

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



442

**FROM:** Riverside County Regional Medical Center (RCRMC)

**SUBMITTAL DATE:**  
February 05, 2013

**SUBJECT:** Service Agreement with Tyco Healthcare Group LP dba Covidien

**RECOMMENDED MOTION:** Move that the Board of Supervisors:

- 1) Ratify and authorize the Purchasing Agent to extend the previous contract executed July 2007 with Tyco Healthcare Group LP dba Covidien effective July 16, 2012 through February 1, 2013;
- 2) Ratify and authorize the Chairman to execute the multi-year service agreement including all respective documents with Tyco Healthcare Group LP dba Covidien for an aggregate amount of \$400,000 annually, effective February 1, 2013 through January 31, 2018; and
- 3) Authorize the Purchasing Agent, in accordance with Ordinance No. 459, to exercise automatic renewal options, based on the availability of fiscal funding, and to sign amendments that do not change the substantive terms of the agreement, including increase the total compensation not more than ten percent should the need for products exceed the estimated volume and the unit cost increase does not exceed the CPI.

*Douglas D. Bagley*  
\_\_\_\_\_  
Douglas D. Bagley, Hospital Director

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$400,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/2013

<b>SOURCE OF FUNDS:</b> 100% Hospital Enterprise Funds	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE  
BY: *Debra Cournoyer*  
Debra Cournoyer

**County Executive Office Signature**

**Prev. Agn. Ref.:** | **District:** All | **Agenda Number:** 3-45

FORM APPROVED COUNTY COUNSEL  
 BY: *Neal R. Kipnis* DATE: 1/23/13  
 Departmental Concurrence  
 Mark Sehen, Assistant Director  
 M.S.  
 Dept's Recomm.:  Consent  Policy  
 Per Exec. Ofc.:  Consent  Policy

## BOARD OF SUPERVISORS

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### **BACKGROUND:**

A sequential compression device is a method of vascular therapy that uses a pneumatic pump to deliver intermittent compression on the external vascular and arterial system of the legs. This particular form of lymphedema treatment relieves pain that is caused by arterial complications in the legs such as deep vein thrombosis (DVT) and peripheral edema (blood and fluid pooling) which occurs in bed-ridden post-op patients or those who are non ambulatory or immobile for long periods of time. The hospital desires grade sequential leg compression sleeve which contain up to ten inner chambers. The more chambers the device has, helps improve the circulation of the blood and fluid in the legs. The hospital requires sequential compression devices (SCD), sleeves and tubing for the various departments within the hospital which include but is not limited to the following units: Adult Critical Care Unit (ACCU), Progressive Care Unit (PCU), Surgical Specialties, Obstetrics (OB), General Surgery, Pediatrics/Pediatric Intensive Care (PEDS/PICU), Medical Surgery, Detention Health, Emergency Department (ED), Operating Room (OR), Labor and Delivery (L&D), and in Central Processing Department (C.P.D.). Riverside County Regional Medical Center (RCRMC) currently utilizes approximately two hundred (200) sequential compression pumps throughout the hospital.

On behalf of RCRMC, County Purchasing released a Request for Proposal (RFP #MCARC192), to secure sequential compression device (SCD), sleeves and tubing services for the hospital. Solicitations were sent to three prospective vendors specializing in these services and advertised on the County's Internet/Website. Two proposals (Currie Medical Specialties and Tyco Healthcare Group LP dba Covidien) were received and evaluated by four RCRMC medical & personnel staff familiar with the service and product. The evaluation team reviewed and scored each proposal based the evaluation criteria as specified in the RFP, including the bidder's overall responsiveness to the RFP requirements, their experience with other comparable size hospital facilities, their performance history, the quality of the device and the overall cost to the County. Scores ranged from 92.80 to 96.00 with Covidien receiving the highest score overall meeting the requirements of the RFP. To ensure services are not interrupted, an extension to the current contract is needed until the recommended award is approved by the Board.

### **PRICE REASONABLENESS:**

To ensure both vendors submit the best possible rate(s) and any value added components, County Purchasing conducted a Best and Final Offer (BAFO). As a result of the BAFO, Covidien presented an overall average cost which is less than Currie Medical Specialties. In addition, Covidien offered a more competitive value added component(s) which consist of: a sliding scale for lost pumps (\$2,000 during Year 1 lowering to \$750 during Year 5); a rebate equal to 25% of net purchases per year; and an extended limited warranty for repairs for the duration of the contract.

### **FINANCIAL IMPACT:**

Funding for this service is 100% Hospital Enterprise funded.

### **ATTACHMENTS:**

SCD Sequential Compression System License Agreement  
Amendment to the SCD Sequential Compression System License Agreement  
Rebate Agreement  
Extended Limited Warranty Agreement

### **REVIEW/APPROVAL:**

County Purchasing and County Counsel

DB:ns

**SCD™ SEQUENTIAL COMPRESSION SYSTEM  
LICENSE AGREEMENT WITH ROYALTY-FREE OPTION**



**THIS AGREEMENT**, dated 01/21/2013, by and between Tyco Healthcare Group LP (d/b/a Covidien), located at 15 Hampshire Street, Mansfield, Massachusetts 02048, acting through its Vascular Therapy division ("Covidien"), and Riverside County Regional Medical Center, located at 26520 Cactus Avenue Moreno Valley, CA 92555 ("Customer").

- 1. CONTROLLERS.** Upon Customer's acceptance of this Agreement, Covidien agrees to furnish to Customer the use of 200 Covidien SCD Sequential Compression System Controllers, (the "Controllers") for use during the term hereof.
- 2. ACCESSORIES.** In return for the use of the Controllers on a discounted, royalty-free basis, Customer agrees to purchase from Covidien or its authorized dealer disposable intermittent pneumatic compression devices for use with the Controllers as more fully set forth below. The number of Controllers furnished to Customer hereunder is intended by the parties not to exceed the number of Controllers actually needed by Customer to provide adequate health care to its patients. To this end, the parties have agreed that the normal utilization rate is three (3) pairs of Covidien SCD disposable devices (the "Devices") per Controller, per month (the "Normal Use Rate") and that, therefore, Customer's monthly "Estimated Requirements" of Devices shall equal the product of the Normal Use Rate and the number of Controllers provided hereunder.

Customer agrees to (A) purchase from Covidien at least 95% of its requirements of disposable intermittent pneumatic compression devices for use with the Controllers; and (B) in the interests of patient safety and product efficacy, properly use and apply the Devices in accordance with Covidien's labeling therefore, including compliance with the single patient use only license for such Devices.

In the event that Customer's actual requirements of disposable intermittent pneumatic compression devices of the type offered by Covidien for use with the Controllers is less than its Estimated Requirements, then the number of Controllers provided hereunder exceeds the number actually needed, with such excess (the "Excess Controllers") being the difference between (i) the number of Controllers provided hereunder and (ii) the quotient of Customer's actual monthly requirements of Devices and the Normal Use Rate. In such an event, Customer will have thirty (30) days to remedy such deficiency by: (i) renting the Excess Controllers at the rental rate set forth in Section 3 below; (ii) purchasing the Excess Controllers at the purchase price set forth in the attached Terms and Conditions; or (iii) returning the Excess Controllers to Covidien so as to reduce the number of Controllers to a level at which Customer's purchase of Devices meets the Normal Use Rate. Covidien shall notify Customer if at any time Covidien has reason to believe that Customer's purchases have not satisfied the Normal Use Rate described above. Customer shall then have thirty (30) days to (i) verify, to Covidien's good faith reasonable satisfaction, that its purchases have, in fact, satisfied such Normal Use Rate or (ii) remedy the deficiency as set forth above. If such verification is not made to Covidien's good faith reasonable satisfaction or if Customer has not remedied the deficiency through any of the foregoing methods within such thirty (30) day period, Customer shall be required to pay the royalty set forth below. Covidien shall invoice Customer for the applicable royalty amount owed on the controllers and Customer shall pay such amount within fifteen (15) days of its receipt of such invoice.

Model Number	Description	Quantity	Royalty Rate/Unit
29525	Kendall SCD™ 700 Series Compression System	200	\$2,000
9525	Kendall SCD™ Express Compression System	0	\$1,500
9525E	Kendall SCD™ Express Compression System w/ Extended Bed Hook	0	\$1,500
9526	Kendall SCD™ Express Compression System w/o Battery	0	\$1,500
9526E	Kendall SCD™ Express Compression System w/o Battery   w/ Ext Bed Hook	0	\$1,500
7325 / 6325R	Kendall SCD™ Response Compression System	0	\$1,000
29525B	<b>GOVERNMENT ONLY</b> - Kendall SCD™ 700 Series Compression System	0	\$2,000
9525W	<b>GOVERNMENT ONLY</b> - Kendall SCD™ Express Compression System	0	\$1,500

- 3. TERM.** The initial term of this Agreement commences on March 1, 2013 and terminates on February 28, 2018. Upon expiration of the Term, this Agreement shall convert to a month-to-month rental agreement, at a rate of \$250.00 per controller, per month, unless all Controllers are returned in good working order or a new Agreement covering the Controllers is executed by both parties.
- 4. COMPLIANCE WITH LAWS.** It is the intention of the parties hereto that this Agreement be administered in accordance with the discount provisions of the federal anti-kickback statute (Title 42, United States Code, Section 1320a-7b(b)). Accordingly, insofar as required by such statute or by the discount safe harbor regulations at 42 CFR §1001.952(h), Customer shall fully and accurately report in applicable cost reports and provide information upon request to Medicare, Medicaid and other federal health care programs on all discounts and price reductions under this Agreement, including, without limitation, disclosing and accurately reflecting where appropriate, and as appropriate, to the applicable reimbursement methodology, the temporary use of the Controllers at no charge.
- 5. TERMS AND CONDITIONS.** The Terms and Conditions on the reverse are incorporated herein by reference. The undersigned Customer representative represents and warrants that he/she is fully authorized to act on behalf of Customer with regard to this Agreement and the subject matter hereof, without further approval.

**CUSTOMER**  
 \_\_\_\_\_  
 Authorized Signature  
 By: \_\_\_\_\_  
 Name (Please type or print)  
 \_\_\_\_\_  
 Title

**TYCO HEALTHCARE GROUP LP**  
 \_\_\_\_\_  
 Authorized Signature (Sales Representative)  
 By: Elizabeth Vargas  
 Name (Please type or print)  
VW 503  
 Title and/or Territory #

**N/C P.O. #:** \_\_\_\_\_ **Customer Account #:** \_\_\_\_\_

## TERMS AND CONDITIONS

### I. TITLE

- (a) The Controllers are and shall remain the personal property of Covidien, and title to the Controllers shall remain exclusively with Covidien.
- (b) Customer shall keep the Controllers free from all attachments, liens, security interests, and encumbrances, and shall promptly notify Covidien if any of the foregoing is filed or claimed.
- (c) Upon request of Covidien, Customer will execute and/or furnish Covidien with any documents (including financing statements under the Uniform Commercial Code) necessary to protect Covidien's interest in the Controllers.

### II. SERVICE

- (a) Throughout the term of this Agreement, Controllers shall be covered by Covidien's standard one-year warranty for such products. Services expenses after this period shall be the Customer's responsibility. Customer will perform routine service and maintenance and to use such Controllers only in the manner for which they are intended and in compliance with the instructions and warnings set forth in the Operation and Service Manual. The Customer shall also be responsible for, and assume the risk of, loss or theft of, or damage to, the licensed Controllers. Upon termination of this Agreement, and unless a purchase has been made in accordance with this Agreement, the Customer shall return the licensed Controllers to Covidien, at the Customer's own expense, in reasonable working condition, ordinary wear and tear excepted. The party returning controllers should call 1-800-962-9888 to arrange for the equipment to be returned.
- (b) Customer shall be responsible for routine maintenance of the Controllers as set forth in the Operation and Service Manual.
- (c) Customer will be responsible for any damage to the Controllers caused by Customer's negligent acts or omissions, or by any service performed by persons other than Covidien's authorized service provider. Customer agrees that only Covidien or its authorized service provider is to service the Controllers.

### III. RISK OF LOSS

Customer assumes responsibility for any loss of or damage to the Controllers from any cause whatsoever, ordinary wear and tear excepted. Customer shall promptly notify Covidien of any loss or damage to the Controllers.

### IV. ALTERATIONS

Customer shall not make any changes or alterations in, or attachments to, the Controllers, or remove any labels, signs, symbols, trademarks, or serial numbers affixed to the Controllers.

### V. INSPECTION

Covidien may, upon reasonable notice, enter upon the premises of Customer for the purpose of inspecting the Controllers.

### VI. INABILITY TO PERFORM

Neither party shall be liable for any failure to perform this Agreement due to strikes, lockouts, fires, flood or water damage, riots, government acts or orders, interruption of transportation, inability to obtain materials at reasonable prices or terms, or any other cause beyond its control.

### VII. CERTIFICATION

Customer certifies that prior to executing this Agreement, Covidien offered to sell the Controllers separately and offered to sell the Devices separately. Customer has refused those options and binds itself to the terms of this Agreement instead.

### VIII. TERM AND TERMINATION

- (a) This Agreement is for the term indicated in Section 3 of this Agreement.
- (b) Covidien may terminate this Agreement following a default by Customer of its obligations hereunder if such default is not cured within thirty (30) days after Covidien delivers notice of such default to Customer. In any such case, returns shall be handled under the provisions of Section IX below, and a royalty charge may apply, as discussed in Section 2 of this Agreement.
- (c) Customer may terminate this Agreement following a default by Covidien of its material obligations hereunder if such default has not been cured within ninety (90) days following written notice thereof to Covidien by Customer. In the event of such termination, returns will be handled under the provisions of Section IX below.
- (d) If at any time (i) the Customer returns a number of Excess Controllers that exceeds thirty-five percent (35%) of the aggregate number of Controllers provided hereunder and (ii) the Customer's actual requirements of intermittent pneumatic compression devices of the type offered by Covidien for use with the Controllers have not decreased by a reasonably comparable percentage, the Customer may be deemed to have terminated this Agreement, in which case the Customer shall be required to return or purchase all Controllers (as more fully set forth in Section IX below) and pay the royalty set forth in Section 2 of this Agreement.

### IX. TRANSPORTATION AND RETURN OF EQUIPMENT

- (a) Upon expiration or termination of this Agreement for any reason whatsoever, or Customer's requirement to return Excess Controllers pursuant to Section 2 of this Agreement, Customer will carefully pack and ship the Controllers to Covidien in substantially the same condition as received (ordinary wear and tear excepted) via a carrier acceptable to Covidien. Customer shall be responsible for the loss of or damage to the Controllers while they are in return transit and shall bear the transportation expenses for the return of the Controllers.
- (b) If at any time Customer is required to return any Controllers to Covidien and Customer fails to promptly return all Controllers to Covidien, Customer shall pay to Covidien an amount equal to \$1,000 per SCD™ Response Controller, \$1,500 per SCD™ Express Controller, and \$2,000 per SCD™ 700 Series Controller in addition to any royalty amount that may be payable pursuant to Section 2 of this Agreement.

### X. ASSIGNMENT

Neither party may assign or transfer this Agreement without the prior written consent of the other party to this Agreement; provided, however, that Covidien may assign this Agreement to an entity controlling, controlled by, or under common control with it without the prior written consent of the Customer. Customer may not grant a security interest in, assign, transfer, pledge, convey, or otherwise hypothecate any Controller.

### XI. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof, and supersedes all previous negotiations, agreements and commitments with respect thereto. Notwithstanding the foregoing, this Agreement does not supersede any agreements currently in effect, or which the parties may enter into from time to time, for the provision of capital equipment other than the Controllers (each an "Alternate Agreement"). Termination or expiration of this Agreement shall not cause the termination or expiration of any Alternate Agreement, and termination or expiration of an Alternate Agreement shall not cause the termination or expiration of this Agreement.

**AMENDMENT TO SCD™ SEQUENTIAL COMPRESSION SYSTEM  
LICENSE AGREEMENT WITH ROYALTY-FREE OPTION**

This Amendment to SCD™ Sequential Compression System License Agreement with Royalty-Free Option (this “Amendment”) is dated and effective the 1<sup>st</sup> day of March 2013 by and between Covidien Sales LLC, a Delaware limited liability company, having a place of business at 15 Hampshire Street, Mansfield, Massachusetts 02048, acting through the Peripheral Vascular division of its Vascular Therapies business (“Covidien”), and Riverside County Regional Medical Center, having its principal place of business at 26520 Cactus Avenue Moreno Valley, CA 92555 (“Customer” and, together with Covidien, the “Parties”).

**WHEREAS**, the Parties intend to execute a License Agreement with Royalty-Free Option for the provision of Covidien SCD™ Controllers (the “Agreement”) concurrent with the execution of this Amendment; and

**WHEREAS**, the Parties desire to amend the Agreement for the reasons set forth herein.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree that the Agreement is amended, effective the date of this Amendment, as follows:

1. The reference to “95%” in the second paragraph of Section 2 of the Agreement is hereby changed to “90%.”
2. The table in Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

<b>Model Number</b>	<b>Description</b>	<b>Quantity</b>	<b>Royalty Rate/Unit</b>
29525	Kendall SCD™ 700 Series Compression System	200	*
9525	Kendall SCD™ Express Compression System	0	\$1,500
9525E	Kendall SCD™ Express Compression System w/ Extended Bed Hook	0	\$1,500
9526	Kendall SCD™ Express Compression System w/o Battery	0	\$1,500
9526E	Kendall SCD™ Express Compression System w/o Battery   w/ Ext Bed Hook	0	\$1,500
7325 / 6325R	Kendall SCD™ Response Compression System	0	\$1,000

\* The royalty per Controller payable in connection with the Kendall SCD™ 700 Series Compression System (Model No. 29525) shall be the applicable amount set forth below, which amount shall be determined based on the Contract Year (as defined below) during which Customer is first notified of a breach of this Agreement requiring payment of a royalty, which breach is not remedied as set forth herein:

<b>Notice Received</b>	<b>Royalty Rate/Unit</b>
Contract Year 1	\$2,000.00
Contract Year 2	\$1,750.00
Contract Year 3	\$1,300.00
Contract Year 4	\$1,000.00
Contract Year 5	\$ 750.00

For purposes hereof, “Contract Year” means the twelve-month period commencing on the effective date of this Agreement and each successive twelve month period during the term of this Agreement.

3. In the event of a conflict between the Agreement and this Amendment, this Amendment shall govern.
4. This Amendment may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.



IN WITNESS WHEREOF, the Parties have executed this Amendment, as of the date first written above, by persons thereunto duly authorized.

**COVIDIEN SALES LLC**

By: Elizabeth Vargas  
Title: Sales Representative

**RIVERSIDE COUNTY REGIONAL  
MEDICAL CENTER**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Account #: 325632

FORM APPROVED COUNTY COUNSEL  
BY: NEAL R. KIPNIS DATE 12/23/13

## REBATE AGREEMENT

This Rebate Agreement (this "Agreement") is dated effective as of March 1, 2013 (the "Effective Date") between Covidien Sales LLC, a Delaware limited liability company having a place of business at 15 Hampshire Street, Mansfield, Massachusetts 02048, acting through its Vascular Therapies division ("Covidien"), and Riverside County Regional Medical Center, having its principle place of business at 26520 Cactus Avenue Moreno Valley, CA 92555 ("Customer").

1. **Definitions.** As used in this Agreement, the following terms shall have the meanings specified below:
  - a. "Authorized Distributors" means distributors that are authorized by Covidien to sell Products to Customer under this Agreement and which agree to comply with the terms and conditions of Covidien's Distributor Policies and Procedures.
  - b. "Compliance" means, with respect to each Category listed on Exhibit A, for each Contract Year, the percentage determined by dividing (i) the Customer's aggregate Net Purchases of the Products included in such Category from Covidien during such Contract Year by (ii) the Customer's aggregate requirements of such types of products and/or services during such Contract Year.
  - c. "Contract Year" means the 12-month period commencing upon the first day of the term of this Agreement and each consecutive succeeding 12-month period during the term of this Agreement.
  - d. "Net Purchases" means the total purchase price paid by Customer to Covidien for Products purchased under this Agreement, net of returns, allowances, credits, rebates, taxes, freight, and insurance. To the extent that Customer purchases Products under this Agreement through Authorized Distributors, the Net Purchases of such Products shall be based on the purchase price, net of returns, allowances, credits, rebates, taxes, freight, and insurance, paid by the Authorized Distributor to Covidien and shall not include any service fees or mark-ups charged by the Authorized Distributor to the Customer.
  - e. "Products" means the products listed on Exhibit A attached hereto.
2. **Term.** Unless terminated sooner in accordance with the provisions of this Agreement, the term of this Agreement shall be five (5) years commencing on the Effective Date (the "Term").
3. **Pricing.** Covidien agrees to make the Products available to Customer during the term of this Agreement at the prices set forth on Exhibit A attached hereto. To the extent that Customer purchases Products through Authorized Distributors, the prices set forth on Exhibit A shall be the net prices at which Covidien will sell Products to Authorized Distributors for resale to Customer. Customer shall be responsible for negotiating and paying any service fees or mark-ups on such prices charged by the Authorized Distributor. Notwithstanding the foregoing, in the event that Covidien's aggregate cost of raw materials

used to manufacture any Products increases by more than ten percent (10%) any time during the term of this Agreement, Covidien shall have the right to increase the price of such Product hereunder by an amount equal to such cost increase. Covidien shall give Customer at least sixty (60) days' prior notice of any such price increase.

4. Rebate. Customer agrees that Compliance shall be at least ninety percent (90%) at all times during the term of this Agreement (the "Purchasing Commitment"). Each Contract Year hereunder that Customer meets the Purchasing Commitment throughout such Contract Year, Covidien shall pay Customer a rebate equal to twenty-five percent (25%) of Net Purchases of Products for such Contract Year. Any rebate earned pursuant to this Section shall be delivered annually within ninety (90) days after the last business day of the Contract Year to which such rebate applies. Customer may participate in or receive rebates under any other rebate or incentive program offered by Covidien during the term of this Agreement with respect to the Products. However, such rebates shall not be cumulative with any rebate offered hereunder, and rebates earned through other programs may reduce or nullify the rebate offered hereunder.
5. Payment Terms. Purchases made directly from Covidien hereunder (and not through an Authorized Distributor) shall be subject to Covidien's Direct Customer Policies and Procedures, which include, but are not limited to (a) payment terms of net thirty (30) days from the date of each invoice and (b) a \$90 charge on any direct order in an amount of less than \$500. Covidien reserves the right to modify its Direct Customer Policies and Procedures upon sixty (60) days prior written notice. Payment terms for purchases made through Authorized Distributors shall be negotiated by Customer and the Authorized Distributor.
6. Delivery Terms. Products purchased directly from Covidien hereunder shall be shipped FOB destination. Delivery terms for Products purchased through an Authorized Distributor shall be negotiated by Customer and the Authorized Distributor. Covidien shall not be liable for any losses suffered by Customer as a result of any failure or delay in the delivery of any Products.
7. Termination. Either party may terminate this Agreement as follows:
  - (a) if the other party commits a material breach of any of the provisions of this Agreement and does not cure such breach within thirty (30) days after receipt of written notice thereof;
  - (b) immediately upon written notice to the other party in the event that proceedings in bankruptcy or insolvency are instituted by or against the other party, or a receiver is appointed, or if any substantial part of the assets of the other party is the object of attachment, sequestration or other type of comparable proceeding, and such proceeding is not vacated or terminated within thirty (30) days after its commencement or institution; or
  - (c) without cause by giving the other party at least sixty (60) days' prior notice of such termination.



Notwithstanding the foregoing, termination of this agreement shall not terminate any Royalty Free License Agreements between the parties regarding the license of equipment, which may be terminated only pursuant to the terms thereof.

8. Excusable Delays. If the performance of any obligation, except payment of moneys due, is prevented, delayed, restricted, or interfered with in any way by reason of any Act of God, fire, flood, explosion, failure of machinery, strikes, lockouts, or labor trouble, supply of fuel, power, materials, containers or transportation, or any other act or condition whatsoever beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the party to whom the performance is due, shall be excused from such performance to the extent of such interference. Each party shall use reasonable efforts to remove or resolve such interference with performance as promptly as reasonably possible.
9. Discontinuation. In the event any business or product line related to the Products covered by this Agreement is sold or otherwise divested by Covidien, or any Product is discontinued, all rights and obligations hereunder with respect to the Products of such divested or discontinued product line shall automatically terminate upon the effective date of such discontinuance, sale or divestiture.
10. Assignment. Customer shall not assign this Agreement in whole or in part without the prior written consent of Covidien. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns.
11. Notices. All notices required or permitted by this Agreement shall be in writing and shall be directed to the appropriate party at their respective addresses set forth above or such other address as a party may, from time to time, designate by notice to the other party.
12. Treatment of Rebates. Any discount, rebate, free goods or other reduction in price received as a result of the purchase of products under this Agreement may involve a discount or other reduction in price under federal law at 42 U.S.C. §1320a-7B(b)(3)(A) and regulations issued thereunder. Customer is responsible for reporting and/or providing information on all discounts, rebates or reductions in price to reimbursement agencies (including Medicare and Medicaid) and other entities in accordance with all applicable laws and regulations including the provisions of the discount safe harbor exception at 42 C.F.R. §1001.952(h). Customer agrees that it shall promptly disclose and appropriately reflect any discount, rebate or other reduction in price as may be required under Medicare or any other federal or state health program.

If the services provided by Customer using the products purchased hereunder require the reporting of costs on a cost report, then Customer must claim the benefit of the discount in the fiscal year in which the discount is earned or the following year and must fully and accurately report the discount in the applicable cost report. If the services are reflected in a cost report or based on charges through the submission of a fee for service claim, Customer

agrees to provide information documenting the discount upon request of the Secretary of the U.S. Department of Health and Human Services or by the appropriate state agency.

13. No Diversion. During the term of this Agreement, Customer shall (i) purchase all Products directly from Covidien Companies or Authorized Distributors, and (ii) not resell any Products to any third party. Customer shall not be entitled to receive any rebates hereunder if Customer violates the terms of this Section.
14. Confidentiality. Customer shall keep confidential and not disclose to any third party the terms of this Agreement.
15. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto regarding the subject matter hereof and supersedes all previous negotiations, agreements and commitments with respect thereto, and shall not be released, discharged, changed or modified in any manner except by instruments signed by duly authorized representatives of each of the parties hereto. Notwithstanding the foregoing, this agreement does not amend the terms of any Royalty Free License Agreements between the parties regarding the license of equipment. No terms and conditions printed on any purchase order or other document submitted by Customer to Covidien in connection with the transactions contemplated by this Agreement shall be of any force or effect, and are hereby expressly rejected by Covidien. All purchases of Products shall be governed exclusively by the terms and conditions set forth herein. If any provision of this Agreement or the application thereof to any party or circumstance shall be declared void, illegal or unenforceable, the remainder of this Agreement shall be valid and enforceable to the extent permitted by applicable law. In such event, the parties shall use commercially reasonable efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by applicable law, achieves the purposes intended under the invalid or unenforceable provision.
16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

**COVIDIEN SALES LLC**

**RIVERSIDE COUNTY REGIONAL MEDICAL CENTER**

By: [Signature]  
Name: Elizabeth Vargas  
Title: Sales Representative

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Account Number: 325632

FORM APPROVED COUNTY COUNSEL  
BY: [Signature] 12/7/13  
NEAL R. KIPNIS DATE

**Exhibit A**

**PRODUCTS**

**SCD™ SEQUENTIAL COMPRESSION SYSTEM**

<b>ITEM NO.</b>	<b>DESCRIPTION</b>	<b>ITEMS / CASE</b>	<b>PRICE / CASE</b>
5329 / 9529	Knee Length - Medium	5	\$75.00
5489 / 9789	Knee Length - Large	5	\$150.00
5490/9790	Knee Length - XL	3	<b>\$250.00</b>
5330 / 9530	Thigh Length - Regular	5	\$140.00
5345 / 9545	Thigh Length - Small	5	\$140.00



**EXTENDED LIMITED WARRANTY AGREEMENT**

This Extended Limited Warranty Agreement (this "Limited Warranty"), dated March 1, 2013 (the "Effective Date"), is by and between Tyco Healthcare Group LP (d/b/a Covidien), a Delaware limited partnership ("Covidien"), and Riverside County Regional Medical Center ("Customer"). The term of this Limited Warranty shall commence on the Effective Date and continue until February 28, 2018 (the "Term").

Pursuant to this Limited Warranty, Covidien agrees to provide an Extended Limited Warranty for the Covidien SCD™ Sequential Compression System Controllers (the "Controllers") licensed to Customer by Covidien pursuant to one or more License Agreements with Royalty-Free Option (the "License(s)").

Covidien warrants the Controllers to be free from defective material and workmanship for the Term. Covidien's obligation under this Limited Warranty is limited to the repair of Controllers returned to the service address indicated below, transportation charges to such address prepaid by Customer. Specifically, Covidien agrees to service and/or adjust any Controller as required, if returned for that purpose, and to replace and repair any part which, upon Covidien's examination, is proven to have been defective. This Limited Warranty covers only the Controllers and does not cover any other product, including, without limitation, tubing sets and disposable leg sleeves. This Limited Warranty does not cover damage to front and rear case parts, batteries, power cord assemblies and touch panels or Controllers damaged through shipping, tampering, negligence, or misuse, including liquid immersion, autoclaving, ETO sterilization or the use of unapproved cleaning solutions.

**THIS LIMITED WARRANTY IS NONTRANSFERABLE AND EXTENDS ONLY TO THE CUSTOMER AND ANY SUCCESSOR IN INTEREST TO THE CUSTOMER'S BUSINESS TO WHICH THIS LIMITED WARRANTY RELATES BY REASON OF MERGER, REORGANIZATION, SALE OF ALL OR SUBSTANTIALLY ALL OF THE ASSETS, CHANGE OF CONTROL OR OPERATION OF LAW. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THIS LIMITED WARRANTY DOES NOT COVER, AND IS INTENDED TO EXCLUDE, ANY AND ALL LIABILITY ON THE PART OF COVIDIEN, WHETHER UNDER THIS LIMITED WARRANTY OR ANY WARRANTY IMPLIED BY LAW, FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES FOR BREACH HEREOF OR THEREOF. EXCEPT AS EXPRESSLY PROVIDED ABOVE IN THIS LIMITED WARRANTY, TO THE EXTENT PERMITTED BY APPLICABLE LAW, COVIDIEN HEREBY NEGATES AND DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THE STANDARD ONE YEAR WARRANTY OFFERED PURSUANT TO THE LICENSE(S), WHICH THIS LIMITED WARRANTY SUPERSEDES.**

While the Controllers are in its possession, Customer agrees to perform routine service and maintenance and to use such Controllers only in the manner for which they are intended and otherwise in compliance with the instructions and warnings set forth in the Operation and Service Manual.

Covidien maintains service facilities with the capability to promptly repair the Controllers. In the event of any service maintenance problem, contact Customer Service toll-free at (800) 765-4324. If the Controller is to be returned for service, please call the above number to obtain an authorization return number and send the Controller prepaid and insured, in the original carton, to:

COVIDIEN  
5920 Longbow Drive  
Boulder CO 80301

**Riverside County Regional Medical Center**

**TYCO HEALTHCARE GROUP LP**

By: \_\_\_\_\_

By: [Signature]

Name: \_\_\_\_\_

Name: Elizabeth Vargas

Title: \_\_\_\_\_

Title: Sales Representative

PO# \_\_\_\_\_

Customer #: \_\_\_\_\_

Account # (Bill-to/Ship-to)

System Addendum (for multiple customers) on file

FORM APPROVED COUNTY COUNSEL

BY: [Signature]  
NEAL R. KIPNIS

DATE 11/23/13