

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

215



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

**SUBMITTAL DATE:**

June 2, 2015

**SUBJECT:** Ratify and approve the multi-year supply agreement with Alere North America to provide the reagents used in the Troponin Cardiac Marker and the epoc® Lactate Testing systems for the period January 1, 2015 through December 31, 2017 without seeking competitive bids. District 5 [\$674,292] Hospital Enterprise Fund.

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Ratify and execute the supply agreement with Alere North America for reagents used in the Troponin Cardiac Marker and epoc® Lactate Testing systems at a cost of \$224,764 annually, for three (3) consecutive years; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding, and to sign amendments that do not change the substantive terms of the agreement, including amendments to the compensation provision that do not exceed the annual CPI rates, as approved by County Counsel.

**BACKGROUND:**

Summary

Troponin is a complex of three regulatory proteins that is necessary for smooth muscle contraction of the heart. Troponin levels are measured in the blood to differentiate between unstable angina and myocardial infarction (heart attack) in patients experiencing chest pain.

jph

Zareh Sarrafian CEO

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost:</b>	<b>POLICY/CONSENT (per Exec. Office)</b>
<b>COST</b>	\$ 112,382	\$ 224,764	\$ 674,292	\$	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
<b>NET COUNTY COST</b>	\$ 0	\$	\$	\$ 0	

**SOURCE OF FUNDS:** Hospital Enterprise Fund 100%  
**Budget Adjustment:** No  
**For Fiscal Year:** 14/15-17/18

**C.E.O. RECOMMENDATION:** APPROVE  
 BY:   
 Christopher M. Hans  
 County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

PURCHASING & FLEET SERVICES: Lisa Brandl, Director  
 FORM APPROVED COUNTY COUNSEL: GREGORY P. PRIAMOS, Departmental Concurrence  
 DATE: 6/1/15

- A-30
- Positions Added
- 4/5 Vote
- Change Order

3-46

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

**FORM 11:** Ratify and approve the multi-year supply agreement with Alere North America to provide the reagents used in the Troponin Cardiac Marker and the epoc® Lactate Testing systems for the period January 1, 2015 through December 31, 2018, without seeking competitive bids. District 5 [\$674,292] Hospital Enterprise Fund.

**DATE:** 4/3/2015

**PAGE:** 2 of 2

**BACKGROUND:**

**Summary (continued)**

The Alere Triage System constitutes a standard of care for cardiac patients presenting to RCRMC. The use of the Alere Triage System has resulted in the following benefits:

- ✓ Provides meaningful diagnostic information to differentiate acute myocardial infarction (AMI) from other cardiac abnormalities.
- ✓ Has a near perfect negative predictive value (99.9%) allowing for rapid AMI rule out.
- ✓ Has potential to decrease Emergency Department Length of Stay (LOS) and turnaround times (TAT) helping to accomplish Center for Medicare and Medicaid Services (CMS) mandated TAT of less than 60 minutes.
- ✓ Has potential to decrease unnecessary admissions.
- ✓ Can improve clinical, economical and operational outcomes by reducing associated AMI costs.

The Medical Center also currently employs the Alere epoc® system to perform lactate testing to insure federally mandated compliance and rapid diagnosis for patient disposition decisions. Reagent cartridges for Alere epoc® blood analysis system are used for rapid lactate testing of patients at risk for sepsis infections.

The Alere epoc® system constitutes a standard of care for sepsis patients presenting to RCRMC. The use of the Alere epoc® system has resulted in the following benefits:

- ✓ Provides meaningful diagnostic information to identify lactate levels in the blood to differentiate sepsis in patients.
- ✓ Has potential to decrease Emergency Department Length of Stay (LOS) and turnaround times (TAT).
- ✓ Has potential to decrease unnecessary admissions.
- ✓ Can improve clinical, economical and operational outcomes by reducing associated sepsis costs.

**Contract History and Price Reasonableness**

**Troponin Cardiac Marker**

RCRMC currently owns the three Alere Triage Cardiac System Meters used in the emergency room that requires the test cartridges (Troponin Cardiac Marker) that are proprietary to the manufacturer Alere North America. An internet search reveals that the cartridges are distributed solely by the manufacturer who certifies that the price offered of \$12.00 per test is the lowest or equal to any offered to its customers in California. The projected volume of disposables is approximately \$163,435 per year.

**epoc® Lactate Testing**

RCRMC currently owns the Alere epoc® system used for lactate testing in the emergency room that requires test cartridges that are proprietary to the manufacturer Alere North America. An internet search reveals that the cartridges are distributed solely by the manufacturer who certifies that the price offered at \$6.80 per eight tests panel is the lowest or equal to any offered to its customers in California. Projected volume of disposables equals \$61,329 annually for a combined cost of \$224,764 annually.

For both testing panels the total cost for three consecutive years is \$674,292.

Date: 02/26/2015  
From: Zareh Sarrafian, CEO  
Riverside County Regional Medical Center (RCRMC)  
To: Board of Supervisors  
Via: Purchasing Agent  
Subject: Request for Troponin Cardiac Marker and epoc lactate testing (supplies) used for patient testing.

The below information is provided in support of my Department requesting approval for a single source. Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole source.

1. **Supply/Service being requested:** Reagent cartridges for Alere Triage meters used for rapid Troponin testing of patients at risk for acute myocardial infarction. Reagent cartridges for Alere epoc® blood analysis system used for rapid lactate testing of patients at risk for sepsis infections. The Alere epoc® system is required to perform lactate testing to insure federally mandated compliance and rapid diagnosis for patient disposition decisions.
2. **Supplier being requested:** Alere North America Inc. (RIVCO Vendor # 91243)
3. **Alternative suppliers that can or might be able to provide supply/service:** None – Alere North America Inc., is the proprietary manufacturer and distributor of the Alere Triage Cardiac Testing Equipment and Supplies and the epoc® Lactate Testing System.
4. **Extent of market search conducted:** The three Alere Triage Cardiac System Meters and the Alere epoc® system currently used for lactate testing currently used in the RCRMC Emergency Room require test cartridges exclusively manufactured by Alere North America. An internet search reveals that the cartridges are distributed solely by Alere.
5. **Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:**
  - A. The Alere Triage System is a leading rapid diagnostic test system comprised of a meter and various test devices that improve a physician's ability to aid in the diagnosis of a critical diseases and health conditions including heart failure and myocardial infarction. Alere Triage brand rapid tests include quantitative troponin I, CK-MB, myoglobin and are currently used in approximately 70 percent of U.S. hospitals.
  - B. The Alere epoc® system is a leading rapid diagnostic test system comprised of a meter and various test devices that improve a physician's ability to aid in the diagnosis of a critical diseases and health conditions including sepsis. Alere epoc® brand rapid tests include quantitative lactate testing and are currently used in approximately 70 percent of U.S. hospitals.
6. **Reasons why my department requires these unique features and what benefit will accrue to the county:**

8. Does moving forward on this product or service further obligate the county to future similar contractual arrangements or any ongoing costs affiliated with this sole source? (Maintenance, support, or upgrades, if so, please explain). The County is obligated to future contractual arrangements for three years.

9. **Period of Performance:** Three years from January 1, 2015 through December 31, 2018.

  
\_\_\_\_\_  
**Department Head Signature** **Date**

Purchasing Department Comments:

<u>Approve</u>	Approve with Condition/s	Disapprove
Not to exceed: \$674,292 the inclusive amount through December 31, <del>2018</del> 2017 <i>LB</i>		
<i>Ass. Brandt</i>	<i>4/25/15</i>	<i>15-501A</i>
<b>Purchasing Agent</b>	<b>Date</b>	<b>Approval Number</b> (Reference on Purchasing Documents)



Terr #: 103  
 Pivotal #: P92154  
 Distributor #: 100004154  
 Distributor: SSC  
 Reagent Contract# \_\_\_\_\_

**Reagent Agreement**

This Reagent Agreement ("Agreement") is entered into between Alere North America, LLC, a Delaware limited liability company ("Alere"), having a place of business at 30 South Keller Road, Orlando, Florida 32810 ("Notice Address"), and the customer set forth below ("Customer") upon the Effective Date.

**Customer ("Notice Address"):**

Name: County of Riverside for Riverside County Regional Medical Center  
 Address: 26520 Cactus Avenue  
Moreno Valley CA 92555

**Contact Information:**

Contact: Don Johnson  
 Email: \_\_\_\_\_  
 Phone: 951.486.4000 Fax: \_\_\_\_\_

Check here if Bill To and/or Ship To Information Is different than Notice Address.  
 \*Please provide this information on page three (3).

1. TERM ("Term") commences on the Effective Date and continues thereafter for: 3 YEARS Equipment Location: \_\_\_\_\_  
 2. PURCHASE COMMITMENT

Alere shall sell, and the Customer shall purchase, the reagent products ("Reagents") at the prices and monthly purchase commitment set forth below.

Catalog # / Reagents	List Test Price	Net Test Price	List Kit Price	Net Kit Price	Volume
a. 97021HS Triage® Cardiac Panel (Tnl)	\$ 21.00	\$ 12.00	\$ 525.00	\$ 300.00	80%
b. CT-1004-00-00 epoc® BGEM Test Card w/ Lac	\$ 16.00	\$ 6.80	\$ 800.00	\$ 340.00	80%
c.					
d.					
e.					
f.					
g.					

2  
tests

3. TOTAL REQUIREMENTS

Customer shall purchase applicable Reagents to satisfy 80% of its total testing requirements for:

Cardiac marker	Blood Gas and Electrolyte			
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Each party signing below represents that (i) they are an authorized representative and have the authority to bind their respective party; and (ii) this Agreement shall become effective as upon the date that both parties sign below (the "Effective Date").

Alere North America, LLC

By:  5/21/2015  
 Signature

Peter Scheu President North American Commercial Operations  
 Name and Title

Date Signed

By:   
 Signature

Susan Kuplinski Contract Administrator  
 Name and Title

5/15/15  
 Date Signed

Effective Date

APPROVED AS TO FORM

  
 LEGAL DEPARTMENT

Customer: County of Riverside for Riverside County Regional Medical Center

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

Name and Title

Date Signed

Tax ID Number

Tax-Exempt Status

Tax Exempt Cert # \_\_\_\_\_

For-Profit Status

FORM APPROVED COUNTY COUNSEL

BY:   
 NEAL R. KIPNIS DATE

## GENERAL TERMS AND CONDITIONS

As used in this Agreement, "Reagents" shall mean any reagent products that are purchased by Customer from Alere. "Equipment" shall mean equipment rented or purchased by Customer from Alere. "Software" shall mean epoc® Enterprise Data Manager (EDM) Software and/or the HL7 Data Management Interface. Reagents and Equipment shall collectively be defined as "Products."

- 1. Products.** All Products are subject to Alere's standard specifications, which may be modified by Alere provided that such modification does not materially affect the function or performance of Products. Customer represents that any Products either purchased or rented under this Agreement shall be (i) used for its "own use" and not for resale purposes, in accordance with applicable law; and (ii) used exclusively in the United States or any territory of the United States.
- 2. Ordering; Billing; Shipping.** Customer may purchase Products by submitting a valid purchase order. Alere will bill Customer for purchases of Products upon Customer's acceptance of the Products. Alere will bill Customer for purchases of Software upon Customer's acceptance of the Software. Customer shall have accepted the Software upon the earlier of: (a) completion of the installation activities as evidenced by a signed EC Form or (b) thirty (30) days from receipt of Customer's order for Software. Customer shall pay all Alere invoices in full net forty-five (45) days. Late fees shall be assessed upon Customer after forty-five (45) days at a rate of 1.5% of the unpaid amount due, per month on a pro-rata basis. Except for income taxes, Customer shall pay any applicable sales, use, excise, property or any other taxes levied by a proper taxing authority relating to this Agreement. Shipping charges are not included in the Product price and Alere will pre-pay shipping costs and add those costs to an invoice as a separate line item. Alere will exercise discretion with respect to the mode of transportation, carrier, packaging and insurance. Alere will ship Products FOB destination. Alere reserves the right to ship partial shipments and shipment is subject to approval by their credit department. If Customer is claiming tax exempt status, then Customer agrees to promptly provide tax exemption certificates or other supporting documentation prior to purchasing Products.
- 3. Product Returns and Acceptance.** Customer shall promptly provide written notice to Alere for (i) any discrepancies between the type or quantity of Products ordered and Products delivered; or (ii) any Products delivered which do not conform to the warranty specifications as referenced in the Limited Warranty section below. Customer's failure to provide written notice within ten (10) days from receipt of delivery of the Products shall be deemed to waive their rights of return to such Products, subject to the Warranty provision referenced below. All returns shall be governed by Alere's return policy, which Alere can provide to Customer upon request. All returns shall be governed by Alere's return policy, which will be provided to customer upon request.
- 4. Distributor.** If Alere elects to use an authorized distributor ("Distributor") to perform any obligation of this Agreement, then both the Customer and Alere acknowledge that any agreement (either written or oral) between Customer and such Distributor shall supersede the applicable distribution terms referenced in this Agreement, including but not limited to payment, shipping, risk of loss, insurance, credit terms, late fees and any other terms customarily used by a distributor. For Agreement compliance purposes, Alere acknowledges that any purchase of Product made by Customer through a Distributor during the Term shall be considered a purchase from Alere.
- 5. Product Service and Training.** At Customer request, Alere shall provide reasonable on-site Customer training for Equipment implementation and for use of Products. Should Customer require technical support for Products, Customer may contact Alere technical customer service support seven (7) days per week, twenty four (24) hours per day to address customer support issues. Customer shall not unreasonably restrict access to any Customer facility during normal working business hours or charge Alere a fee to access a Customer facility, including but not limited to requiring Alere to enter into an agreement or arrangement with a third party credentialing service to obtain access.
- 6. Installation Activities.** Intentionally deleted.
- 7. Remote Access.** Intentionally deleted.
- 8. Indemnification.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, PROFITS, DATA OR REVENUE, EVEN IF A PARTY RECEIVES NOTICE IN ADVANCE THAT THESE KINDS OF DAMAGES MIGHT RESULT.
- 9. Limited Warranty.** FOR THE APPLICABLE WARRANTY PERIOD, ALERE WARRANTS THAT EACH PRODUCT SHALL BE (i) OF GOOD QUALITY AND FREE OF MATERIAL DEFECTS, (ii) FUNCTION IN ACCORDANCE WITH THE MATERIAL SPECIFICATIONS REFERENCED IN THE PRODUCT MANUAL, AND (iii) APPROVED BY THE PROPER GOVERNMENTAL AGENCIES REQUIRED FOR THE SALE OF PRODUCTS FOR THEIR INTENDED USE (collectively the "LIMITED WARRANTY"). IF THE PRODUCT FAILS TO MEET THE REQUIREMENTS OF THE LIMITED WARRANTY, THEN AS CUSTOMER'S SOLE REMEDY, ALERE SHALL EITHER REPAIR OR REPLACE, AT ALERE'S REASONABLE DISCRETION, THE PRODUCT. EXCEPT FOR THE LIMITED WARRANTY STATED IN THIS SECTION, ALERE DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT REGARDING THE PRODUCT. ALERE'S MAXIMUM LIABILITY WITH ANY CUSTOMER CLAIM ARISING FROM THIS AGREEMENT SHALL NOT EXCEED THE NET PRODUCT PRICE PAID BY CUSTOMER. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, PROFITS, DATA OR REVENUE, EVEN IF A PARTY RECEIVES NOTICE IN ADVANCE THAT THESE KINDS OF DAMAGES MIGHT RESULT.

The Limited Warranty above shall not apply if the Customer has subjected the Product to physical abuse, misuse, abnormal use, use inconsistent with the Product Manual or Insert, fraud, tampering, unusual physical stress, negligence or accidents. Any warranty claim by Customer pursuant to the Limited Warranty shall be made in writing and submitted to Alere within the applicable warranty period. The Limited Warranty for Equipment shall commence upon Customer receipt and continue thereafter for one (1) year.

- 10. Indexed Annual Increases.** Intentionally deleted.
- 11. Miscellaneous.** Any notice between the parties shall be in writing and shall be deemed given only if delivered personally, by registered or certified mail, return receipt requested, or by overnight delivery to the applicable Notice Address set forth in this Agreement. Notices shall be deemed effective upon actual receipt. Either party may assign this Agreement in connection with the transfer or sale of a majority of its assets or stock from a merger, consolidation, or change of control. All other assignments are prohibited without the express written consent of the other party, which shall not be unreasonably withheld by either party. This Agreement shall be governed by the laws of the state identified in the Customer's notice address, without regard to any conflicts of law provision. In any claim arising from this Agreement, each party shall be reasonable for their own attorneys fee and expenses incurred in such claim. No right created under this Agreement shall be waived unless expressly waived in writing and signed by the party possessing such right.  
  
Alere will make reasonable efforts to fill Customer orders, but is not liable for non-performance or delays caused by the shortage of raw materials, manufacturing, delivery or labor problems, acts of regulatory agencies, discontinuation of a product line, war, acts of terrorism, acts of God or other causes beyond Alere's reasonable control ("Force Majeure Event"). Alere may, in its sole discretion, allocate Products amongst its customers without liability resulting from a Force Majeure Event. Alere's obligation under this Agreement may be delayed to the extent such delay is caused by a Force Majeure Event, and for the duration the Force Majeure Event is effective. If any law or court of competent jurisdiction makes any provision of the Agreement illegal, invalid or unenforceable, then the remaining terms and conditions shall remain in effect. Except to comply with the law, Customer shall not disclose the terms or conditions of this Agreement to any third party without Alere's prior written consent.
- 12. Exclusion from Federal Health Care Programs.** Alere and Customer both represent that they have not been excluded from any federally-funded health care program ("Excluded"), including Medicare and Medicaid (each, a "Program"). If either party is Excluded from any Program during this Agreement, then this Agreement shall immediately terminate upon the effective date of such Exclusion.
- 13. Discounts.** Customer agrees to properly disclose and appropriately reflect discounts or reductions in price associated with Products referenced in this Agreement in costs claimed or charges made by Customer under Medicare, Medicaid, or federal or state health care programs requiring such disclosure or reporting. Social Security Act, Section 1128(b)3, 42 U.S.C. section 1320a-7b(b)(2)(A). Customer shall notify Alere in writing if Customer requires additional reporting information.
- 14. Compliance with Laws.** Each party shall comply with applicable state and federal laws in the performance of this Agreement, including compliance with their respective obligations imposed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Each party shall bear the cost of performing their respective obligations due under this Agreement.
- 15. Entire Agreement.** This Agreement, including any addenda or exhibits, contains the entire understanding with respect to the subject matter of this Agreement and supersedes all prior written and oral agreements, proposals, and representations made between the parties. No changes to this Agreement shall be made or be binding upon either party unless made in writing and signed by both parties. No term or condition of a Customer purchase order shall be incorporated into the Agreement, except to the extent necessary to clarify the type or quantity of Products that are purchased or rented.
- 16. Term Extension.** Intentionally deleted.
- 17. Access to Records.** Alere shall make available, upon written request by any duly authorized Federal, State, or COUNTY agency ("Requesting Party"), a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the Customer's costs related to this Agreement. All such books, documents and records shall be maintained by Alere for at least five (5) years following termination of this Agreement and be available for audit by the Requesting Party. Alere shall provide to the Requesting Party reports and information related to this Agreement as requested by Requested Party.
- 18. Independent Contractor Relationship.** The relationship between Alere and Customer shall be construed as an independent contractor, and nothing in this Agreement is intended to, or shall be construed to, create a partnership, agency, joint venture, employment or similar relationship.
- 19. Contracted Services.** If Customer requests assistance from Alere in completing performance verification protocols for Equipment in a Customer facility ("Performance Verification") with manufacturer specifications as required under CLIA quality system regulations, then Customer acknowledges that such delegation of responsibility shall be in writing and signed and dated by the Customer's laboratory director overseeing such Performance Verification. Customer's laboratory director shall review, validate and approve the Performance Verification results before using the Products to report patient test results.

CUSTOMER'S LABORATORY DIRECTOR SHALL ENSURE THAT THOSE RESPONSIBILITIES AND ACTIVITIES DELEGATED TO ALERE UNDER THIS AGREEMENT ARE DELEGATED LAWFULLY UNDER RELEVANT STATE AND FEDERAL LAWS AND REGULATIONS. IF COMPLIANCE OR LIABILITY ISSUES ARISE RELATED TO ANY DELEGATED SCOPE OF WORK, THE CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS ALERE FOR THE WORK PERFORMED BY ALERE'S EMPLOYEES OR AGENTS.

**20. E-Signatures.** The parties acknowledge that this Agreement may be executed by the exchange of faxed copies, certified electronic signatures or copies delivered by e-mail in Adobe PDF Format or similar format, and any signature transmitted by such means for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

**21. Customer Termination.** Customer may terminate this Agreement on a without cause basis by providing thirty (30) days written notice to Alere stating the reason for the termination. Customer agrees to pay Alere any amounts due that accrued prior to the termination effective date. Customer agrees to package and return any Equipment to Alere within five (5) business days from the effective date of such termination.

**22. Non-Appropriation of Funds.** If Customer does not receive an appropriation sufficient to satisfy Customer's payment obligations pursuant to the Reagent Agreement and there is no other legal procedure available to obtain additional funding, then (i) Customer shall immediately provide notice (the "Non-Appropriation Notice") to Alere stating the facts establishing Customer's inability to pay; (ii) within five (5) days after the Non-Appropriation Notice, Customer shall return the loaned Equipment to Alere; and (iii) for two years following Customer's termination of this Agreement, Customer shall not acquire products that provide functionally substantially similar to any Product from a vendor other than Alere.

Catalog # / Controls and Cal Vers	List Kit Price	Net Kit Price
88753 Total Control 5, Lvl 1	\$ 125.00	\$ 125.00
88754 Total Control 5, Lvl 2	\$ 125.00	\$ 125.00
88755 Total Cal Vers 5	\$ 80.00	\$ 80.00
179.001.010 Eurotrol® GAS-ISE Metabolites Level 1	\$ 49.50	\$ 49.50
179.002.010 Eurotrol® GAS-ISE Metabolites Level 2	\$ 49.50	\$ 49.50
179.003.010 Eurotrol® GAS-ISE Metabolites Level 3	\$ 49.50	\$ 49.50
183.000.005 Eurotrol® epoc® Calibration Verification Fluids	\$ 125.00	\$ 125.00
195.002.010 Eurotrol® epoc® Hct Control, Level A	\$ 49.50	\$ 49.50
195.004.010 Eurotrol® epoc® Hct Control, Level B	\$ 49.50	\$ 49.50
195.003.010 Eurotrol® epoc® Hct Control, Level C	\$ 49.50	\$ 49.50
190.000.005 Eurotrol® epoc® Hct Linearity Verification Material	\$ 125.00	\$ 125.00
AT-0006-00-00 Epoc Care-Fill™ Capillary Tubes (90uL)	\$ 62.50	\$ 62.50
AP-0002-00-00 Paper, Thermal Printer (2 1/4 in X 80 ft), Refill	\$ 1.43	\$ 1.43

**Customer ("Billing Information"):**

**Customer ("Shipping Information"):**

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Accounts Payable Contact: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

For contract processing purposes, please forward all contracts through the following methods:

Via Fax: 858.408.3035 Via PDF or scanned copy: Susan.Kuplinski@alere.com

Via Regular Mail or Fed Ex:  
 Alere North America, LLC  
 Contract Administration Department  
 9975 Summers Ridge Road  
 San Diego, CA 92121  
 Attention: Susan Kuplinski 858.805.3182



Terr #: 103  
 Pivotal #: P92154  
 Distributor #: 100004154  
 Distributor: SSC  
 Reagent Contract# \_\_\_\_\_

**Reagent Agreement**

This Reagent Agreement ("Agreement") is entered into between Alere North America, LLC, a Delaware limited liability company ("Alere"), having a place of business at 30 South Keller Road, Orlando, Florida 32810 ("Notice Address"), and the customer set forth below ("Customer") upon the Effective Date.

**Customer ("Notice Address"):**

Name: County of Riverside for Riverside County Regional Medical Center  
 Address: 26520 Cactus Avenue  
Moreno Valley CA 92555

**Contact Information:**

Contact: Don Johnson  
 Email: \_\_\_\_\_  
 Phone: 951.486.4000 Fax: \_\_\_\_\_

Check here if Bill To and/or Ship To Information Is different than Notice Address.  
 \*Please provide this information on page three (3).

1. TERM ("Term") commences on the Effective Date and continues thereafter for: 3 YEARS Equipment Location: \_\_\_\_\_  
 2. PURCHASE COMMITMENT

Alere shall sell, and the Customer shall purchase, the reagent products ("Reagents") at the prices and monthly purchase commitment set forth below.

Catalog # / Reagents	List Test Price	Net Test Price	List Kit Price	Net Kit Price	Volume
a. 97021HS Triage® Cardiac Panel (Tnl)	\$ 21.00	\$ 12.00	\$ 525.00	\$ 300.00	80%
b. CT-1004-00-00 epoc® BGEM Test Card w/ Lac	\$ 16.00	\$ 6.80	\$ 800.00	\$ 340.00	80%
c.					
d.					
e.					
f.					
g.					

2  
tests

3. TOTAL REQUIREMENTS

Customer shall purchase applicable Reagents to satisfy 80% of its total testing requirements for:

Cardiac marker	Blood Gas and Electrolyte			
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Each party signing below represents that (i) they are an authorized representative and have the authority to bind their respective party; and (ii) this Agreement shall become effective as upon the date that both parties sign below (the "Effective Date").

Alere North America, LLC

By:  5/21/15  
 Signature

Peter Scheu President North American Commercial Operations  
 Name and Title

Date Signed

By:   
 Signature

Susan Kuplinski Contract Administrator  
 Name and Title

Date Signed

5/11/15  
 Date Signed

Effective Date

Customer: County of Riverside for Riverside County Regional Medical Center

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

Name and Title

Date Signed

Tax ID Number

Tax-Exempt Status

Tax Exempt Cert # \_\_\_\_\_

For-Profit Status

APPROVED AS TO FORM

LEGAL DEPARTMENT

FORM APPROVED COUNTY COUNSEL

BY:  5/27/15  
 NEAL R. KIPNIS DATE



## GENERAL TERMS AND CONDITIONS

As used in this Agreement, "Reagents" shall mean any reagent products that are purchased by Customer from Alere, "Equipment" shall mean equipment rented or purchased by Customer from Alere, "Software" shall mean epoc® Enterprise Data Manager (EDM) Software and/or the HL7 Data Management Interface. Reagents and Equipment shall collectively be defined as "Products."

**1. Products.** All Products are subject to Alere's standard specifications, which may be modified by Alere provided that such modification does not materially affect the function or performance of Products. Customer represents that any Products either purchased or rented under this Agreement shall be (i) used for its "own use" and not for resale purposes, in accordance with applicable law; and (ii) used exclusively in the United States or any territory of the United States.

**2. Ordering; Billing; Shipping.** Customer may purchase Products by submitting a valid purchase order. Alere will bill Customer for purchases of Products upon Customer's acceptance of the Products. Alere will bill Customer for purchases of Software upon Customer's acceptance of the Software. Customer shall have accepted the Software upon the earlier of: (a) completion of the installation activities as evidenced by a signed EC Form or (b) thirty (30) days from receipt of Customer's order for Software. Customer shall pay all Alere invoices in full net forty-five (45) days. Late fees shall be assessed upon Customer after forty-five (45) days at a rate of 1.5% of the unpaid amount due, per month on a pro-rata basis. Except for income taxes, Customer shall pay any applicable sales, use, excise, property or any other taxes levied by a proper taxing authority relating to this Agreement. Shipping charges are not included in the Product price and Alere will pre-pay shipping costs and add those costs to an invoice as a separate line item. Alere will exercise discretion with respect to the mode of transportation, carrier, packaging and insurance. Alere will ship Products FOB destination. Alere reserves the right to ship partial shipments and shipment is subject to approval by their credit department. If Customer is claiming tax exempt status, then Customer agrees to promptly provide tax exemption certificates or other supporting documentation prior to purchasing Products.

**3. Product Returns and Acceptance.** Customer shall promptly provide written notice to Alere for (i) any discrepancies between the type or quantity of Products ordered and Products delivered; or (ii) any Products delivered which do not conform to the warranty specifications as referenced in the Limited Warranty section below. Customer's failure to provide written notice within ten (10) days from receipt of delivery of the Products shall be deemed to waive their rights of return to such Products, subject to the Warranty provision referenced below. All returns shall be governed by Alere's return policy, which Alere can provide to Customer upon request. All returns shall be governed by Alere's return policy, which will be provided to customer upon request.

**4. Distributor.** If Alere elects to use an authorized distributor ("Distributor") to perform any obligation of this Agreement, then both the Customer and Alere acknowledge that any agreement (either written or oral) between Customer and such Distributor shall supersede the applicable distribution terms referenced in this Agreement, including but not limited to payment, shipping, risk of loss, insurance, credit terms, late fees and any other terms customarily used by a distributor. For Agreement compliance purposes, Alere acknowledges that any purchase of Product made by Customer through a Distributor during the Term shall be considered a purchase from Alere.

**5. Product Service and Training.** At Customer request, Alere shall provide reasonable on-site Customer training for Equipment implementation and for use of Products. Should Customer require technical support for Products, Customer may contact Alere technical customer service support seven (7) days per week, twenty four (24) hours per day to address customer support issues. Customer shall not unreasonably restrict access to any Customer facility during normal working business hours or charge Alere a fee to access a Customer facility, including but not limited to requiring Alere to enter into an agreement or arrangement with a third party credentialing service to obtain access.

**6. Installation Activities.** Intentionally deleted.

**7. Remote Access.** Intentionally deleted.

**8. Indemnification.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, PROFITS, DATA OR REVENUE, EVEN IF A PARTY RECEIVES NOTICE IN ADVANCE THAT THESE KINDS OF DAMAGES MIGHT RESULT.

**9. Limited Warranty.** FOR THE APPLICABLE WARRANTY PERIOD, ALERE WARRANTS THAT EACH PRODUCT SHALL BE (i) OF GOOD QUALITY AND FREE OF MATERIAL DEFECTS, (ii) FUNCTION IN ACCORDANCE WITH THE MATERIAL SPECIFICATIONS REFERENCED IN THE PRODUCT MANUAL, AND (iii) APPROVED BY THE PROPER GOVERNMENTAL AGENCIES REQUIRED FOR THE SALE OF PRODUCTS FOR THEIR INTENDED USE (collectively the "LIMITED WARRANTY"). IF THE PRODUCT FAILS TO MEET THE REQUIREMENTS OF THE LIMITED WARRANTY, THEN AS CUSTOMER'S SOLE REMEDY, ALERE SHALL EITHER REPAIR OR REPLACE, AT ALERE'S REASONABLE DISCRETION, THE PRODUCT. EXCEPT FOR THE LIMITED WARRANTY STATED IN THIS SECTION, ALERE DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT REGARDING THE PRODUCT. ALERE'S MAXIMUM LIABILITY WITH ANY CUSTOMER CLAIM ARISING FROM THIS AGREEMENT SHALL NOT EXCEED THE NET PRODUCT PRICE PAID BY CUSTOMER. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, PROFITS, DATA OR REVENUE, EVEN IF A PARTY RECEIVES NOTICE IN ADVANCE THAT THESE KINDS OF DAMAGES MIGHT RESULT.

The Limited Warranty above shall not apply if the Customer has subjected the Product to physical abuse, misuse, abnormal use, use inconsistent with the Product Manual or Insert, fraud, lampering, unusual physical stress, negligence or accidents. Any warranty claim by Customer pursuant to the Limited Warranty shall be made in writing and submitted to Alere within the applicable warranty period. The Limited Warranty for Equipment shall commence upon Customer receipt and continue thereafter for one (1) year.

**10. Indexed Annual Increases.** Intentionally deleted.

**11. Miscellaneous.** Any notice between the parties shall be in writing and shall be deemed given only if delivered personally, by registered or certified mail, return receipt requested, or by overnight delivery to the applicable Notice Address set forth in this Agreement. Notices shall be deemed effective upon actual receipt. Either party may assign this Agreement in connection with the transfer or sale of a majority of its assets or stock from a merger, consolidation, or change of control. All other assignments are prohibited without the express written consent of the other party, which shall not be unreasonably withheld by either party. This Agreement shall be governed by the laws of the state identified in the Customer's notice address, without regard to any conflicts of law provision. In any claim arising from this Agreement, each party shall be reasonable for their own attorneys fee and expenses incurred in such claim. No right created under this Agreement shall be waived unless expressly waived in writing and signed by the party possessing such right.

Alere will make reasonable efforts to fill Customer orders, but is not liable for non-performance or delays caused by the shortage of raw materials, manufacturing, delivery or labor problems, acts of regulatory agencies, discontinuation of a product line, war, acts of terrorism, acts of God or other causes beyond Alere's reasonable control ("Force Majeure Event"). Alere may, in its sole discretion, allocate Products amongst its customers without liability resulting from a Force Majeure Event. Alere's obligation under this Agreement may be delayed to the extent such delay is caused by a Force Majeure Event, and for the duration the Force Majeure Event is effective. If any law or court of competent jurisdiction makes any provision of the Agreement illegal, invalid or unenforceable, then the remaining terms and conditions shall remain in effect. Except to comply with the law, Customer shall not disclose the terms or conditions of this Agreement to any third party without Alere's prior written consent.

**12. Exclusion from Federal Health Care Programs.** Alere and Customer both represent that they have not been excluded from any federally-funded health care program ("Excluded"), including Medicare and Medicaid (each, a "Program"). If either party is Excluded from any Program during this Agreement, then this Agreement shall immediately terminate upon the effective date of such Exclusion.

**13. Discounts.** Customer agrees to properly disclose and appropriately reflect discounts or reductions in price associated with Products referenced in this Agreement in costs claimed or charges made by Customer under Medicare, Medicaid, or federal or state health care programs requiring such disclosure or reporting. Social Security Act, Section 1128(b)3, 42 U.S.C. section 1320a-7b(b)(2)(A). Customer shall notify Alere in writing if Customer requires additional reporting information.

**14. Compliance with Laws.** Each party shall comply with applicable state and federal laws in the performance of this Agreement, including compliance with their respective obligations imposed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Each party shall bear the cost of performing their respective obligations due under this Agreement.

**15. Entire Agreement.** This Agreement, including any addenda or exhibits, contains the entire understanding with respect to the subject matter of this Agreement and supersedes all prior written and oral agreements, proposals, and representations made between the parties. No changes to this Agreement shall be made or be binding upon either party unless made in writing and signed by both parties. No term or condition of a Customer purchase order shall be incorporated into the Agreement, except to the extent necessary to clarify the type or quantity of Products that are purchased or rented.

**16. Term Extension.** Intentionally deleted.

**17. Access to Records.** Alere shall make available, upon written request by any duly authorized Federal, State, or COUNTY agency ("Requesting Party"), a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the Customer's costs related to this Agreement. All such books, documents and records shall be maintained by Alere for at least five (5) years following termination of this Agreement and be available for audit by the Requesting Party. Alere shall provide to the Requesting Party reports and information related to this Agreement as requested by Requested Party.

**18. Independent Contractor Relationship.** The relationship between Alere and Customer shall be construed as an independent contractor, and nothing in this Agreement is intended to, or shall be construed to, create a partnership, agency, joint venture, employment or similar relationship.

**19. Contracted Services.** If Customer requests assistance from Alere in completing performance verification protocols for Equipment in a Customer facility ("Performance Verification") with manufacturer specifications as required under CLIA quality system regulations, then Customer acknowledges that such delegation of responsibility shall be in writing and signed and dated by the Customer's laboratory director overseeing such Performance Verification. Customer's laboratory director shall review, validate and approve the Performance Verification results before using the Products to report patient test results.

CUSTOMER'S LABORATORY DIRECTOR SHALL ENSURE THAT THOSE RESPONSIBILITIES AND ACTIVITIES DELEGATED TO ALERE UNDER THIS AGREEMENT ARE DELEGATED LAWFULLY UNDER RELEVANT STATE AND FEDERAL LAWS AND REGULATIONS, IF COMPLIANCE OR LIABILITY ISSUES ARISE RELATED TO ANY DELEGATED SCOPE OF WORK, THE CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS ALERE FOR THE WORK PERFORMED BY ALERE'S EMPLOYEES OR AGENTS.

**20. E-Signatures.** The parties acknowledge that this Agreement may be executed by the exchange of faxed copies, certified electronic signatures or copies delivered by e-mail in Adobe PDF Format or similar format, and any signature transmitted by such means for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

**21. Customer Termination.** Customer may terminate this Agreement on a without cause basis by providing thirty (30) days written notice to Alere stating the reason for the termination. Customer agrees to pay Alere any amounts due that accrued prior to the termination effective date. Customer agrees to package and return any Equipment to Alere within five (5) business days from the effective date of such termination.

**22. Non-Appropriation of Funds.** If Customer does not receive an appropriation sufficient to satisfy Customer's payment obligations pursuant to the Reagent Agreement and there is no other legal procedure available to obtain additional funding, then (i) Customer shall immediately provide notice (the "Non-Appropriation Notice") to Alere stating the facts establishing Customer's inability to pay; (ii) within five (5) days after the Non-Appropriation Notice, Customer shall return the loaned Equipment to Alere; and (iii) for two years following Customer's termination of this Agreement, Customer shall not acquire products that provide functionally substantially similar to any Product from a vendor other than Alere.

Catalog # / Controls and Cal Vers	List Kit Price	Net Kit Price
88753 Total Control 5, Lvl 1	\$ 125.00	\$ 125.00
88754 Total Control 5, Lvl 2	\$ 125.00	\$ 125.00
88755 Total Cal Vers 5	\$ 80.00	\$ 80.00
179.001.010 Eurotrol® GAS-ISE Metabolites Level 1	\$ 49.50	\$ 49.50
179.002.010 Eurotrol® GAS-ISE Metabolites Level 2	\$ 49.50	\$ 49.50
179.003.010 Eurotrol® GAS-ISE Metabolites Level 3	\$ 49.50	\$ 49.50
183.000.005 Eurotrol® epoc® Calibration Verification Fluids	\$ 125.00	\$ 125.00
195.002.010 Eurotrol® epoc® Hct Control, Level A	\$ 49.50	\$ 49.50
195.004.010 Eurotrol® epoc® Hct Control, Level B	\$ 49.50	\$ 49.50
195.003.010 Eurotrol® epoc® Hct Control, Level C	\$ 49.50	\$ 49.50
190.000.005 Eurotrol® epoc® Hct Linearity Verification Material	\$ 125.00	\$ 125.00
AT-0006-00-00 Epoc Care-Fill™ Capillary Tubes (90uL)	\$ 62.50	\$ 62.50
AP-0002-00-00 Paper, Thermal Printer (2 1/4 in X 80 ft), Refill	\$ 1.43	\$ 1.43

**Customer ("Billing Information"):**

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Accounts Payable Contact: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Customer ("Shipping Information"):**

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

For contract processing purposes, please forward all contracts through the following methods:

Via Fax: 858.408.3035 Via PDF or scanned copy: Susan.Kuplinski@alere.com

Via Regular Mail or Fed Ex:  
 Alere North America, LLC  
 Contract Administration Department  
 9975 Summers Ridge Road  
 San Diego, CA 92121  
 Attention: Susan Kuplinski 858.805.3182