

SUMMARY OF AWARD
Addenda of SF 1449

- I. **The Contract consist of the following documents:**
- (a) **FAR 52.212-4 Contract Terms and Conditions – Commercial Items and Addenda.**
 - (b) FAR 52.212-5 Contract Terms and Conditions required to Implement Statutes or Executive Orders – Commercial Items.
 - (c) Ohio Medical Corporation offer signed May 28, 2007.
 - (d) The Revisions dates are a faxed copy 05/31/07, an e-mail 09/25/07, e-mail 9/26/07, e-mail 10/19/07, e-mail 10/23/07, e-mail 10/24/07.

Final Proposal Revision (FPR) Letter dated November 2, 2007.
 - (e) Awarded discounts are based on **Ohio Medical Corporation** Commercial pricelist catalog dated 01/2007.
 - (f) Incorporated by reference FAR 52.212-3 Offeror representations And Certifications – Commercial Items -
 - (g) Incorporate Amendment One (6/14/04).
 - (h) Incorporate Amendment Two (10/20/04).

A copy of the above cited price list, identifying those products accepted for award, is attached hereto and made a part hereof. Identification of awarded items is accomplished by a red "A".

II. **Terms and Conditions as agreed to are as follows:**

- (a) Contract period of November 15, 2007 through November 14, 2012.
- (b) Discounts as identified on above cited Price List by Special Item Number (SIN) and/or Models and Maximum Order.

<u>Special Item Number</u>	<u>Basic Discount</u>	<u>Awarded Maximum Order</u>
A-46	70%	\$50,000

- (c) Minimum Order: None
- (d) Quantity Discount: An additional 2% discount off list price on purchases from \$5,000 - \$25,000. An additional 3% discount off list price on purchases over \$25,000.
- (e) Delivery Time: Within 3 business days ARO.
- (f) Expedited Delivery: Within 24 hours ARO. The Gov't does pay shipping charges above the normal surface rate.
- (g) Prompt Payment: 1% 15 days, Net 30 days.
- (h) F.O.B. Destination Point(s): F.O.B. Destination 50 states, including Washington, D.C. and Puerto Rico.

Warranty: **OHIO MEDICAL CORPORATION** warrants to the original purchaser its Suction & Oxygen Therapy Products to be free from any defects in workmanship and materials as of the date they are shipped.

For the period listed below by product category; from the date on which the same shall have been delivered to the original purchaser, Ohio Medical Corporation will repair or replace or credit invoice for any **SUCTION AND OXYGEN THERAPY PRODUCTS** which are proven to be defective in either workmanship or material.

- a. Vacuum Regulators – 10 years
- b. Air/Oxygen Flowmeters – 10 years
- c. Flowmeter shroud and flowtube – Lifetime
- d. Oxygen/Air Regulators – 3 years (from date of order)
- e. Portable Electric Suction – 3 years

All warranty determinations will be made by **OHIO MEDICAL CORPORATION**, and its responsibility shall be limited to providing in its sole discretion, new or similar rebuilt replacement parts to replace any component part found to be defective within the aforementioned period.

The warranty covers only failures due to defects in workmanship or materials which occur during normal use. It does not cover failures due to damage, which occurs in shipment, or failures, which result from accident, misuse, abuse, neglect, mishandling, alteration, misapplication, or damage that may be attributable to acts of God. Similarly, this warranty does not apply to units that are re-sold or rented to others by the original purchaser. This warranty gives you specific rights. You may have other rights, which may vary from state to state.

To obtain service within the aforementioned period, first contact your authorized **OHIO MEDICAL CORPORATION** dealer or **OHIO MEDICAL CORPORATION** Customer Service Department. Before returning any unit to the factory proper return authorization must first be obtained from the **OHIO MEDICAL CORPORATION** Customer Service Department.

Labor to repair any unit proved to be defective within aforementioned period will be provided at no charge for any unit returned to our factory adequately packaged and insured with shipping costs prepaid. Standard surface freight shipping costs to return the unit to the original purchaser will be paid by **OHIO MEDICAL CORPORATION**.

Any product returned must be free from contamination by toxic or hazardous substances in accordance with OSHA HAZARD COMMUNICATION STANDARD 29 CFR, Section 1910.1200 and OSHA BLOODBORNEPATHOGEN STANDARD 29 CFR, Section 1910.1030. Decontamination of items prior to their return is the responsibility of the customer. In the event a returned item is found to be contaminated, it shall be regarded as regulated waste and disposed of and no credit for the item shall be issued to the customer.

IN BREACH OF WARRANTY ACTION THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. OHIO MEDICAL CORPORATION SHALL NOT BE LIABLE FOR INCIDENTAL, COLLATERAL, CONSEQUENTIAL OR SPECIAL DAMAGES.

THIS LIMITATION OF LIABILITY DOES NOT APPLY TO OHIO MEDICAL CORPORATION'S OBLIGATIONS UNDER 12.1 OF THE PREMIER GROUP PURCHASING AGREEMENT.

1. Outside of the United States, a different warranty may apply. For details please contact your authorized Ohio Medical Corporation dealer or the Customer Service Department.

- (i) Return Goods Policy: Merchandise returned without specific written authorization from **OHIO MEDICAL CORPORATION** will not be accepted. We will not be responsible for any transportation or other charges resulting from disregarding this clause. All items to be returned must have a Return Goods Authorization (RGA) number. To be considered for credit, these items must be in original new condition. Items that are damaged or special ordered shall not be accepted for return and no credit will be issued.

Request for Return Goods Authorization (RGA) number for medical gas pipeline equipment must be made within 180 days of the original shipment to the Buyer.

Request of RGA for all other types of material must be made within 30 days of original shipment to the Buyer.

Delays: Seller will not be liable for any delay in the performance of orders or contracts, or in the delivery or shipment of goods, or for any damages suffered by Buyer by reason of such delay. If such delay is directly or indirectly, caused by, or in any manner arises from fires, floods, accidents, civil unrest, acts of God, war strikes, labor difficulties, shortage of labor, fuel, power, materials, or supplies, transportation delays, or any other causes beyond its control.

- (j) Price Reduction Clause (552.238-75): The tracking customer (All Hospitals) for whom the contract award is predicated in accordance with the Price Reduction Clause is **Ohio Medical Corporation with a ratio of .86**. During the course of this contract, for any sales under the Maximum Order, the price relationship shown in the Attachment A shall be maintained.

If the identified tracking customer's contract/agreement has been cancelled, terminated, has expired, or the tracking customer has merged with another group, the Contracting Officer shall be notified within 10 calendar days after the event occurs, and, if possible, before the event occurs.

- (k) Government Commercial Credit Card: Will accept the government wide commercial credit card for all orders.
- (l) Exceptions: None.
- (m) Prime Vendor Participation: **Ohio Medical Corporation** will participate under the Government Prime Vendor Programs.

The Federal Supply Schedule (FSS) contract allows awarded products to be distributed through authorized Government Prime Vendor Programs. The allowance covers only distribution from a firm that has been awarded a prime vendor distribution contract by Government to authorized users of that contract, and includes the distribution of equipment expendables, consumables, parts and accessories.

This allowance covers only indirect orders/sales. The Prime Vendor and you are responsible for establishing arrangements and agreements including, but not limited to charge back arrangements, necessary to implement participation. The Government will not become involved in this area nor will the Government assume any responsibility for charge back funds.

As to these indirect orders/sales only, certain terms and conditions of the Prime Vendor contract may take precedence over corresponding terms in your FSS contract. Indirect sales to the Government made under the conditions specified in this participation agreement are considered FSS contract sales, are subject to the FSS Industrial Funding Fee (IFF) and shall be included in your required quarterly FSS sales reports.

This FSS contract allows the Prime Vendor to sell your FSS products in low unit of measure (LUM) and such sales will be considered FSS sales. For LUM product pricing, the Prime Vendor will factor down your FSS prices to LUM if LUM prices are not already provided on your FSS contract.

- (n) Annual Rebate: 3% rebate for sales in excess over \$75,000 annually (January – December) the base figure will remain the same for subsequent 5 years.

Payment of rebate shall not be made until receipt of a written notification from the Contracting Officer stating the amount due. Within 30 calendar days after the days of such notification, the amount due shall be paid by check made payable to the "Department of Veteran Affairs". The check shall include the statement "Annual Rebate Sales under Contract Number V797P-4056B" and the claim number. The claim number will be provided with the written notification Contracting Officer. The remittance shall be mailed to:

Department of Veterans Affairs
Service and Distribution Center
ATTN: Fiscal (901A)
P.O. Box 27
Hines, IL 60141

Any Amount not paid within 30 calendar days from the date of written notification from the Contracting Officer described in (3) above, shall bear interest in accordance with clause 52.232-17, Interest. Any controversies concerning the amount due to the Government shall be subject to the Disputes Clause.

The applicable rebate percentage shall be applied at the end of each year of the contract and at the end of each option period to the Government-wide rebate sales realized under this contract. The first 12 month period shall begin with the effective date shown in block 3 of SF – 1449. Within 30 calendar days after the end of each year if the contract period and option periods(s), the Contractor shall furnish a statement to the Contracting Officer certifying the rebate value of sales made under the contract.

Payment of rebate shall not be made until receipt of a written notification from the Contracting Officer stating the amount due. Within 30 calendar days after the days of such notification, the amount due shall be paid by check made payable to the "Department of Veteran Affairs".

The check shall include the statement "Annual Rebate Sales under Contract Number V797P-4056B" and the claim number. The claim number will be provided with the written notification Contracting Officer. The remittance shall be mailed to:

Please be advised, the sole purpose of funds provided by the accounting Data in Block 25 of the SF 1449 is to fund the guaranteed minimum of \$2,500 as stated in contract clause I-FSS-106. However, the funds obligated at time of award do not constitute an order for supplies or services under this contract.

The lettered sections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (l), and (p) **are required** in the "Information for Ordering Activities" section of your Published Federal Supply Schedule Pricelist.

Your tax identification number (TIN) and data universal numbering System (DUNs) **are required** to be included on the Published Price List to facilitate payment by ordering activities.