

AGREEMENT FOR PURCHASE AND SALE OF GOODS

THIS AGREEMENT FOR PURCHASE AND SALE OF GOODS (the "Agreement") is made this _____ day of _____, 2006, by and between **Fisher Scientific Company LLC**, whose address is **5904-D Hampton Oak Parkway, Suite 200, Tampa, Florida 33610** ("Seller") and **THE CITY OF NAPLES**, a Florida municipal corporation, the address of which is 735 Eighth Street South, Naples, Florida 34102 ("Buyer"). In consideration of the mutual covenants and agreements hereinafter set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Buyer and Seller agree as follows:

1. **Description of Goods; Sale and Delivery.** Seller shall sell, transfer, and deliver to Buyer the goods described on the Description/Proposal attached hereto and made a part of as Exhibit "A" subject to such terms as are set forth in the Description/Proposal and in this Agreement.
2. **Acceptance; Purchase.** Buyer shall accept the goods and **pay the total sum of: \$22,123.95** for the goods in accordance with the terms of this Agreement.
3. **Identification of Goods.** Identification of the goods shall not be deemed to have been made until both Buyer and Seller have agreed that the goods in question are to be appropriate to the performance of this Agreement.
4. **Rate and Time of Payment.** Unless otherwise specified, Buyer shall make payment to Seller for the goods within 30 days after the goods are received by Buyer.
5. **Receipt of Goods.** The goods shall be deemed received by Buyer when delivered to Buyer at **City of Naples, 355 Riverside Circle, Naples, Florida 34102**. Delivery of the goods to Buyer shall occur on a business day and shall not occur after 3:15 p.m. on the delivery day.
6. **Risk of Loss.** The risk of loss from any casualty to the goods, regardless of the cause, shall be on Seller up to the time of receipt of the goods by Buyer at the place of delivery, but only after any proper inspection has been completed without rejection of the goods. Thereafter, such risk shall be on Buyer, including any goods thereafter returned to Seller until their receipt by Seller.
7. **Warranty Against Encumbrances.** Seller warrants that the goods are now free, and at the time of delivery shall be free, from any security interest or other lien or encumbrance.
8. **Warranty of Title.** Seller warrants that at the time of signing this Agreement, Seller neither knows, nor has reason to know, of the existence of any outstanding title or claim of title hostile to the rights of Seller in the goods.
9. **Product Warranty.** Seller provides general warranties of fitness and general warranties that the goods are free from defects, for 1 year from acceptance of the goods, except as may otherwise be set forth in the Description/Proposal, or other attached warranty.
10. **Right of Inspection.** Buyer shall have the right to inspect the goods at the time and place of delivery, and within 5 business days after delivery, Buyer must give notice to Seller of any claim for damages on account of the condition, quality, or grade of the goods, and Buyer must specify in detail the basis of such claim. The failure of Buyer to comply with these conditions shall constitute irrevocable acceptance of the goods by Buyer.

11. **Procedure as to Rejected Goods.** On receipt of notification of rejection, Seller will immediately arrange to receive back the goods for shipment and return. However, within 5 days, Seller may have an agent inspect such goods for nonconformity; otherwise, such inspection will be made on return to Seller's storage facility. When such goods are confirmed or acquiesced in as nonconforming, Seller will ship conforming goods within 30 days of the notice of rejection unless Buyer earlier notifies Seller to forgo such shipment.

12. **Governing Law.** The parties acknowledge that the transaction that is the subject matter of this Agreement bears a reasonable relation to the State of Florida and agree that the law of the State of Florida will govern their rights and duties. The parties specifically intend that the provisions of Article 2 of the Florida Uniform Commercial Code will control as to all aspects of this Agreement and its interpretation, and that all the definitions contained therein will be applicable to this Agreement except where this Agreement may expressly provide otherwise.

13. **Notices and Address of Record.** All notices required or made pursuant to this Agreement to be given by Seller to Buyer shall be in writing and shall be delivered by overnight courier, by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following:

To Buyer:

City of Naples
Attention: Dr. Robert E. Lee, City Manager
735 Eighth Street South
Naples, Florida 34102-3796

All notices required or made pursuant to this Agreement to be given by Buyer to Seller shall be made in writing and shall be delivered by overnight courier, by hand or by the United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following:

To Seller:

Fisher Scientific Company LLC
5904-D Hampton Oaks Parkway
Suite 200
Tampa, Florida 33610

Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

14. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall together constitute one and the same instrument.

15. **Effective Date.** This Agreement shall take effect on the day of execution by the last party to execute this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first written above.

ATTEST:

"SELLER":
Fisher Scientific Company LLC

(Corporate Seal)

(Print Name: _____)

By: _____
Authorized Representative

ATTEST:

"BUYER"

City of Naples, Florida

By: _____
Tara A. Norman, City Clerk

By: _____
Dr. Robert E. Lee, City Manager

Approved as to form and legal sufficiency:

By: _____
Robert D. Pritt, City Attorney

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F I S H E R S C I E N T I F I C Q U O T A T I O N						
APRIL 7, 2006			PAGE: 1			
NAPLES FIRE DEPT. FIRE STATION #1 835 8TH AVE. SOUTH			FISHER SCIENTIFIC COMPANY LLC 5904-D HAMPTON OAKS PARKWAY SUITE 200 TAMPA FL 33610 (800) 226-4732			
NAPLES FL 34102 ATTN: LT BRUNNER						
CUST REF NBR QTE/SCOTT ITEMS						
ACCOUNT NBR: 816115-003 QUOTE NBR: 6097-3209-63 TERMS: NET 30 DAYS DUE DATE:			REQUESTOR: LT BRUNNER PHONE: 6143551719 FOB: DEST AUTHORIZED BY: PATRICIA.SPENCER X 4032			
*** PRICES ARE FIRM THRU 05/07/06 *** PLEASE REFER TO THE QUOTE NBR ON ALL CORRESPONDENCE THANK YOU FOR YOUR INTEREST IN FISHER SCIENTIFIC COMPANY LLC SAFETY REP: JASON MEYER						
NBR	QTY	UN	CATALOG NBR	DESCRIPTION	UNIT PRC	EXTD PRC
				PRICING BASED OFF STATE OF FLORIDA CONTRACT # 490-00003-01		
1	6	EA	19 123 156	4.5 NXG2 BKPLT ALIG 4.5 AIR-PAK NXG2 SCBA WITH HARNESS WITH ALLIGATOR CLIPS LESS CYLINDER, LESS FACEPIECE E-Z PL II REGULATOR, PAK-ALERT SE+,N/CASE DUAL EBSS HAZARDOUS MATERIAL	2,765.79	16,594.74
2	3	EA	NC9103072	4.5 30 MIN CARB CYL NXG2 4.5 30 MINUTE CARBON CYLINDERS HAZARDOUS MATERIAL	660.58	1,981.74
3	5	EA	19 148 613	AV3000 FCPC W/XVLR HRNS SM FACE MASKS	168.41	842.05
4	7	EA	19 148 614	AV3000 FCPC W/XVLR HRNS MED	168.41	1,178.87
5	5	EA	19 148 615	AV3000 FCPC W/XVLR HRNS LRG	168.41	842.05
6	50	EA	NON-CATALOG	FIRERESCUE SCBA MASK BGEA VNDR NBR = 0056205 VNDR CAT NBR = 13080/2006	13.69	684.50
MERCHANDISE TOTAL						22,123.95

QUOTATION TERMS AND CONDITIONS

Fisher Scientific Company and/or its Curtin Matheson Scientific division (collectively the "Distributor") will sell to the customer ("Customer") and Customer will purchase from Distributor the quoted products, subject to the following terms and conditions:

PRICES: All prices are quoted F. O. B. shipping point for the indicated firm period. Customer shall pay all federal, state, municipal or other sales or use tax or any other taxes upon the Products or services provided to Customer by Distributor. Distributor reserves the right to make additional charges for special packaging, shipping and handling required to comply with manufacturers' specification, applicable DOT or other regulations, or to meet Customer requirements.

Distributor expressly disclaims any representation or warranty concerning "most favored customer" pricing which may appear in any Customer's documents in connection with the sale of any Products by Distributor to Customer.

TERMS: Distributor's standard terms of 30 days net are applicable to all domestic and foreign shipments. Invoices against Products shipped outside the United States are payable in United States currency. Distributor reserves the right to collect interest at a rate equal to the higher applicable lawful interest rate on invoiced amounts not paid within thirty (30) days of invoice date, with interest to accrue monthly until full payment is received.

DELIVERY: All shipping dates are approximate. Distributor reserves the right to substitute alternate Products with equivalent specifications for those ordered. Customer shall have the right to return any substituted Products at no charge by following Distributor's return goods policy.

PRODUCT WARRANTY AND INDEMNITY: To the extent possible, Distributor will make available to its Customers the manufacturers' warranties for Products purchased by Customer, without recourse to Distributor. Distributor warrants to Customer that during the manufacturer's specified warranty period, Distributor or manufacturer will, upon prompt notification and compliance with Distributor's instructions, repair or replace, at Distributor's sole option, any Product which is defective in material or workmanship. No employee, agent or representative of Distributor has the authority to bind Distributor to any oral representation or warranty concerning any Product sold. Any oral representation or warranty made prior to the purchase of any Product and not set forth in writing and signed by a duly authorized officer of Distributor shall not be enforceable by Customer. Distributor makes no warranty and shall have no obligation with respect to expendable or consumable parts and supplies nor with respect to damage caused by resulting from accident, misuse, neglect, or unauthorized installation, alterations or repairs to the Products.

DISTRIBUTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. Distributor's sole responsibility and the Customer's exclusive remedy for any claim arising out of the purchase of any Product is repair or replacement, as described above. In no event shall Distributor's liability exceed the purchase price paid therefor; nor shall Distributor be liable for any claims, losses or damages of any third party or for lost profits or any special, indirect, incidental, consequential, or exemplary damages, howsoever arising, even if Distributor has been advised of the possibility of such damages.

Except as otherwise expressly set forth herein, Distributor disclaims any obligation to defend or indemnify Customer, its officers, agents, or employees, from any losses, damages, liabilities, costs or expenses which may arise out of Distributor's acts or omissions or the sale or use of the Products provided to Customer by Distributor.

RETURN GOODS POLICY: Products described in Distributor's policy may be returned to Distributor within 30 days for replacement or adjustment. To assure prompt handling, Customer must obtain a return goods authorization number from Distributor and reference this number on return shipping documents. Returns made without the authorization number will be returned to the Customer, freight collect. Distributor reserves the right to reserve any credit issued to Customer: (i) for any Product not returned after authorization and request by Distributor, or (ii) if, upon return, such Product is determined by Distributor not to be defective. Copies of Distributor's policy are available upon request.

FREIGHT CLAIM POLICY: Even with the greatest of care, occasional damages or shortages are unavoidable. Upon receipt of a shipment from Distributor, Customer shall unpack and inspect it for damage and shortage. Customer shall not accept a damaged or short shipment until the delivering carrier's driver has made a "damage" or "shortage" notation on Customer's copy and the carrier's copy of the freight bill. Customer must notify the carrier immediately.

If damages are noted, Customer should immediately request the carrier to make an inspection. Concealed damage must be reported to the carrier within 15 days of delivery. All shipping containers and packing materials must be retained by Customer for the inspection. Salvage must be held for carrier's disposition.

MEDICARE/MEDICAID REPORTING REQUIREMENTS: The prices shown on this quotation are net of discounts provided at the time of purchase. Some Products may be subject to additional discounts agreed upon between the parties. By accepting such Products, customer agrees to comply with such reporting requirements as may be imposed on it under federal Medicare and Medicaid programs and state health care programs. 42 CFR Section 100.1952 (N).

SOFTWARE: If the Products include computer programs ("Software"), the "sale" of such Software shall not constitute a sale or transfer of proprietary rights in or to the Software but rather shall only constitute the right and license to use the Software in accordance with applicable specifications, instructions and license terms and conditions of the licensor.

PATENTS: If notified promptly in writing of any action or claim against Customer, that Customer's purchase or use of the Product infringes a United States patent, Distributor will defend such action at its expense and will pay the costs and damages awarded in any such actions, provided Distributor shall have sole control of the defense of the action and all negotiations for its settlement or compromise. Distributor shall not have any liability to Customer if the infringement or claim thereof is based on (i) the use or sale of the Product in combination with other products or devices which are not furnished in combination by Distributor or (ii) the furnishing to Customer of any information, service or applications assistance. In no event shall Distributor's total liability to Customer under this provision exceed the amount paid by Customer to Distributor for the Product alleged to infringe. The foregoing states the entire liability of Distributor to Customer with respect to infringement of patents by the Products, any parts thereof or their operation.

FORCE MAJEURE: The performance by Distributor of any covenant or obligation on its part to be performed under any agreement with Customer shall be excused by floods, strikes, or other labor disturbances, riots, fires, accidents, wars, embargoes, delays of carriers, failure of power, or regular sources of supply, acts, injunctions, or restraints of government, or any other cause preventing such performance, beyond Distributor's reasonable control.

LIMITATION OF ACTIONS: Any cause of action for breach of warranty must be brought by the Customer, if at all, within one (1) year from the date the cause of action accrued. Any discrepancy in Distributor's pricing or other charges shall be deemed waived by Customer unless Customer notifies Distributor thereof, in writing, within ninety (90) days from the date of the invoice on which such disputed transaction is reflected.

MISCELLANEOUS: These Terms and Conditions shall control as to any Products provided by Distributor to Customer hereunder. None of the terms and conditions contained herein may be added to, modified, superseded or otherwise altered except by written instrument signed by duly authorized representatives of Distributor and Customer.