	<p>X Series ® Manual Monitor/Defibrillator \$14,995 with 4 trace tri-mode display monitor/ defibrillator/ printer, comes with Real CPR Help®, advisory algorithm, advanced communications package (Wi-Fi, Bluetooth, USB cellular modem capable) USB data transfer capable and large 6.5"(16.5cm) diagonal screen, full 12 ECG lead view with both dynamic and static 12-lead mode display.</p> <p>Accessories Included:</p> <ul style="list-style-type: none"> • Six (6) foot 3- Lead ECG cable • MFC cable • MFC CPR connector • A/C power adapter/ battery charger • A/C power cord • One (1) roll printer paper • 6.6 Ah Li-ion battery • Carry case • Declaration of Conformity • Operator's Manual • Quick Reference Guide • One (1)-year EMS warranty <p>Advanced Options: Real CPR Help Expansion Pack \$ 995 CPR Dashboard quantitative depth and rate in real time, release indicator, interruption timer, perfusion performance indicator (PPI) • See - Thru CPR artifact filtering</p> <p>ZOLL Noninvasive Pacing Technology: \$2,550</p> <p>Masimo Pulse Oximetry</p>	5	\$40,020.00	\$33,970.25	\$169,851.25 *

This quote is made subject to ZOLL's standard commercial terms and conditions (ZOLL T's + C's) which accompany this quote. Any purchase order (P.O.) issued in response to this quotation will be deemed to incorporate ZOLL T's + C's. Any modification of the ZOLL T's + C's must be set forth or referenced in the customer's P.O. No commercial terms or conditions shall apply to the sale of goods or services governed by this quote and the customer's P.O unless set forth in or referenced by either document.

Page 1 Subtotal \$169,851.25

1. DELIVERY WILL BE MADE 60-90 DAYS AFTER RECEIPT OF ACCEPTED PURCHASE ORDER.
2. PRICES WILL BE F.O.B. SHIPPING POINT.
3. PRICES QUOTED ARE VALID FOR 60 DAYS.
4. APPLICABLE TAX & FREIGHT CHARGES ARE ADDITIONAL.
5. ALL PURCHASE ORDERS ARE SUBJECT TO CREDIT APPROVAL BEFORE ACCEPTANCE BY ZOLL.
6. FAX PURCHASE ORDER AND QUOTATION TO ZOLL CUSTOMER SUPPORT AT 978-421-0015 OR EMAIL TO ESALES@ZOLL.COM.
7. ALL DISCOUNTS OFF LIST PRICE ARE CONTINGENT UPON PAYMENT WITHIN AGREED UPON TERMS.
8. PLACE YOUR ACCESSORY ORDERS ONLINE BY VISITING www.zollwebstore.com.

Caroline Wojtkowski
EMS Territory Manager



**GUIDELINES
2010 READY**

ZOLL Medical Corporation

Worldwide Headquarters
269 Mill Rd
Chelmsford, Massachusetts 01824-4105
(978) 421-9655 Main
(800) 348-9011
(978) 421-0015 Customer Support
FEDERAL ID#: 04-2711626

TO: Park Ridge Fire

901 West Devon Avenue
Park Ridge, IL 60068

Attn: **BC Tim Norton**

email: tnorton@parkridgefd.org
Tel: 847-652-2407

QUOTATION 130635 V:2

DATE: January 09, 2013

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ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
		SP02 & SpCO \$4,540 • Signal Extraction Technology (SET) • Rainbow SET (for SpCO & SpMet) NIBP Welch Allyn includes: \$3,495 • Smartcuff 10 foot Dual Lumen hose • SureBP Reusable Adult Medium Cuff End Tidal Carbon Dioxide monitoring (ETCO2) Oridion Microstream Technology: \$4,995 Order required Microstream tubing sets separately Interpretative 12- Lead ECG: \$8,450 • 12-Lead one step ECG cable- includes 4- Lead limb lead cable and removable precordial 6- Lead set				
2	8000-0341	SpO2/SpCO/SpMet Rainbow Resuable Patient Cable: Connects to Single Use Sensors (4 ft)	5	\$225.00	\$180.00	\$900.00 *
3	8000-000371	SpO2/SpCO/SpMet Rainbow DCI Adult Reusable Sensor with connector (3 ft)	5	\$495.00	\$396.00	\$1,980.00 *
4	8000-000372	SpO2/SpCO/SpMet Rainbow DCI Reusable Sensor/Cable (3 ft), Pedi	5	\$445.00	\$372.00	\$1,860.00 *
5	8000-0895	Cuff Kit with Welch Allyn Small Adult, Large Adult and Thigh Cuffs	5	\$157.50	\$126.00	\$630.00 *

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Page 2 Subtotal \$175,221.25

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ITEM	MODEL NUMBER	DESCRIPTION	QTY.	UNIT PRICE	DISC PRICE	TOTAL PRICE
6	8000-0580-01	Six hour rechargeable Smart battery	10	\$495.00	\$396.00	\$3,960.00 *
7	8300-0500-01	SurePower 4 Bay Charging System including 4 Battery Charging adapters	2	\$2,583.00	\$2,066.40	\$4,132.80 *
8	8300-0520-01	Filterline Set Adult/Pediatric, Case of 25	1	\$275.00	No Charge	No Charge *
9	8300-0524-01	Smart CapnoLine Plus O2 Adult (O2 tubing), Case of 25	1	\$355.00	No Charge	No Charge *
10	DI SC	ZOLL Resuscitation Discount	5	\$0.00	(\$6,000.00)	(\$30,000.00) *
<p>Payment Terms: 50% net 30, 50% due net 365.</p> <p>*Reflects Discount Pricing.</p>						

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TOTAL \$153,314.05

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Caroline Wojtkowski
EMS Territory Manager

ZOLL QUOTATION GENERAL TERMS & CONDITIONS

1. ACCEPTANCE. This Quotation constitutes an offer by ZOLL Medical Corporation to sell to the Customer the equipment (including a license to use certain software) listed in this Quotation and described in the specifications either attached to or referred to in this Quotation (hereinafter referred to as Equipment). Any acceptance of such offer is expressly limited to the terms of this Quotation, including these General Terms and Conditions. Acceptance shall be so limited to this Quotation notwithstanding (i) any conflicting written or oral representations made by ZOLL Medical Corporation or any agent or employee of ZOLL Medical Corporation or (ii) receipt or acknowledgement by ZOLL Medical Corporation of any purchase order, specification, or other document issued by the Customer. Any such document shall be wholly inapplicable to any sale made pursuant to this Quotation, and shall not be binding in any way on ZOLL Medical Corporation.

Acceptance of this Quotation by the Customer shall create an agreement between ZOLL Medical Corporation and the Customer (hereinafter referred to as the "Contract") the terms and conditions of which are expressly limited to the provisions of this Quotation including these Terms and Conditions. No waiver change or modification of any of the provisions of this Quotation or the Contract shall be binding on ZOLL Medical Corporation unless such waiver, change or modification (i) is made in writing (ii) expressly states that it is a waiver, change or modification of this Quotation or the Contract and (iii) is signed by an authorized representative of ZOLL Medical Corporation.

2. DELIVERY AND RISK OF LOSS. Unless otherwise stated, all deliveries shall be F.O.B. ZOLL Medical Corporation's facility. Risk of loss or damage to the Equipment shall pass to the Customer upon delivery of the Equipment to the carrier.

3. TERMS OF PAYMENT. Unless otherwise stated in its Quotation payment by Customer is due thirty (30) days after the ship date appearing on ZOLL Medical Corporation invoice. Any amounts payable hereunder which remain unpaid after the date shall be subject to a late charge equal to 1.5% per month from the due date until such amount is paid.

4. CREDIT APPROVAL. All shipments and deliveries shall at all times be subject to the approval of credit by ZOLL Medical Corporation. ZOLL Medical Corporation may at any time decline to make any shipment or delivery except upon receipt of payment or security or upon terms regarding credit or security satisfactory to ZOLL Medical Corporation.

5. TAXES & FEES. The pricing quoted in its Quotation do not include sales use, excise, or other similar taxes or any duties or customs charges, or any order processing fees. The Customer shall pay in addition for the prices quoted the amount of any present or future sales, excise or other similar tax or customs duty or charge applicable to the sale or use of the Equipment sold hereunder (except any tax based on the net income of ZOLL Medical Corporation), and any order processing fees that ZOLL may apply from time to time. In lieu thereof the Customer may provide ZOLL Medical Corporation with a tax exemption certificate acceptable to the taxing authorities.

6. WARRANTY. (a) ZOLL Medical Corporation warrants to the Customer that from the earlier of the date of installation or thirty (30) days after the date of shipment from ZOLL Medical Corporation's facility, the Equipment (other than accessories and electrodes) will be free from defects in material and workmanship under normal use and service for the period noted on the reverse side. Accessories and electrodes shall be warranted for ninety (90) days from the date of shipment. During such period ZOLL Medical Corporation will at no charge to the Customer either repair or replace (at ZOLL Medical Corporation's sole option) any part of the Equipment found by ZOLL Medical Corporation to be defective in material or workmanship. If ZOLL Medical Corporation's inspection detects no defects in material or workmanship, ZOLL Medical Corporation's regular service charges shall apply. (b) ZOLL Medical Corporation shall not be responsible for any Equipment defect failure of the Equipment to perform any specified function, or any other nonconformance of the Equipment caused by or attributable to (i) any modification of the Equipment by the Customer, unless such modification is made with the prior written approval of ZOLL Medical Corporation; (ii) the use of the Equipment with any associated or complementary equipment accessory or software not specified by ZOLL Medical Corporation, or (iii) any misuse or abuse of the Equipment; (iv) exposure of the Equipment to conditions beyond the environmental, power or operating constraints specified by ZOLL Medical Corporation, or (v) installation or wiring of the Equipment other than in accordance with ZOLL Medical Corporation's instructions. (c) Warranty does not cover items subject to normal wear and burnout during use, including but not limited to lamps, fuses, batteries, cables and accessories. (d) The foregoing warranty does not apply to software included as part of the Equipment (including software embodied in read-only memory known as "firmware"). (e) The foregoing warranty constitutes the exclusive remedy of the Customer and the exclusive liability of ZOLL Medical Corporation for any breach of any warranty related to the Equipment supplied hereunder. **THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL MEDICAL CORPORATION EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

7. SOFTWARE LICENSE. (a) All software (the "Software" which term shall include firmware) included as part of the Equipment is licensed to Customer pursuant to a nonexclusive limited license on the terms hereinafter set forth, (b) Customer may not copy, distribute, modify, translate or adapt the Software, and may not disassemble or reverse compile the Software, or seek in any manner to discover, disclose or use any proprietary algorithms, techniques or other confidential information contained therein, (c) All rights in the Software remain the product of ZOLL Medical Corporation, and Customer shall have no right or interest therein except as expressly provided herein. (d) Customer's right to use the Software may be terminated by ZOLL Medical Corporation in the event of any failure to comply with terms of this quotation, (e) Customer may transfer the license conferred hereby only in connection with a transfer of the Equipment and may not retain any copies of the Software following such transfer. (f) ZOLL Medical Corporation warrants that the read-only memory or other media on which the Software is recorded will be free from defects in materials and workmanship for the period and on terms set forth in section 6. (g) Customer understands that the Software is a complex and sophisticated software product and no assurance can be given that operation of the Software will be uninterrupted or error-free, or that the Software will meet Customer's requirements. Except as set forth in section 7(f), ZOLL MEDICAL CORPORATION MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SOFTWARE AND IN PARTICULAR DISCLAIMS ANY IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS OF A PARTICULAR PURPOSE WITH RESPECT THERETO. Customer's exclusive remedy for any breach of warranty or defect relating to the Software shall be the repair or replacement of any defective read-only memory or other media so that it correctly reproduces the Software. This License applies only to ZOLL Medical Corporation Software.

8. DELAYS IN DELIVERY. ZOLL Medical Corporation shall not be liable for any delay in the delivery of any part of the Equipment if such delay is due to any cause beyond the control of the ZOLL Medical Corporation including, but not limited to acts of God, fires, epidemics, floods, riots, wars, sabotage, labor disputes, governmental actions, inability to obtain materials, components, manufacturing facilities or transportation or any other cause beyond the control of ZOLL Medical Corporation. In addition ZOLL Medical Corporation shall not be liable for any delay in delivery caused by failure of the Customer to provide any necessary information in a timely manner. In the event of any such delay, the date of shipment or performance hereunder shall be extended to the period equal to the time lost by reason of such delay. In the event of such delay ZOLL Medical Corporation may allocate available Equipment among its Customers on any reasonable and equitable basis. The delivery dates set forth in this Quotation are approximate only and ZOLL Medical Corporation shall not be liable for or shall the Contract be breached by, any delivery by ZOLL Medical Corporation within a reasonable time after such dates.

9. LIMITATIONS OF LIABILITY. IN NO EVENT SHALL ZOLL MEDICAL CORPORATION BE LIABLE FOR INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ZOLL MEDICAL CORPORATIONS PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS QUOTATION OR THE CONTRACT OR THE FURNISHING, PERFORMANCE, OR USE OF ANY EQUIPMENT OR SOFTWARE SOLD HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, THE NEGLIGENCE OF ZOLL MEDICAL CORPORATION OR OTHERWISE.

10. PATENT INDEMNITY. ZOLL Medical Corporation shall at its own expense defend any suit that may be instituted against the Customer for alleged infringement of any United States patents or copyrights related to the parts of the Equipment or the Software manufactured by ZOLL Medical Corporation, provided that (i) such alleged infringement consists only in the use of such Equipment or the Software by itself and not as a part of or in combination with any other devices or parts, (ii) the Customer gives ZOLL Medical Corporation immediate notice in writing of any such suit and permits ZOLL Medical Corporation through counsel of its choice, to answer the charge of infringement and defend such suit, and (iii) the Customer gives ZOLL Medical Corporation all requested information, assistance and authority at ZOLL Medical Corporation's expense, to enable ZOLL Medical Corporation to defend such suit.

In the case of a final award of damages for infringement in any such suit, ZOLL Medical Corporation will pay such award, but it shall not be responsible for any settlement made without its written consent.

Section 10 states ZOLL Medical Corporation's total responsibility and liability's, and the Customer's sole remedy for any actual or alleged infringement of any patent by the Equipment or the Software or any part thereof provided hereunder. In no event shall ZOLL Medical Corporation be liable for any indirect, special, or consequential damages resulting from any such infringement.

11. CLAIMS FOR SHORTAGE. Each shipment of Equipment shall be promptly examined by the Customer upon receipt thereof. The Customer shall inform ZOLL Medical Corporation of any shortage in any shipment within ten (10) days of receipt of Equipment. If no such shortage is reported within ten (10) day period, the shipment shall be conclusively deemed to have been complete.

12. RETURNS AND CANCELLATION. (a) The Customer shall obtain authorization from ZOLL Medical Corporation prior to returning any of the Equipment. (b) The Customer receives authorization from ZOLL Medical Corporation to return a product for credit, the Customer shall be subject to a restocking charge of twenty percent (20%) of the original list purchase price, but not less than \$50.00 per product. (c) Any such change in delivery caused by the Customer that causes a delivery date greater than six (6) months from the Customer's original order date shall constitute a new order for the affected Equipment in determining the appropriate list price.

13. APPLICABLE LAW. This Quotation and the Contract shall be governed by the substantive laws of the Commonwealth of Massachusetts without regard to any choice of law provisions thereof.

14. COMPLIANCE WITH LAWS. (a) ZOLL Medical Corporation represents that all goods and services delivered pursuant to the Contract will be produced and supplied in compliance with all applicable state and federal laws and regulations, including the requirements of the Fair Labor Standards Act of 1938, as amended. (b) The Customer shall be responsible for compliance with any federal, state and local laws and regulations applicable to the installation or use of the Equipment furnished hereunder, and will obtain any permits required for such installation and use.

15. NON-WAIVER OF DEFAULT. In the event of any default by the Customer, ZOLL Medical Corporation may decline to make further shipments or render any further warranty or other services without in any way affecting its right under such order. If despite any default by Customer, ZOLL Medical Corporation elects to continue to make shipments its action shall not constitute a waiver of any default by the Customer or in any way affect ZOLL Medical Corporation's legal remedies regarding any such default. No claim or right arising out of a breach of the Agreement by the Customer can be discharged in whole or in part by waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by ZOLL Medical Corporation.

16. ASSIGNMENT. This Quotation, and the Contract, may not be assigned by the Customer without the prior written consent of ZOLL Medical Corporation, and any assignment without such consent shall be null and void.

17. TITLE TO PRODUCTS. Title to right of possession of the products sold hereunder shall remain with ZOLL Medical Corporation until ZOLL Medical Corporation delivers the Equipment to the carrier and agrees to do all acts necessary to perfect and maintain such right and title in ZOLL Medical Corporation. Failure of the Customer to pay the purchase price for any product when due shall give ZOLL Medical Corporation the right, without liability to repossess the Equipment, with or without notice, and to avail itself of any remedy provided by law.

18. EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION.

VETERAN'S EMPLOYMENT - If this order is subject to Executive Order 11710 and the rules, regulations, or orders of the Secretary of Labor issued thereunder the contract clause as set forth at 41 CFR 60-250.4 is hereby included as part of this order.

EMPLOYMENT OF HANDICAPPED - if this order is subject to Section 503 of the Rehabilitation Act of 1973, as amended and the rules, regulations or orders of the Secretary of Labor as issued thereunder, the contract clause at 41 CFR 60-741.7 is hereby included as part of this order.

EQUAL OPPORTUNITY EMPLOYMENT - if this order is subject to the provisions of Executive Order 11246, as amended, and the rules, regulations or orders of the Secretary of Labor issued thereunder, the contract clause set forth at 41 CFR 60-1.4 (a) and 60-1.4 (b) are hereby included as a part of this order and Seller agrees to comply with the reporting requirements set forth at 41 CFR 60-1.7 and the affirmative action compliance program requirements set forth as 41 CFR 60-1.40.

19. VALIDITY OF QUOTATION. This Quotation shall be valid and subject to acceptance by the Customer, in accordance with the terms of Section 1 hereof for the period set forth on the face hereof. After such period, the acceptance of this Quotation shall not be binding upon ZOLL Medical Corporation and shall not create a contract, unless such acceptance is acknowledged and accepted by ZOLL Medical Corporation by a writing signed by an authorized representative of ZOLL Medical Corporation.

20. GENERAL. Any Contract resulting from this Quotation shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts. This constitutes the entire agreement between Buyer and Supplier with respect to the purchase and sale of the Products described in the face hereof, and only representations or statements contained herein shall be binding upon Supplier as a warranty or otherwise. Acceptance or acquiescence in the course of performance rendered pursuant hereto shall not be relevant to determine the meaning of this writing even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. No addition to or modification of any of the terms and conditions specified herein shall be binding upon Supplier unless made in writing and signed by a duly authorized representative of Supplier. The terms and conditions specified shall prevail notwithstanding any variance from the terms and conditions of any order or other form submitted by Buyer for the Products set forth on the face of this Agreement. To the extent that this writing may be treated as an acceptance of Buyer's prior offer, such acceptance is expressly made conditional on assent by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer to the terms hereof, and, without limitation, acceptance of the goods by Buyer shall constitute such assent. All cancellations and reschedules require a minimum of thirty (30) days notice.

ZOLL Medical Corporation