

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



ITEM: 3.11
(ID # 18502)

MEETING DATE:

Tuesday, March 29, 2022

FROM : FIRE DEPARTMENT:

SUBJECT: FIRE DEPARTMENT: Approve the Sole Source Request and Ratify and Approve Amendment No. 1 to the Agreement for Defibrillator Equipment, Supplies, Accessories and Preventative Maintenance Repair Services between County of Riverside and ZOLL Medical Corporation to Increase the Total Contract Aggregate Amount from \$4,750,000 to \$9,491,000 and Extend the Contract Period through March 31, 2031; Approve the Attachments to Amendment No. 1; and Authorize the Chair of the Board to Execute Amendment No. 1 and the Attachments; All Districts; [\$4,741,000 Additional Total Cost - General Fund 42%, Prop 172 and Structural Fire Taxes 39%, Contract Reimbursement 19%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve Sole Source Request #154801021 authorizing the continued purchase of ZOLL Medical Corporation cardiac monitors/defibrillators, automatic external defibrillators (AEDs), accessories, supplies, and preventative maintenance and repair services through March 31, 2031;
2. Ratify and approve Amendment No. 1 to the Agreement for Defibrillator Equipment, Supplies, Accessories and Preventative Maintenance Repair Services between County of Riverside and ZOLL Medical Corporation (Amendment No. 1) to increase the total contract aggregate amount by \$4,741,000 from \$4,750,000 to \$9,491,000, and to extend the Agreement term through March 31, 2031;
3. Approve Attachments one (1) through four (4) of Amendment No. 1, including the Letter of Understanding and the ALS/BLS Software Solutions Master Application Service Provider Agreement (Software Agreement); and
4. Authorize the Chair of the Board to sign Amendment No. 1, the Letter of Understanding, and the Software Agreement on behalf of the County.

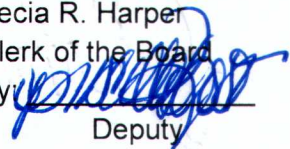
ACTION:


Robert Fish, Battalion Chief 3/17/2022

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington, seconded by Supervisor Spiegel and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: March 29, 2022
xc: Fire

Kecia R. Harper
Clerk of the Board
By 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 885,000	\$ 885,000	\$ 9,491,000	\$
NET COUNTY COST	\$ 177,000	\$ 177,000	\$ 1,898,200	\$
SOURCE OF FUNDS: General Fund 20%, Prop 172 & Structural Fire Taxes 39%, Contract Reimbursement 41%			Budget Adjustment:	No
			For Fiscal Year:	21/22 – 30/31

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On March 8, 2016 (Minute Order 3-7), the Board of Supervisors approved the sole source purchase and agreement (FPARC-46514-001-09/25) for ZOLL monitors, Automated External Defibrillators (AED) devices, accessories, supplies, preventative maintenance, and repair services. Both devices share the same ancillary supplies to allow for a seamless transition between the Basic Life Support (BLS) responding unit and the Advanced Life Support (ALS) personnel.

The Fire Department is requesting to continue its relationship with ZOLL Medical Corporation through March 31, 2031 for ALS cardiac monitors/defibrillators and AED devices, supplies, accessories, software upgrades, preventative maintenance, and repair services as set forth in Agreement No. FPARC-46514-001-09/25.

Continuing the relationship and single source purchase with ZOLL will benefit the County because ZOLL monitor/defibrillators and ZOLL AEDs are integrated, compatible, and interface with each other. The electrodes and pads are interchangeable between the AED and the monitor/defibrillator, allowing for a seamless transition between the BLS responding unit and the ALS personnel when transferring patient care to the higher-level medical personnel.

Additionally, in 2021, American Medical Response (AMR) began using ZOLL monitors and AEDs. Previously, Fire Department personnel would need to accompany AMR to the hospital and wait until the ZOLL equipment was removed from the patient, often waiting hours for this process. This resulted in apparatus crew being unavailable for new response calls. Now, the AMR personnel will be able to “switch” the patient onto their ZOLL equipment and the Fire Department personnel can return to a status of being available for new response calls.

Currently, the Fire Department and its partner cities have approximately one hundred twenty-six (126) ZOLL monitors/defibrillators and approximately sixty (60) ZOLL AEDs.

It is important to note that all fire safety personnel are trained in the use of the ZOLL monitor/defibrillators and AED devices. Both devices are a uniform standard within the Fire Department as well as within CalFire. The interoperability of this standard allows personnel to

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

cover any fire station within the Department's regionalized fire protection system without additional training or significant infrastructure support because all fire stations operate the same ZOLL equipment. Standardization of ZOLL equipment helps minimize risk by reducing errors inherent with having dissimilar equipment. This is important from a risk management perspective in reducing the Fire Department's liability.

Impact on Residents and Businesses

Citizens and businesses will benefit from a continued standardization of the ZOLL monitors and AED's within our cooperative and integrated fire protection system. This compatibility will help reduce possible operating errors and ensure the best possible service to the communities within Riverside County. The ability to transfer the patient to AMR without the need to accompany the patient to the hospital will reduce the travel and waiting time at the hospital while waiting for originally placed medical device equipment to be transferred to the hospital staff.

Additional Fiscal Information

The Fire Department will expend a not-to-exceed aggregate amount of \$9,491,000 between March 9, 2016 and March 31, 2031 that will include equipment replacement purchases due to end of equipment life, supplies, consumables, annual maintenance, repairs, and related software expenses. All costs are included in the Fire Department Cost Allocation Plan and partially funded by the Cooperative Agreements with our city partners.

Contract History and Price Reasonableness

Agreement FPARC-46514-001-09/25 was approved and executed on March 8, 2016 after consideration and evaluation of the existing ZOLL equipment, the performance of the equipment and customer service provided by ZOLL, as well as the total cost of changing platforms and the required re-training of all Fire Department personnel.

Since the start of the Agreement in 2016, features and benefits of the cardiac models have improved to include real-time, secured data transmission of the patient to the hospital which significantly improves the ability of the hospital to treat the patient according to medical data provided by the cardiac unit versus verbal explanation of symptoms from first responders over the radio or at the time of arrival. This information is the difference between life and death and improves the ability of hospital staff to reduce long-term damage to the patient. Because of the updates to the software in transmitting real-time data, Staff is requesting approval of Attachment No. 4 which is the ALS/BLS Software Solutions Master Application Service Provider Agreement (Software Agreement), attached hereto.

Costs associated with these newer features have resulted in an approximately 10% increase in unit costs, however, trade-in credits negotiated by County Staff offset these increases and result in a net-neutral cost during the term of the Agreement.

The addition of city partners and AMR ambulatory services also standardizing ZOLL equipment allows first responder crews to transfer patient care to AMR on scene instead of needing to

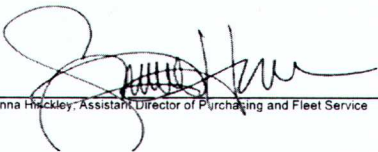
**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

travel with AMR to the hospital and wait for hospital staff to transfer cardiac monitoring. This will allow crews to reduce the time they are unavailable and benefit patient care.

Staff recommends approval of the Sole Source Request and ratification and approval of Amendment No. 1 and Attachments. County Counsel has reviewed and approved as to form Amendment No. 1, the Letter of Understanding, and the Software Agreement.

ATTACHMENTS:

1. Sole Source Request for ZOLL
2. Amendment No. 1, with Attachments
3. Letter of Understanding
4. ALS/BLS Software Solutions Master Application Service Provider Agreement


Suzanna Hickey, Assistant Director of Purchasing and Fleet Service 3/17/2022


Cynthia M. Gural, Chief Deputy County Counsel 3/21/2022



Use this form to submit a single or sole source requisition for review by your Buyer and/or Procurement Contract Specialist. All procurements valued **\$5,000 or more** must seek competitive bids from a minimum of three suppliers, or the expectation that three or more suppliers will respond, or be justified by a Single/Sole Source. All purchases exceeding **\$50,000** require a formal public bid. Procurement's may not be artificially segregated to lesser dollar amounts for the purpose of bypassing this requirement.

Sole/Single Source service requests that are greater than **\$50,000** require additional Board of Supervisors approval.

Supplier Details

Vendor Zoll Medical Corporation
Fulfillment Address CCorp - Materials: (preferred)
 Worldwide Headquarters
 269 Mill Rd
 Chelmsford, Massachusetts 01824
 United States
Vendor Phone +1 978-421-9655

Distribution
 The system will distribute purchase orders using the method(s) indicated below:
 Check this box to customize order distribution information.

Contract FPARC-46514-001-09/25 (Program 1 and Program II)

Background Information

Please indicate if this is a single or sole source below

Single Source

Have you previously requested and received approval for a sole/single source request for this vendor for your department?

Yes

If selected "yes", please provide the approved SSJ# below

SSJ# 16-466 Feb2016

If selected "yes", was the request approved for a different project?

No

Purchase Details

1. Supply/Service being requested:

Continuation of Standardization and Single Source Purchase: Advanced Life Saving (ALS) cardiac monitors, Automated External Defibrillators (AED), replacement parts, annual preventative maintenance, software licenses, and non-warranty repair services

Revising the Pricing and Revising the Agreement through March 31, 2031

2. Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:

Currently, Fire and its partner cities have approximately one hundred twenty-six (126) ZOLL monitors/defibrillators and approximately sixty (60) ZOLL AEDs. The manufacturer life expectancy of the monitor/defibrillator unit and AED is approximately five (5) to seven (7) years. Monitor/defibrillators and AEDs purchased during the

Current Year Cost

6. Identify all costs for this requested purchase.

You do not need to include previous fiscal year amounts. If approval is for multiple years, ongoing costs must be identified below. If annual increases apply to ongoing costs such as CPI or other contract increases, provide the estimated annual cost for each consecutive year. If the annual increase may exceed the Purchasing Agent's authority, Board approval must be obtained.

Describe all current fiscal year costs associated with this procurement in the box below. Insert all one time costs associated with this project in the table below.

Annual TOTAL NOT TO EXCEED will be \$923,000
 Annually approximately 18-20 units expire and are

purchase contract period of five (5) years will require service and supplies for its five to seven years life expectancy. Therefore, Fire is requesting the supplies and services purchase Agreement No. FPARC-46514-001-09/25 to be extended an additional five (5) years from the previous expiration dates. This will ensure the availability and pricing for our AED's and monitors/defibrillators service and supplies for their entire life expectancy.

In addition, all fire safety personnel are trained in the use of the ZOLL monitor/defibrillators and AED devices. Both devices are a uniform standard within the Department. The interoperability of this standard allows personnel to cover any fire station within the Department's regionalized fire protection system without additional training or significant infrastructure support since all fire stations operate the same ZOLL equipment. Standardization of ZOLL equipment helps minimize risk by reducing errors inherent with having dissimilar equipment. This is important from a risk management perspective in reducing the Department's liability.

3. Reasons why my department requires these unique features and what benefit will accrue to the county:

Continuing the standardizations and single source purchase with ZOLL will benefit the County because of equipment integration, compatibility and interface between the ZOLL monitor/defibrillator and the ZOLL AED. The electrodes and pads are interchangeable between the AED and the monitor/defibrillator. This allows for a seamless transition between the Basic Life Support (BLS) responding unit and the Advanced Life Support (ALS) personnel when transferring patient care to the higher-level medical personnel.

In addition, in 2021, American Medical Response (AMR) began using ZOLL monitors and AED's. Previously, Fire personnel would need to accompany AMR to the hospital and wait until the ZOLL equipment was removed from the patient, often waiting hours for this process to take place and keeping the apparatus crew unavailable for new response calls. Now, the AMR personnel will be able to "switch" the patient onto their ZOLL equipment and the Fire apparatus personnel can return to a status of being available for new response calls.

4. Period of Performance 09/31/25
From:
Period of Performance To: 03/31/2031
Is this an annually renewable contract or is it fixed term?
 Fixed Term

5. Price Reasonableness:

Fire continues to receive Aggressive discounts for Monitors and AEDs, approximately 45%, with a 33% discount for consumable parts. Pricing for Cardiac Monitors and AED's is firm-fixed for 5 years. Prices for these have increased by approximately 10%, however, with a 1-for-1 trade in, the trade in value negates the increase. Considering PPI over the past five years, an almost zero increase is approximately \$70,000 per year savings.

Projected Board of Supervisor 3/22/2022
 Date (if applicable):

Commodity Code 46514

replaced with new @ \$650,000
 Annually; preventative maintenance fees, non-warranty repairs, consumable parts @ \$235,000
 Years 3, 4, and 5 will have additional payment associated with Software License Fees of \$47,000 per year

Insert all current fiscal year costs in the table below. Label the 'description' as the item that is being purchased.

Current FY Costs

Description	Price
Cardiac Monitors and Defibrillators (not to exceed)	650,000.00
Preventative Maintenance (not to exceed)	30,000.00
Non-Warranty Repairs (not to exceed)	75,000.00
Consumable Parts (not to exceed)	130,000.00

Enter all additional FY costs in the table below. Only enter one fiscal year cost per line and identify the fiscal year that it pertains to. Fiscal year is from 7/1/00 to 6/30/00.. Example : FY 18/19 \$200

FY	FY 22/23 \$885,000 (Monitors/AED \$650k; Prev.Maint. \$30k; Non-War.Repairs \$75k; Parts \$130k
FY	FY 23/24 \$885,000 (Monitors/AED \$650k; Prev.Maint. \$30k; Non-War.Repairs \$75k; Parts \$130k
FY	FY 24/25 \$932,000-Mtrs/AED \$650k; Prev.Maint. \$30k; Non-War.Repairs \$75k; Parts \$130k; Software \$47k
FY	FY 25/26 \$932,000-Mtrs/AED \$650k; Prev.Maint. \$30k; Non-War.Repairs \$75k; Parts \$130k; Software \$47
FY	FY 26/27 \$282,000 Prev.Maint. \$30k; Non-War.Repairs \$75k; Parts \$130k; Software \$47k
Additional FY Cost	FY 27/28 \$235,000 Prev.Maint. \$30k; Non-War.Repairs \$75k; Parts \$130k

Describe all additional costs associated with this procurement in the box below. Include the dollar

amounts for subsequent fiscal years if it differs from above.

FY 28/29 \$235,000 Prev.Maint. \$30k; Non-War.Repairs \$75k; Parts \$130k
 FY 29/30 \$235,000 Prev.Maint. \$30k; Non-War.Repairs \$75k; Parts \$130k
 FY 30/31 \$235,000 Prev.Maint. \$30k; Non-War.Repairs \$75k; Parts \$130k
 GRAND TOTAL: \$5,741,000

Current Year Cost Total: 885,000.00

Supporting Documentation

If this request is for professional services, attach the service agreement to this sole source request. The Purchasing Agent, or designee, is the signing authority for agreements unless the service is exempted by Ordinance 459, Board delegated authority or by State law.

Additional supporting documentation includes:

- Previously approved SSJ's
- other

For all other requests, attach the vendor's cost proposal

Internal Attachments

Purchasing Approval

Approved by	Date Approved	Sole Source Number	Approval Conditions/Comments
This section to be filled out by Purchasing Management only upon approval. Suzanna Hinckley	3/7/2022	154,801,021	

Total 885,000.00

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

Original Agreement Term:	March 8, 2016 through Aug. 31, 2025
Agreement Term Extended To:	March 31, 2031
Effective Date of Amendment:	March 22, 2022
Original Maximum Agreement Amount:	\$800,000 Annually
Amended Maximum Agreement Amount:	\$932,000 Annually
Agreement ID:	FPARC-46514-001-09/25

The First Amendment to the Agreement between County of Riverside, a political subdivision of the State of California, by and through its Fire Department, (“COUNTY”) and ZOLL Medical Corporation., a Massachusetts corporation registered to conduct business in California with its principal address at 269 Mill Road Chelmsford, MA 01824 (“CONTRACTOR”) (“First Amendment”), entered into as of the Effective Date of March 22, 2022, is hereby amended below. CONTRACTOR and COUNTY are sometimes individually referred to herein as “Party” and together as the “Parties”.

RECITALS

WHEREAS, on March 8, 2016, in Minute Order 3.7, the COUNTY’s Board of Supervisors approved and entered into that certain Agreement for Defibrillator Equipment, Supplies, Accessories, and Preventative Maintenance Repair Services between County of Riverside and Zoll® Medical Corporation (“Agreement”) for \$800,000 annually; and

WHEREAS, Section 4 of the Agreement authorizes the Board of Supervisors and the COUNTY Purchasing Agent, or designee, to alter this agreement in writing; and

WHEREAS, the COUNTY and CONTRACTOR desire to amend the technical scope, the contract price and memorialize the software updated of the Agreement;

WHEREAS, the First Amendment and Agreement are herein referred together as the “Agreement”.

NOW, THEREFORE, the Parties hereto mutually agree as follows:

1. Recitals. The recitals set forth above are true and correct and incorporated herein by this reference.
2. Amend the Table of Contents. The Agreement shall be amended to include “Exhibit C – ALS/BLS Software Solutions Master Application Service Provide Agreement” to the Table of Contents after “Exhibit B – Pricing Schedule” and before “Attachment I – Zoll Price List”.
3. Amend Section 2.1 Period of Performance: The first sentence of Section 2.1 shall be deleted and replaced with the following sentence:

Form #116-311 Revision Date: 01/13/2016

Riverside County Fire Department
210 W. San Jacinto Ave., Perris, CA 92570

MAR 29 2022 3.11

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

This Agreement shall be effective upon signature of this Agreement by both parties and continues in effect through March 31, 2031.

4. Amended Section 3.1 Compensation. The second sentence of Section 3.1 of the Agreement shall be deleted and replaced with the following sentence:

Maximum payments by COUNTY to CONTRACTOR shall not exceed \$932,000 annually including all expenses, based on the availability of fiscal funding.

5. Amend Section 3.2 Compensation: The second sentence of Section 3.2 of the Agreement shall be deleted and replaced with the following sentence:

The items identified in Section B “Core List” shall be fixed price and not subject to any price increases from March 22, 2022 through March 31, 2026, after which ZOLL reserves the right to evaluate pricing on a yearly basis thereafter. Any increase in price after March 31, 2026, shall be calculated from the active list price on the date of this executed Amendment. Any changes in pricing shall be memorialized in writing to the COUNTY and CONTRACTOR shall provide the COUNTY at least thirty (30) days advance written notice before changing the pricing.

6. Amend the Technical Scope. The Agreement is amended to reflect the changes that are attached hereto as “Attachments No. 1 and 2” and are incorporated herein by this reference. This First Amendment shall prevail in its entirety, as it relates to the original requirements provided in Agreement and shall prevail in the event of a discrepancy with a specific technical requirement cited elsewhere within and attached to the Agreement.

7. Amend the Pricing Schedule. The Agreement is amended to reflect the changes that are attached hereto as “Attachment No. 3” and are incorporated herein by this reference. This First Amendment shall prevail in its entirety, as it relates to the original requirements provided in Agreement and shall prevail in the event of a discrepancy with a specific technical requirement cited elsewhere within and attached to the Agreement.

8. Addition of Exhibit C. The Agreement is amended to reflect the changes that are attached hereto as “Attachment No. 4” and are incorporated herein by this reference. This First Amendment shall prevail in its entirety, as it relates to the original requirements provided in Agreement and shall prevail in the event of a discrepancy with a specific technical requirement cited elsewhere within and attached to the Agreement.

9. Add Section 23.14, Electronic Signature. The Agreement is hereby amended to add the following section to allow for the use of electronic signatures:

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

23.14 This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each party of this Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act (“CUETA”) Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The parties further agree that the electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

10. First Amendment to Prevail. The provisions of this First Amendment and Agreement shall prevail over any inconsistency or conflicting provisions of the Agreement and shall supplement the remaining provisions thereof.
11. Effective Date. The “Effective Date” of this First Amendment shall be March 22, 2022.
12. Entire Understanding. The First Amendment and the Agreement set forth contain the entire understanding and agreement of the Parties hereto. There are no oral or written representations, understandings, or ancillary covenants, undertakings or agreements, which are not contained or expressly referred to within this First Amendment and the Agreement.
13. Further Assurances. The Parties agree to execute such other documents and to take such other actions as may be reasonably necessary to further the purposes of this First Amendment.
14. Agreement in Full Force and Effect. Except as otherwise expressly modified herein, all other terms and conditions of the Agreement remain unmodified and in full force and effect.

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this First Amendment.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

ZOLL MEDICAL CORPORATION,
a Massachusetts corporation

By: Jeff Hewitt
Jeff Hewitt
Chair, Board of Supervisors

By: Steven K. Flora
Name: Steven K. Flora
Title: Sr. Vice President,
Vice President of North American
Sales Dated: 3/17/2022

Dated: MAR 29 2022

APPROVED AS TO FORM:
County Counsel

By: Amrit P. Dhillon
Amrit P. Dhillon,
Deputy County Counsel

ATTEST:
KECIA R. HARPER, Clerk
By: Kecia R. Harper
DEPUTY

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

ATTACHMENT NO.1
Amendment No. 1 to Exhibit A, Scope of Work
(Behind this Page)

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

1. Section 1.2 Program I – Equipment Purchase, Training and Trade-in: The Agreement shall be amended by deleting the second sentence and replacing it with the following:
“Program I shall have a term of up to five (5) years from the Date of March 8, 2021, contract effective date, ending March 31 of each calendar year up to March 31, 2026.”
2. Section 1.3 Program II – Maintenance, Service, Supplies and Accessories: The Agreement shall be amended by deleting the second sentence and replacing it with the following:
“Program II shall have a term of up to ten (10) years from the Date of March 8, 2021, contract effective date, ending March 31 of each calendar year up to March 31, 2031.”
3. Section 2.3.1 E-Series Trade-In Value: DELETE in its entirety and replace with the following:
 - 2.3.1 X-Series Trade in Value:
 - a. “Contract year one (1)”, ENDING March 31, 2022 - \$5,000.00 per trade (1-100 units)
 - b. Contract year two (2) - \$4,000.00 per trade (1-100 units)
 - c. Contract year three (3) through five (5):
 - (1) \$2,500.00 per trade (1-5 units)
 - (2) \$3,000.00 per trade (6-15 units)
 - (3) \$3,500.00 per trade (16-25 units)
 - (4) \$4,000.00 per trade (26+ units)
4. Section 2.3.2 X-series Trade in Value; DELETE in its entirety and replace with the following:
 - 2.3.2 X-Series Advanced Trade in Value:
 - a. Contract year one (1) through five (5):
 - (1) \$7,000.00 per trade (1-5 units)
 - (2) \$8,000.00 per trade (6-15 units)
 - (3) \$8,500.00 per trade (16-25 units)
 - (4) \$9,000.00 per trade (26+ units)
5. Section 3.2.1; DELETE in its entirety and replace with the following:
 - 3.2.1 CONTRACTOR shall provide onsite Preventative Maintenance (PM) and perform authorized minor on-site device repairs to COUNTY owned X Series Defibrillators. The CONTRACTOR shall furnish all necessary labor, equipment and incidentals necessary to perform timely services that will maintain or provide minor repairs to the COUNTY’S inventory of ZOLL defibrillators in optimal working condition. Services provided by the CONTRACTOR shall be in strict compliance

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

with all applicable federal, state, and local laws, industry codes, rules, regulations and standards set by the manufacturer.

6. Section 3.2.3; DELETE the first sentence in its entirety and replace with the following:
3.2.3 CONTRACTOR shall be responsible for trouble shooting, minor repairs and PM services to ZOLL defibrillator devices/accessories.

7. Section 3.2.4; DELETE in its entirety and replace with “Reserved.”

8. Section 3.2.5; DELETE in its entirety and replace with the following:
3.2.5 PREVENTATIVE MAINTENANCE - COUNTY shall provide the CONTRACTOR with an adequate facility located at a single location where onsite trouble shooting, repairs and PM services will be provided by the CONTRACTOR. PM services will be conducted between 8:00am and 5:00pm Monday – Friday excluding holidays. For the onsite trouble shooting and minor repairs, CONTRACTOR will invoice COUNTY an hourly rate for these services to be calculated from the ZOLL Field Technician’s residence to a single location determined by the COUNTY. The Preventative Maintenance Fee charge is \$215.00 per device. After March 31, 2026, ZOLL reserves the right to evaluate the pricing of the Preventative Maintenance Fee on a yearly basis thereafter. Any changes will be provided in writing to the Customer at least 30 days in advance. If onsite minor repairs are required during a PM, COUNTY will be required to pay for all parts consumed during the minor repairs after the one-year factory warranty has expired.

9. Section 3.2.6; DELETE in its entirety and replace with the following:

3.2.6 ONSITE SUPPORT - In the event that COUNTY requires a field technician to go to onsite for troubleshooting and minor repairs outside of the scheduled Preventative Maintenance, CONTRACTOR will invoice COUNTY an hourly Service Labor Rate of \$165 per hour for these services. Service Labor Rate of \$165 per hour will be calculated from the ZOLL field technician’s residence to a single location determined by the COUNTY. After March 31, 2026, ZOLL reserves the right to evaluate the pricing of the Service Labor Rate on a yearly basis thereafter. Any changes will be provided in writing to the Customer at least 30 days in advance.

10. Section 3.2.8; DELETE in its entirety and replace with the following:

3.2.8 CONTRACTOR shall provide a “spares program” at no cost to the COUNTY for X Series Advanced defibrillators sent out for repair. The pool of available spare devices shall be at a ratio of 20:1. As the COUNTY transitions from the X Series to the X Series Advanced Series, the CONTRACTOR shall convert the remaining X

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

Series spares over to X Advanced Series spares at a rate of one (1) spare for every fifteen (15) X Advanced Series purchased until all spare units are X Advanced Series. The total spare devices available under the “spares program” shall be a minimum of eight (8) defibrillator units.

CONTRACTOR shall be responsible for performing Preventive Maintenance and repairs on the “spare” devices at no charge to the COUNTY. COUNTY shall be responsible for any damage incurred to any spare or loaner device

11. Section 3.3, Batteries; DELETE in its entirety and replace with the following:

3.3 Batteries:

CONTRACTOR shall provide a battery replacement program for all batteries purchased under this Agreement. COUNTY shall maintain the batteries per ZOLL’s recommended maintenance program. Batteries shall be replaced on a one-for-one basis throughout the one-year warranty period should the SurePower Battery or SurePower Charger display a fault. Battery replacement program only applies to batteries shipped after date of execution of this Agreement. COUNTY is not required to send back the batteries. If COUNTY chooses to send them back, shipping would be at the expense of the COUNTY. CONTRACTOR is not allowed to send prepaid shipping labels to COUNTY, since the Lithium battery regulations were put in place.

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

ATTACHMENT NO. 2
Amendment No. 1 to Exhibit A, Letter of Understanding
(Behind this Page)

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation

1. ADD Exhibit A, Section 4.0 Letter of Understanding, Case Review Premium Subscription, R Series and X Series, 5 Year Hosted



269 Mill Road
 Chelmsford, Massachusetts 01824-4105
 978-421-9655 (main)
 978-421-0025 (fax)
 www.zoll.com

LETTER OF UNDERSTANDING

The following Letter of Understanding serves to ensure that ZOLL Medical Corporation ("ZOLL") and Riverside County Fire Department ("FIRE DEPARTMENT") hold an equal understanding of the following issues as they are outside the realm of ZOLL's general Terms and Conditions. Therefore, once you have read and fully understand the content of this letter, please sign and date on the line provided below.

Case Review: ZOLL agrees to provide 113 licenses of Case Review to FIRE DEPARTMENT at no charge from April 1, 2022 to July 15, 2022. This offer is to bridge the end of life of FIRE DEPARTMENT'S current QA/QI software to the FIRE DEPARTMENT'S new budget year. In return, FIRE DEPARTMENT agrees to issue a valid Purchase Order on or before July 15, 2022 for Quote #Q-25532 Version: 1 in its entirety. Payments will be due in three equal annual installments of \$46,439.61 due July 31, 2024, July 31, 2025 and July 31, 2026.

If you have any questions regarding this issue, please contact your ZOLL Sales Manager, Ryan Grulke. Otherwise, please sign on the appropriate line provided below and return this letter to the attention of Audra Tella, Contracts Manager, ZOLL Medical Corporation via email at contracts@zoll.com

Riverside County Fire Department

ZOLL Medical Corporation

Signature: exhibit - do not sign

Signature: exhibit - do not sign

Name: (print) _____

Name: (print) _____

Title: _____

Title: _____

Phone: _____

Phone: _____

Date: _____

Date: _____

Sincerely,

Jeff Roberts
 Vice President, US EMS Sales

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation



ZOLL Medical Corporation
 269 Mill Road
 Chelmsford, MA 01824-4105
 Federal ID# 04-2711626

Phone: (800) 348-9011
 Fax: (978) 421-0015
 Email: esales@zoll.com

Quote No: Q-25532 Version: 1

Riverside County Fire Department
 Clark Training Center
 3423 Davis Avenue
 Riverside, CA 92518

Quote No: Q-25532
 Version: 1

ZOLL Customer No: 5664
 Scott Phillipbarr
 (909) 486-2825

Issued Date: February 16, 2022
 Expiration Date: March 31, 2022
 Terms: Three annual installments with
 1st Payment due NET 730

FOB: Shipping Point
 Freight: Prepay & Add

Prepared by: Catherine Prophet
 EMS Territory Manager
cprophet@zoll.com
 949-436-4369

Item	Contract Reference	Part Number	Description	Qty	List Price	Adj. Price	Total Price
1		8400-110045	CaseReview Premium Subscription, R Series and X Series, 5 Year- Hosted Provides detailed post-case information, including CPR quality on compression depth, rate, pause time and release velocity, as well as ECG, shocks, EtCO2 and SpO2 vital signs.	113	\$1,232.91	\$1,232.91	\$139,318.83

Subtotal: \$139,318.83

Total: \$139,318.83

Additional Language
Promotional pricing valid for customer migration from CaseReview Basic to CaseReview Premium. CaseReview Premium Subscription Payable in three annual installments with 1st payment due Net 730.

To the extent that ZOLL and Customer, or Customer's Representative have negotiated and executed overriding terms and conditions ("Overriding T's & C's"), those terms and conditions would apply to this quotation. In all other cases, this quote is made subject to ZOLL's Standard Commercial Terms and Conditions ("ZOLL T's & C's") which for capital equipment, accessories and consumables can be found at <http://www.zoll.com/GTC> and for software products can be found at <http://www.zoll.com/SSPTC> and for hosted software products can be found at <http://www.zoll.com/SSHTC>. Except in the case of overriding T's and C's, any Purchase Order ("PO") issued in response to this quotation will be deemed to incorporate ZOLL T's & C's, and any other terms and conditions presented shall have no force or effect except to the extent agreed in writing by ZOLL.

1. Delivery will be made 120-150 days after receipt of accepted purchase order.
2. Applicable tax, shipping & handling will be added at the time of invoicing.
3. All purchase orders are subject to credit approval before being accepted by ZOLL.
4. To place an order, please forward the purchase order with a copy of this quotation to esales@zoll.com or via fax to 978-421-0015.
5. All discounts from list price are contingent upon payment within the agreed upon terms.
6. Place your future accessory orders online by visiting www.zollwebstore.com.

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation



ZOLL Medical Corporation

269 Mill Road
 Chelmsford, MA 01824-4105
 Federal ID# 04-2711626

Phone: (800) 348-9011
 Fax: (978) 421-0015
 Email: esales@zoll.com

Riverside County Fire Department
 Quote No: Q-25532 Version: 1

Order Information (to be completed by the customer)

- Tax Exempt Entity (Tax Exempt Certificate must be provided to ZOLL)
 Taxable Entity (Applicable tax will be applied at time of invoice)

BILL TO ADDRESS	SHIP TO ADDRESS
Name/Department:	Name/Department:
Address:	Address:
City / State / Zip Code:	City / State / Zip Code:

Is a Purchase Order (PO) required for the purchase and/or payment of the products listed on this quotation?

- Yes PO Number: _____ PO Amount: _____
 (A copy of the Purchase Order must be included with this Quote when returned to ZOLL)
 No (Please complete the below section when submitting this order)

For organizations that do not require a PO, ZOLL requires written execution of this order. The person signing below represents and warrants that she or he has the authority to bind the party for which he or she is signing to the terms and prices in this quotation.

Riverside County Fire Department
 Authorized Signature:

exhibit - do not sign

Name: _____
 Title: _____
 Date: _____

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

ATTACHMENT NO. 3
Amendment No. 1 to Exhibit B – Pricing Schedule
(Behind this Page)

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation

1. Section A. of Exhibit B, Defibrillators: The Agreement shall be amended to DELETE title and first paragraph in its entirety and replace with the following:

A. Defibrillators and Accessories:

Pricing for the following X-Series Defibrillators and Accessories shall be fixed price and not subject to an increase from March 22, 2022 through March 31, 2026. The Riverside County Fire Department agrees to purchase 100% of its defibrillator requirements, listed below as Option #1, Option #2, Option #3 and Option #4 directly from CONTRACTOR through March 31, 2026.

2. ADD Section A.6, A.7, and A.8 as follows:

A.6 Option #3

Part# 601-2221112-01

Description: X Series Advanced, Monitor/Defibrillator, 12 Lead W/Interp, Pace, SP02, ETC02, BVM, NIBP, CPR Expansion Pack, Remote View RescueNet Live Ready, US

1-5 Units	6-15 Units	16-25 Units	26-99 Units	100+ Units
31,330.69	28,406.49	27,988.75	27,571.01	26,317.78

A.7 Option #4

Part# 601-2231112-01

Description: X Series Advanced, Monitor/Defibrillator, 12 Lead W/Interp, Pace, SP02, SPCO, ETCO2, BVM, NIBP, CPR Expansion Pack, Remote View RescueNet Live Ready, US

1-5 Units	6-15 Units	16-25 Units	26-99 Units	100+ Units
33,389.44	30,273.09	29,827.90	29,382.71	28,047.13

A.8 AED3 BLS, ZOLL AED 3, ENGLISH, AHA

Part# 8502-001103-01

Price: \$2,107.51

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

3. Section B. of Exhibit B, Core List: The Agreement shall be amended to DELETE the first sentence of Section B and replace it with the following:

“The items identified in Section B. “Core List” shall be fixed price and not subject to any price increases from March 22, 2022 through March 31, 2026, after which ZOLL reserves the right to evaluate pricing on a yearly basis thereafter. Any increase in price after March 31, 2026, shall be calculated from the active list price on the date of the executed First Amendment. Any changes in pricing shall be memorialized in writing to the COUNTY and CONTRACTOR shall provide the COUNTY at least thirty (30) days advance written notice before changing the pricing.”

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation

4. Section B. of Exhibit B, Core List: ADD the following Sections to the Core List:

Line #	Part Number	Description	UOM	List Price	Riverside Price
32	7508-000035-01	X SERIES ADVANCED UPGRADE KIT, NIBP, PACE, W/O MICROPHONE	EA	5,625	3,500
33	7508-000036-01	X SERIES ADVANCED UPGRADE KIT, NIBP, PACE, W/ MICROPHONE	EA	5,725	3,500
34	8000-000696	ZOLL AED 3 BATTERY PACK	EA	160.00	120.00
35	8000-000925	ZOLL AED SIMULATOR	EA	290.00	217.50
36	8000-001250	ZOLL AED 3 CARRY CASE	EA	120.00	90.00
37	8000-001251	POUCH, BATTERY, ZOLL AED 3	EA	20.00	15.00
38	8000-001252	SHOULDER STRAP, CARRY CASE, ZOLL AED 3	EA	15.00	11.25
39	8000-001253	SMALL RIGID PLASTIC CARRY CASE, ZOLL AED 3	EA	295.00	221.25
40	8000-001254	LARGE RIGID PLASTIC CARRY CASE, ZOLL AED 3	EA	315.00	236.25

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation

41	8000-001255	BRACKET, WALL MOUNT, ZOLL AED 3	EA	55.00	41.25
42	8000-000393-01	X SERIES CARRY CASE, PREMIUM	EA	715.85	507.35
43	8700-000850-40	AUTOPULSE QUICK CASE, BLUE	EA	509.85	480.15
44	8400-110041	CASEREVIEW PREMIUM 1 YEAR SUBSCRIPTION FOR X SERIES	EA		CURRENT LIST PRICE
45	8400-110043	CASEREVIEW PREMIUM 3 YEAR SUBSCRIPTION FOR X SERIES	EA		CURRENT LIST PRICE
46	8400-110045	CASEREVIEW PREMIUM 5 YEAR SUBSCRIPTION FOR X SERIES	EA		CURRENT LIST PRICE
47	8400-110141	CASEREVIEW PREMIUM 1 YEAR SUBSCRIPTION FOR AED3	EA		CURRENT LIST PRICE
48	8400-110143	CASEREVIEW PREMIUM 3 YEAR SUBSCRIPTION FOR AED3	EA		CURRENT LIST PRICE
49	8400-110145	CASEREVIEW PREMIUM 5 YEAR SUBSCRIPTION FOR AED3	EA		CURRENT LIST PRICE
50	8400-110071	REMOTE VIEWING SUBSCRIPTION, 1 YEAR, X SERIES	EA		CURRENT LIST PRICE

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation

51	8400-110073	REMOTE VIEWING SUBSCRIPTION, 3 YEAR, X SERIES	EA		CURRENT LIST PRICE
52	8400-110075	REMOTE VIEWING SUBSCRIPTION, 5 YEAR, X SERIES	EA		CURRENT LIST PRICE

After Sale – On-Site Precision Part Numbers and Pricing

8889-89011-PP	Precision Service Plan, 1 Year, On-Site	\$1,595
8889-89022-PP	Precision Service Plan, 2 Years, On-Site	\$2,995
8889-89033-PP	Precision Service Plan, 3 Years, On-Site	\$4,400
8889-89044-PP	Precision Service Plan, 4 Years On-Site	\$5,740
8889-89055-PP	Precision Service Plan, 5 Years On-Site	\$7,175

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation

After Sale – On-Site Worry-Free Part Numbers and Pricing

8889-89011-WF	Worry-Free Service Plan, 1 Year, On-Site	\$1,875
8889-89022-WF	Worry-Free Service Plan, 2 Years, On-Site	\$3,525
8889-89033-WF	Worry-Free Service Plan, 3 Years, On-Site	\$5,175
8889-89044-WF	Worry-Free Service Plan, 4 Years, On-Site	\$6,750
8889-89055-WF	Worry-Free Service Plan, 5 Years, On-Site	\$8,435

At Time of Sale – On-Site Precision Part Numbers and Pricing

8778-89011-PP	Precision Service Plan, 1 Year, On-Site, Point of Sale	\$1,595
8778-89022-PP	Precision Service Plan, 2 Years, On-Site, Point of Sale	\$2,995
8778-89033-PP	Precision Service Plan, 3 Years, On-Site, Point of Sale	\$4,400
8778-89044-PP	Precision Service Plan, 4 Years, On-Site, Point of Sale	\$5,740
8778-89055-PP	Precision Service Plan, 5 Years, On-Site, Point of Sale	\$7,175

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation

At Time of Sale – On-Site Worry-Free Part Numbers and Pricing

8778-89011-WF	Worry-Free Service Plan, 1 Year, On-Site, Point of Sale	\$1,875
8778-89022-WF	Worry-Free Service Plan, 2 Years, On-Site, Point of Sale	\$3,525
8778-89033-WF	Worry-Free Service Plan, 3 Years, On-Site, Point of Sale	\$5,175
8778-89044-WF	Worry-Free Service Plan, 4 Years, On-Site, Point of Sale	\$6,750
8778-89055-WF	Worry-Free Service Plan, 5 Years, On-Site, Point of Sale	\$8,435

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

5. Section C. of Exhibit B: The Agreement is amended to DELETE in its entirety, and replace with the following:

C. The COUNTY shall receive the following percentage discount off ZOLL Medical Corporation's published price list for all other accessories/supplies not listed in Exhibit B, Sections A and B of this Agreement. Those items not specifically listed are subject to a price increase per Section 3.2 of this Agreement.

1. 33% Discount on X Series Accessories/Supplies
2. 33% Discount on E Series Accessories/Supplies
3. 27% Discount on AED Plus & Pro Defibrillators Accessories/Supplies
4. 3% Discount on AutoPulse Units & Accessories/Supplies

Please refer to Attachment 1 of this Agreement for manufacturers published price list and details in available items and pricing.

All other Government Agencies authorized to piggyback off this Agreement shall receive the following discount off ZOLL Medical Corporation's published price list for X Series and X Series Advanced Defibrillators:

1. 23% Discount on X Series and X Series Advanced Defibrillator(s) (1-5 Units) on one Purchase Order.
2. 30% Discount on X Series and X Series Advanced Defibrillator(s) (6-15 Units) on one Purchase Order.
3. 31% Discount on X Series and X Series Advanced Defibrillator(s) (16-25 Units) on one Purchase Order.
4. 32% Discount on X Series and X Series Advanced Defibrillator(s) (26-99 Units) on one Purchase Order.
5. 35% Discount on X Series and X Series Advanced Defibrillator(s) (100+ Units) on one Purchase Order.

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
PREVENTATIVE MAINTENANCE REPAIR SERVICES
WITH
ZOLL® Medical Corporation

ATTACHMENT NO. 4
Amendment No. 1, ADDITION of Exhibit C
ALS/BLS Software Solutions Master Application
Service Provider Agreement
(Behind this Page)

ALS/BLS Software Solutions Master Application Service Provider Agreement

1. Orders. ZOLL Data Systems, Inc. (“**ZOLL**”) shall provide the ASP Services, Implementation Services and Support Services identified in any order or contract (“**Order**”) between ZOLL and another party (“**Customer**”) incorporating this Software Solutions Master Application Service Provider Agreement (together with each such Order, the “**Agreement**”). ASP Services are further defined in [Section 3](#). Implementation Services are further defined in [Section 4](#). Support Services are further defined in [Section 5](#). The ASP Services, Implementation Services, and Support Services are each, and are collectively, “**Services**”. The terms and conditions set forth in this Agreement shall only apply to ALS/BLS Software Solutions products that are used with ZOLL Medical Corporation defibrillators. For the sake of clarity, these terms and conditions do not apply to any ZOLL patient care reporting software.

2. Payment. Customer shall pay fees to ZOLL for Services as provided in any Order and this Agreement (“**Fees**”). Unless otherwise provided in the applicable Order, Customer will pay ZOLL all Fees due under this Agreement within thirty (30) days after the date of ZOLL’s invoice. The first invoice will be sent after the Deployment Effective Date. “Deployment Date” means the date upon which the deployment of the ASP Services is complete and it is able to function as described in the warranty set forth in this Agreement, regardless of whether Customer actually uses such ASP Services. “Deployment Effective Date” means the earlier of (a) the Deployment Date or (b) 90 days from the date after ZOLL’s shipment of defibrillators that are included on the Order (the “Latest Deployment Date”), unless a delay in the Deployment Date has been caused by ZOLL, in which case the Deployment Effective Date shall be postponed by a number of days equal to the delay that ZOLL has caused. Fees are non-refundable other than as expressly set forth herein. Amounts not paid when due will accrue interest at the rate of 1.5% per month, or the maximum allowed by law, whichever is less. Customer shall pay all expenses (including reasonable attorney’s fees) incurred by ZOLL in connection with collection of late payments. Any amounts not paid by Customer when due may result in the forfeiture by Customer, in ZOLL’s sole discretion, of any discounts previously offered by ZOLL. In addition, ZOLL may cease providing any or all of the Services if any invoice is not paid in a timely manner, in which event ZOLL will not be liable to Customer for any damages caused by such cessation. Payment terms are subject to ZOLL’s credit approval. Fees exclude all applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges (“**Taxes**”).

3. ASP Services. “ASP Services” means the hosting and maintenance of ZOLL software, as modified, updated, and enhanced (the “**Underlying Software**”), for remote electronic access and use by Registered Users on the website with a unique URL to be provided by ZOLL to Customer (the “**ZOLL Site**”) in substantial conformity with the instructions for use, documentation and users manuals from time-to-time provided by ZOLL (the “**Documentation**”), as listed in any Order, on and after the Implementation Date (defined below) for such services and before that Order has expired or been terminated in accordance with the Agreement. Customer acknowledges that the ASP Services are only compatible with ZOLL equipment that has been enabled and configured for use with the ASP Services in accordance with the Documentation and only with the browser and other technical environment that supports the use of the ASP Services in accordance with the Documentation.

3.1. Provision of ASP Services. Subject to the terms and conditions of the Agreement, ZOLL will use commercially reasonable efforts to make the ASP Services available to Customer and Customer’s employees, directors, principals, partners, consultants and agents authorized to use ASP Services on behalf of Customer and registered through the ZOLL Site for such use (“**Registered Users**”) through the ZOLL Site over normal network connections in accordance with the Documentation, excepting downtime due to necessary maintenance and troubleshooting. Customer, not ZOLL, shall be responsible for controlling Registered Users and protection of confidentiality of its login identifications and passwords. Customer acknowledges that (i) it is responsible for maintaining its interface and connectivity to the ASP Services and (ii) any facilities used for provision of the ASP Services may be owned or operated by ZOLL, or a ZOLL affiliate or a third party, or any combination of such facilities, as determined by ZOLL. Customer acknowledges that ZOLL may modify and upgrade the ASP Services, on an ongoing basis, to improve or adapt the ASP Services. Without limiting the foregoing, ZOLL will have the right, in its sole discretion, to develop, provide and market new, upgraded or modified ASP Services to Customer, including adding, removing or modifying the functionality or features of the ASP Services accessible by Registered Users. ZOLL will use commercially reasonable efforts to notify Customer within a reasonable period of time prior to the implementation of such changes so that Customer is reasonably informed of alterations to the ASP Services that will affect the ASP Services and Customer’s use of them. Notwithstanding anything to the contrary in the Agreement, ZOLL may cease providing any ASP Services upon at least six months advance notice to Customer.

3.2. Access Software. Subject to the terms and conditions of this Agreement, ZOLL grants to Customer, during the Term, a non-exclusive, non-transferable, non-sublicensable license for Registered Users to access and use the ASP Services using the ZOLL software that Registered Users may download at the ZOLL Site to access the ASP Services, as modified, updated and enhanced (the “**Access Software**”), each as made available to Customer through the ZOLL Site, solely for Customer’s internal business purposes and solely in accordance with the Documentation. Access Software and Underlying Software are, collectively, the “**Software**”.

3.3. Restrictions. Customer shall not, and shall not permit any third party to: (a) use, reproduce, modify, adapt, alter, translate or create derivative works from the ASP Services, Software or Documentation; (b) merge the ASP Services, Software or Documentation with other software or services; (c) sublicense, distribute, sell, use for service bureau use, lease, rent, loan, or otherwise transfer or allow access to the ASP Services, Software or the Documentation to any third party; (d) reverse engineer, decompile, disassemble, or otherwise attempt to alter or derive the Source Code for the ASP Services or Software; (e) remove, alter, cover or obfuscate any copyright notices or other proprietary rights notices included in the ASP Services, Software or Documentation; or (f) otherwise use or copy the ASP Services, Software or Documentation in any manner not expressly permitted by the Agreement. Customer agrees not to use the ASP Services in excess of its authorized login protocols. Customer shall immediately notify ZOLL of any unauthorized use of Customer’s login ID, password or account or other breach of security. If Customer becomes aware of any actual or threatened activity contemplated by the restrictions on use set forth in this section, Customer will, and will cause Registered Users to, immediately take all reasonable measures necessary to stop the activity or threatened activity and to mitigate the effect of such activity including: (i) discontinuing and limiting any improper access to any data; (ii) preventing any use and disclosure of improperly obtained data; (iii) destroying any copies of improperly obtained data that may have been made on their systems; (iv) otherwise attempting to mitigate any harm from such events; and (v) immediately notifying ZOLL of any such event so that ZOLL may also attempt to remedy the problem and prevent its future occurrence.

3.4. Service Level Agreement.

3.4.1. Downtime. “**Downtime**”, expressed in minutes, is any time the ASP Services are not accessible to Registered Users.

3.4.2. Planned Downtime. “**Planned Downtime**” is Downtime during which ASP Services may not be available in order for ZOLL to continue to provide commercially reasonable services, features and performance to its customers. Planned Downtime includes, but is not limited to: (a) Standard Maintenance; and (b) Emergency Maintenance. “**Standard Maintenance**” is performed when upgrades or system updates are desirable. “**Emergency Maintenance**” is performed when a critical system update must be applied quickly to avoid significant Downtime. Standard Maintenance may be performed weekly on Monday and Wednesday between the hours of 7 p.m. to 11 p.m. in Broomfield, Colorado. ZOLL will provide Customer with notice at least 24 hours in advance of Standard Maintenance.

3.4.3. Excused Downtime. “**Excused Downtime**” time is Downtime caused by: (a) services, software or hardware provided by anyone or any entity other than ZOLL, (b) software, services or systems operating outside of a ZOLL Site, including any software or systems operating on a Customer’s premises (including ZOLL software); (c) a Force Majeure Event or (d) Customer’s failure to comply with its obligations under the Agreement or use of the ASP Services in ways that were not intended.

3.4.4. Unplanned Downtime. Unplanned Downtime in a calendar month is expressed as a percentage calculated as follows:

$$\frac{(\text{Downtime} - (\text{Planned Downtime} + \text{Excused Downtime}))}{\text{Total number of minutes in the calendar month}} \times 100 = x\%, \text{ where “x” is Unplanned Downtime.}$$

3.4.5. Unplanned Downtime Goal. ZOLL shall provide the ASP Services such that there is less than 1% of Unplanned Downtime in a calendar month (the “**Unplanned Downtime Goal**”). The ASP Services covered by the Unplanned Downtime Goal are those for which Customer has paid all Fees when due and is using in the course of carrying out its normal business operations in accordance with the Agreement.

3.4.6. Revocation of Administrative Rights. Notwithstanding anything to the contrary in the Agreement, ZOLL may revoke administrative rights, including database access rights, if the use of any such rights results in Downtime.

3.4.7. Customer Content; Security; Backup.

3.4.7.1. Customer Content. As between ZOLL and Customer, and without limiting the rights of any patient, Customer will retain all right, title and interest in and to all data, information or other content provided by Customer in its use of the ASP Services (“**Customer Content**”); *provided, however*, that ZOLL may de-identify and use Customer Content for any lawful purpose consistent with all applicable law.

3.4.7.2. Security. Subject to Customer’s obligations under this Agreement, ZOLL will implement commercially reasonable security measures within the ASP Services in an attempt to prevent unlawful access to Customer Content by third parties. Such measures may include, where appropriate, use of updated firewalls, commercially available virus screening software, logon identification and passwords, encryption, intrusion detection systems, logging of incidents, periodic reporting, and prompt application of current security patches and virus definitions.

3.4.7.3. Backup of Customer Content (Not Applicable to Remote View). Although ZOLL will use commercially reasonable efforts to maintain the integrity of the Customer Content, to back up the Customer Content, and to provide full and ongoing access to the ASP Services, loss of access to the ASP Services and loss of Customer Content may occur. Customer will make provision for additional back-up storage of any critical Customer Content and shall be responsible for compliance with all records retention requirements applicable to Customer. ZOLL will not be responsible for any loss, corruption of or inaccessibility of the Customer Content due to interruption in the ASP Services or otherwise arising out of circumstances not within ZOLL’s control.

3.4.7.4. Availability of Customer Content (Not Applicable to Remote View). It is Customer’s responsibility to maintain any Customer Content that it requires for archival purposes, ongoing management of its operations and compliance with applicable records retention requirements. Unless specified otherwise in the Agreement, ZOLL will store Customer Content, other than Inactive Customer Content as defined below (the “**Active Customer Content**”), in ZOLL’s working data set until the earlier of (i) five years (calculated from the date of creation of such Customer Content, or ZOLL’s receipt of such Customer Content, whichever is later) or (ii) the expiration or termination of this Agreement or the Order under which such Active Customer Content was stored (the “**Active Retention Period**”). Upon the expiration of the Active Retention Period, ZOLL will notify Customer in writing and will provide Customer the option, which Customer shall exercise by informing ZOLL in writing, within 30 days of receiving the notice, that either (a) Customer wishes to receive Active Customer Content in a database determined by ZOLL in its sole and absolute discretion (a “**Database**”), or (b) Customer will pay ZOLL, at ZOLL’s then-current storage rates and upon ZOLL’s then-current terms and conditions, to continue to store the Active Customer Content. If Customer fails to exercise one of the foregoing options within such 30-day period, ZOLL will have the right to destroy the Active Customer Content. During the time ZOLL stores Customer Content for Customer hereunder, ZOLL may periodically identify Customer Content that has had no activity associated with it for at least 180 days (“**Inactive Customer Content**”) and will notify Customer in writing of its intent to remove the Inactive Customer Content from ZOLL’s working data set and destroy such data, unless Customer requests, in writing, within 30 days of receiving the notice from ZOLL, that either (z) Customer wishes to receive the Inactive Customer Content in a Database, or (y) Customer will pay ZOLL, at ZOLL’s then-current storage rates and upon ZOLL’s then-current terms and conditions, to continue to store such Inactive Customer Content. If Customer fails to exercise one of the foregoing options within such 30-day period, ZOLL will have the right to destroy the applicable Inactive Customer Content in its possession or under its control. Except for this Section 3.4.7.4, the terms of Section 3.4 (including, without limitation, the Unplanned Downtime Goal) do not apply to Customer’s access of Inactive Customer Content. Customer represents, warrants and agrees that it (A) is solely responsible for determining the retention period applicable to it with respect to Customer Content maintained by ZOLL; (B) has consulted with or has had the opportunity to consult with legal, information governance or records management professionals; and (C) is not relying upon ZOLL to assist with determining the records maintenance or retention requirements applicable to it.

3.4.8. Remedies. A “**Service Credit**” means a percentage of the monthly Fee to be credited to Customer (subject to Customer’s written request therefor and ZOLL’s verification thereof) for any ASP Service for which the Unplanned Downtime Goal is exceeded in a calendar month. For any calendar month where the aggregate total of Unplanned Downtime for any ASP Service exceeds one percent ZOLL will provide a 10% Service Credit towards Customer’s monthly Fee for such ASP Service that was affected; *provided, that* Customer (i) requests such Service Credit in writing within 30 days of the end of the calendar month in which such Unplanned Downtime occurred, (ii) includes in such request the nature of, and date and time of such Unplanned Downtime and (iii) such Unplanned Downtime is verified by ZOLL. Such Service Credit will be applied to a future month’s invoice for such ASP Services, which typically is two months later. Failure to submit a written request for Service Credit as provided in this Section 3.4.8 shall constitute a waiver of such Service Credit by Customer. Further, Service Credits shall not be issued if Customer is not current on all Fees due and payable. The remedy set forth in this Section 3.4.8 shall be the Customers’ sole and exclusive remedy with respect to ZOLL exceeding the Unplanned Downtime Goal.

3.4.9. Modifications. Changes to this Section 3.4 may be made from time to time at ZOLL’s sole discretion. Customer will be notified of any such changes that are material.

4. Implementation Services. ZOLL shall provide ASP Services implementation, training and any related services identified in an Order (the “**Implementation Services**”). Customer shall, in a timely manner and at its own expense, cooperate and provide or make available to ZOLL access to the Customer’s premises, systems, telephone, terminals and facsimile machines and all relevant information, documentation and staff reasonably required by ZOLL to enable ZOLL to perform the Implementation Services. Customer acknowledges that any time frames or dates for completion of the Implementation Services set out in an Order are estimates only and the ability to meet them is influenced by a range of factors including, without limitation, response times and level of cooperation of Customer. Any obligations as to time are therefore on a “reasonable efforts” basis only and ZOLL shall not be liable for failure to meet time frames or completion dates unless solely due to ZOLL’s negligence.

5. Support Services. ZOLL shall provide the following Support Services for ASP Services without any additional Fees, except that ZOLL will have no obligation to provide such Support Services if any Fees for ASP Services are past due.

5.1. Support.

5.1.1. Emergency Support. ZOLL shall provide telephone support to Customer for 24 hours a day, 7 days a week, to address Errors that prevent Customer from using Supported ASP Services for a purpose for which Customer has an immediate and material need. “**Supported ASP Services**” means the ASP Services for which Customer has paid the then-current Fees. “**Supported Environment**” means a browser and other technical environment that supports the use of the ASP Services in accordance with the Documentation. “**Error**” means a reproducible defect in the Supported ASP Services when operated in accordance with the Documentation in a Supported Environment that causes the Supported ASP Services not to operate substantially in accordance with such Documentation.

5.1.2. Technical Support. ZOLL shall provide telephone support to Customer during 6 a.m. to 6 p.m. Eastern Time, Monday to Friday, excluding ZOLL holidays (“**Business Hours**”) to address all other Errors relating to any Supported ASP Services. Such telephone support will include (i) clarification of functions and features of the Supported ASP Services; (ii) clarification of the Documentation; (iii) guidance in operation of the Supported ASP Services; (iv) assistance in identifying and verifying the causes of suspected Errors in the Supported ASP Services; and (v) advice on bypassing identified Errors in the Supported ASP Services, if reasonably possible. Responses to such reporting shall be provided at a minimum within twenty-four (24) hours during Business Hours.

5.1.3. Resolution. ZOLL shall use commercially reasonable efforts to provide a modification or workaround to Supported ASP Services that resolves an Error in all material respects (“**Resolution**”).

5.1.4. Expenses. Support Services provided hereunder shall be provided from Chelmsford, Massachusetts or Broomfield, Colorado, as determined in ZOLL’s sole discretion. Should Customer request that ZOLL send personnel to Customer’s location to resolve any Error in the Supported ASP Services, ZOLL may charge Customer a fee of \$2,500 for each day ZOLL personnel is at Customer’s location.

5.1.5. Exceptions. ZOLL shall have no responsibility under this Agreement to fix any Errors arising out of or related to the following causes: (a) Customer’s modification or combination of the Access Software (in whole or in part), (b) use of the Supported ASP Services in an environment other than a Supported Environment; or (c) accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; failure or fluctuation of electric power, air conditioning or humidity control; failure of media not furnished by ZOLL; excessive heating; fire and smoke damage; operation of the Supported ASP Services with other media and hardware, software or telecommunication

interfaces; or causes other than ordinary use. Any corrections performed by ZOLL for such Errors shall be made, in ZOLL's reasonable discretion, at ZOLL's then-current time and material charges. ZOLL will provide the Support Services only for the most current release and the one immediately preceding major release of any Access Software. Notwithstanding anything to the contrary in the Agreement, (i) ZOLL may cease providing Support Services for any ASP Services upon at least six (6) months advance notice to Customer of such cessation and (ii) Support Services do not cover Third Party Products or Services (defined below).

5.2. Conditions and Limitations. Customer shall provide ZOLL with access to Customer's personnel and its equipment. This access must include the ability to remotely access the equipment on which the Supported ASP Services are operating and to obtain the same access to the equipment as those of Customer's employees having the highest privilege or clearance level. ZOLL will inform Customer of the specifications of the remote access methods available and associated software needed, and Customer will be responsible for the costs and use of said equipment. Fees for third party software and services are set by the owner of such software.

6. Warranties.

6.1. Implementation Services and Support Services. Subject to Customer's payment of the Fees, ZOLL warrants that any Implementation Services or Support Services provided to Customer will be performed with due care in a professional and workmanlike manner. ZOLL shall, as its sole obligation and Customer's sole and exclusive remedy for any breach of the warranty set forth in this [Section 6.1](#), perform again the Implementation Services or Support Services that gave rise to the breach or, in the case of Implementation Services, at ZOLL's option, refund the Fees for such Implementation Services paid by Customer for the Implementation Services which gave rise to the breach. The availability of any remedy for a breach of the warranty set forth in this [Section 6.1](#) is conditioned upon Customer notifying ZOLL in writing of such breach within thirty (30) days following performance of the defective Implementation Services or Support Services, specifying the breach in reasonable detail.

6.2. ASP Services and Access Software. Subject to Customer's payment of the Fees, ZOLL represents and warrants with respect to any ASP Services that (i) ZOLL has the right to license the Access Software and Documentation and make the ASP Services available to Customer pursuant to this Agreement and (ii) the ASP Services, when used as permitted and in accordance with the Documentation, will materially conform to the Documentation. ZOLL does not warrant that Customer's use of the ASP Services will be error free or uninterrupted. Customer will notify ZOLL in writing of any breach of this warranty with respect to any ASP Services prior to the expiration or termination of the Order for such ASP Services. If ZOLL is unable to provide a correction or work-around pursuant to the terms governing the provision of the ASP Services after using commercially reasonable efforts, ZOLL may terminate such Order upon written notice to Customer. Any such correction or work-around shall not extend the term of such Order. This [Section 6.2](#) sets forth Customer's exclusive remedy, and ZOLL's entire liability, for breach of the warranty for the ASP Services contained herein.

6.3. Warranty Disclaimers. The warranties for the Software and Services are solely and expressly as set forth in [Section 6.1](#) and [Section 6.2](#) and are expressly qualified, in their entirety, by this [Section 6.3](#). EXCEPT AS EXPRESSLY SET FORTH IN [SECTION 6.1](#) AND [SECTION 6.2](#), (A) THE SOFTWARE AND SERVICES ARE PROVIDED STRICTLY "AS IS", WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, WRITTEN OR ORAL; (B) ZOLL DOES NOT PROMISE THAT THE SOFTWARE OR SERVICES WILL BE SECURE, UNINTERRUPTED OR ERROR-FREE OR THAT THEY ARE SUITABLE FOR THE PARTICULAR NEEDS OF CUSTOMER, REGISTERED USERS OR ANY THIRD PARTY; AND (C) ZOLL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE OR USAGE IN TRADE. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN THIS AGREEMENT, AND THAT NO WARRANTIES ARE MADE BY ANY OF ZOLL'S LICENSORS OR SUPPLIERS WITH RESPECT TO THIRD PARTY PRODUCTS OR SERVICES. Customer acknowledges and agrees that, in entering into this Agreement, it has not relied upon the future availability of any new or enhanced feature or functionality, or any new or enhanced product or service, including, without limitation, updates or upgrades to ZOLL's existing products and services. ZOLL's performance obligations hereunder are limited to those expressly enumerated herein, and payment for ZOLL's performance obligations shall be due as described herein.

7. Confidentiality. Neither party will use any trade secrets, information, or other material, tangible or intangible, that relates to the business or technology of the other party and is marked or identified as confidential or is disclosed in circumstances that would lead a reasonable person to believe such information is confidential ("Confidential Information") for any purpose not expressly permitted by this Agreement, and will further disclose the Confidential Information of the party disclosing it ("Disclosing Party") only to the employees or contractors of the party receiving it ("Receiving Party") who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care. The ASP Services, Software and Documentation shall be ZOLL's Confidential Information (including without limitation any routines, subroutines, directories, tools, programs, or any other technology included in the Software), notwithstanding any failure to mark or identify it as such. The Receiving Party's obligations under this [Section 7](#) with respect to any Confidential Information of the Disclosing Party will terminate when and to the extent the Receiving Party can document that such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without access to, or use of, Confidential Information. In addition, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent that such disclosure is: (i) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (ii) required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such disclosure in writing prior to making such disclosure and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such disclosure.

8. Indemnification.

8.1. By ZOLL. ZOLL will defend, at its own expense, any action against Customer or its or any of its agents, officers, director, or employees ("Customer Parties") brought by a third party alleging that any Software or Services infringe any U.S. patents or any copyrights or misappropriate any trade secrets of a third party, and ZOLL will pay those costs and damages finally awarded against the Customer Parties in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Customer: (a) notifying ZOLL promptly in writing of such claim or action; (b) giving ZOLL sole control of the defense thereof and any related settlement negotiations; and (c) cooperating with ZOLL and, at ZOLL's request and expense, assisting in such defense. If any of the Software or Services become, or in ZOLL's opinion is likely to become, the subject of an infringement claim, ZOLL may, at its sole option and expense, either: (i) procure for Customer the right to continue using such Software or Services; (ii) modify or replace such Software or Services with substantially similar software or services so that such Software or Services becomes non-infringing; or (iii) terminate this Agreement, in whole or in part. Notwithstanding the foregoing, ZOLL will have no obligation under this [Section 8.1](#) or otherwise with respect to any infringement claim based upon: (1) use of any of the Software or Services not in accordance with this Agreement; (2) any use of any Software or Services in combination with products equipment, software, services or data not supplied by ZOLL if such infringement would have been avoided but for the combination with other products, equipment, software, services or data; (3) the failure of Customer to implement any replacements, corrections or modifications made available by ZOLL for any Software or Services including, but not limited to, any use of any release of the Software other than the most current release made commercially available by ZOLL; (4) any Customer Content; or (5) any modification of any Software or Services or use thereof by any person other than ZOLL or its authorized agents or subcontractors. This [Section 8](#) states ZOLL's entire liability and the exclusive remedy for any claims of infringement.

8.2. By Customer. Customer shall indemnify, defend and hold ZOLL and its agents, officers, directors and employees (the "ZOLL Parties") harmless from and against any and all liabilities, losses, expenses, damages and claims (collectively, "Claims") that arise out of the following except to the extent the Claims are due to the gross negligence, intentional misconduct or breach of this Agreement by the ZOLL Parties: (i) information provided to any of the ZOLL Parties by any of the Customer Parties; (ii) any of the Customer Parties' use or misuse of any of the Software or Services, including without limitation in combination with Customer's software or services or third party software or services; (iii) any modifications made by any of the Customer Parties to any of the Software or Services; (iv) infringement by any of the Customer

Parties of any third party intellectual property right; (v) Taxes (other than taxes based on ZOLL's net income) and any related penalties and interest, arising from the payment of the Fees or the delivery of the Software and Services to Customer; and (ix) any violation of laws or regulations, including without limitation applicable export and import control laws and regulations in the use of any of the Software or Services, by any of the Customer Parties.

9. Limitation of Liability. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT WILL ZOLL OR ITS AFFILIATES, SUBCONTRACTORS OR SUPPLIERS, OR ANY OF THEIR OFFICERS OR DIRECTORS, BE LIABLE, EVEN IF ADVISED OF THE POSSIBILITY, FOR: (i) SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), (ii) LOSS OF PROFIT, DATA, BUSINESS OR GOODWILL, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR (iii) ANY LOSSES, COSTS OR DAMAGES ASSOCIATED WITH CUSTOMER'S PRODUCTS OR OTHER ELEMENTS INCORPORATED OR USED THEREWITH WHICH WERE NOT PROVIDED BY ZOLL OR WITH RESPECT TO ANY MODIFICATIONS MADE TO THE SOFTWARE OR SERVICES OR MISUSE OF THE SOFTWARE OR SERVICES. ZOLL'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT PAID TO ZOLL BY CUSTOMER FOR THE SOFTWARE AND SERVICES PROVIDED UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. Customer acknowledges that these limitations reflect the allocation of risk set forth in this Agreement and that ZOLL would not enter into this Agreement without these limitations on its liability. Customer agrees that these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. The remedies in this Agreement are Customer's sole and exclusive remedies. In addition, ZOLL disclaims all liability of any kind of ZOLL's licensors and suppliers, for third party products or services, and for the actions or omissions of Customer's representatives.

10. Ownership. All right, title and interest, including but not limited to all existing or future copyrights, trademarks, service marks, trade secrets, patents, patent applications, know how, moral rights, contract rights, and proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing, in and to the following are the exclusive property of ZOLL (or, as the case may be, its subsidiaries, licensors and suppliers): (i) ASP Services, Software, Documentation, and all proprietary technology used by ZOLL to perform its obligations under this Agreement; (ii) all software, tools, routines, programs, designs, technology, ideas, know-how, processes, techniques and inventions that ZOLL makes, develops, conceives or reduces to practice, whether alone or jointly with others, in the course of performing the Services; (iii) the fully compiled version of any of the foregoing software programs that can be executed by a computer and used without further compilation (the "Executable Code"); (iv) the human readable version of any of the foregoing software programs that can be compiled into Executable Code (the "Source Code"); and (v) all enhancements, modifications, improvements and derivative works of each and any of the foregoing (the "ZOLL Property"). If any derivative work is created by Customer from the Software or Services, ZOLL shall own all right, title and interest in and to such derivative work. Any rights not expressly granted to Customer hereunder are reserved by ZOLL (or its licensors and suppliers, as the case may be).

11. Term and Termination.

11.1. Term. The term of this Agreement ("Term") begins on the effective date of the first Order incorporating this Agreement and continues until it is terminated. The term of each Order begins on the effective date of such Order and continues until it expires or is terminated; *provided, however*, that such term (and any extension thereof) shall automatically renew for an equivalent period at ZOLL's then current list pricing unless either party notifies the other party in writing of an intent to not renew such term at least ninety (90) days prior to the expiration of such term. "Implementation Date" for any ASP Services means the earlier of (a) the date upon which the activation of such ASP Services is complete and such ASP Services are able to function as described in the warranty for such ASP Services, regardless of whether Customer uses such ASP Services or (b) one hundred eighty (180) days following the shipment of the monitor/defibrillators in connection with which such ASP Services are to be used, unless a delay in the activation of such ASP Services is caused by ZOLL, in which case the Implementation Date shall be postponed by a number of days equal to the delay that ZOLL has caused; or (c) if Customer does not use Implementation Services to activate such ASP Services, the date of the Order for such ASP Services.

11.2. Termination. Either party may terminate this Agreement or any Order without cause on thirty (30) days' prior written notice to the other party. Either party may terminate this Agreement or any Order if the other party materially defaults in the performance of any of its obligations hereunder and fails to cure such default within twenty (20) days after written notice from the non-defaulting party.

11.3. Effects of Termination. Upon expiration or termination of this Agreement or any Order for any reason: (a) all amounts, if any, owed to ZOLL under this Agreement or the Order that has expired or been terminated (the "Expired or Terminated Document") before such termination or expiration will become immediately due and payable; (b) Customer's right to access the ASP Services, and all licensed rights granted, in the Expired or Terminated Document will immediately terminate and cease to exist; and (c) Customer must (i) promptly discontinue all use of any ASP Services provided under the Expired or Terminated Document (ii) erase all copies of Access Software from Customer's computers and the computers of its customers and return to ZOLL or destroy all copies of such Access Software and related Documentation on tangible media in Customer's possession and (iii) return or destroy all copies of the Documentation in Customer's possession or control; (d) each party shall promptly discontinue all use of the other party's Confidential Information disclosed in connection with the Expired or Terminated Document and return to the other party or, at the other party's option, destroy, all copies of any such Confidential Information in tangible or electronic form. Additionally, if any Order for ASP Services is terminated by ZOLL for a material default or by Customer without cause, then Customer immediately shall pay ZOLL an early termination fee equal to the amount of (x) the Fees for such ASP Services otherwise payable during the initial term of such Order had such Order not been terminated during such term minus (y) the sum of such Fees paid by Customer to ZOLL prior to the date of termination. Upon ZOLL's request, Customer will provide a written certification (in a form acceptable to ZOLL), certifying as to Customer's compliance with its post-termination obligations set forth in this Section 11.3.

12. General Provisions.

12.1. Compliance with Laws. Customer shall comply with all applicable laws and regulations, and obtain required authorizations, concerning its use of the ASP Services, including without limitation if applicable all export and import control laws and regulations. Customer will not use any ASP Services for any purpose in violation of any applicable laws. ZOLL may suspend performance if Customer violated applicable laws or regulations.

12.2. Audits and Inspections. Upon written request from ZOLL, Customer shall furnish ZOLL with a certificate signed by an officer of Customer stating that the ASP Services are being used strictly in accordance with the terms and conditions of this Agreement. During the Term and for a period of six months following the termination or expiration of this Agreement, upon prior written notice, ZOLL will have the right, during normal business hours, to inspect, or have an independent audit firm inspect, Customer's records relating to Customer's use of the ASP Services to ensure it is in compliance with the terms of this Agreement. The costs of the audit will be paid by ZOLL, unless the audit reveals that Customer's underpayment of Fees exceeds five percent. Customer will promptly pay to ZOLL any amounts shown by any such audit to be owing (which shall be calculated at ZOLL's standard, non-discounted rates) plus interest as provided in Section 2 above.

12.3. Assignments. Customer may not assign or transfer, by operation of law or otherwise (including in connection with a sale of substantially all assets or equity, merger or other change in control transaction), any of its rights under this Agreement or any Order to any third party without ZOLL's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void. ZOLL shall have the right to assign this Agreement or any Order to any affiliate, or to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise, and to contract with any third party to provide part of any of the Software and Services, and to delegate performance of this Agreement or any Order to any of its subsidiaries.

12.4. U.S. Government End Users. If Customer is a branch or agency of the United States Government, the following provision applies. The Software and Documentation are composed of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 (SEPT 1995) and are (i) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202 1 (JUN 1995) and 227.7202 3 (JUN 1995).

12.5. Notices. All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, electronic facsimile, or certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth in the most recent Order (or to such other address or person as from time to time provided by such party in accordance with this Section 12.5), and will be effective upon receipt or three (3) business days after being deposited in the mail as required above, whichever occurs sooner.

12.6. Governing Law and Venue; Waiver of Jury Trial. This Agreement will be governed by and interpreted in accordance with the laws of the State of California without reference to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement shall be brought in a federal or state court in the State of California, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

12.7. Remedies. Except as otherwise expressly provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that the Software and Services are built on valuable trade secrets and proprietary information of ZOLL, that any actual or threatened breach hereof will constitute immediate, irreparable harm to ZOLL for which monetary damages would be an inadequate remedy, and that ZOLL will be entitled to injunctive relief for such breach or threatened breach. Customer further agrees to waive and hereby waives any requirement for the security or the posting of any bond in connection with such remedies. Such remedies shall not be considered to be the exclusive remedies for any such breach or threatened breach, but shall be in addition to all other remedies available at law or equity to ZOLL.

12.8. Waivers. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

12.9. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement will continue in full force and effect. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of this Agreement, and this Agreement shall continue in full force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.

12.10. Independent Contractors. The parties are entering into, and will perform, this Agreement as independent contractors. Nothing in this Agreement will be construed to make either party the agent of the other for any purpose whatsoever, to authorize either party to enter into any contract or assume any obligation on behalf of the other or to establish a partnership, franchise or joint venture between the parties.

12.11. Third Parties. Customer is solely responsible for, and none of the fees set forth herein shall be deemed to cover, any amounts owed to third parties in connection with the use of the ASP Services. If Customer engages a third-party provider ("**Third Party Provider**") to deliver products or services, including without limitation software, integrated into or receiving data from or accessing the ASP Services ("**Third Party Products or Services**"), Customer represents, warrants and agrees that: (i) ZOLL shall have no liability, and makes no representation, with respect to such Third Party Products or Services; and (ii) the Third Party Provider shall not be an agent of ZOLL. To the extent the ASP Services or Software contains software owned by a third party for which ZOLL has a license agreement with a third party, the ASP Services and Software and all rights granted hereunder are expressly limited by and subject to any license agreements ZOLL may have for such software.

12.12. Force Majeure. Neither party shall be liable for damages for any delay or failure of performance hereunder (other than payment obligation) arising out of causes beyond such party's reasonable control and without such party's fault or negligence, including, but not limited to, failure of its suppliers to timely deliver acceptable parts or services, any act or omission of Customer that interferes with or impedes ZOLL's performance hereunder, acts of God, acts of civil or military authority, fires, riots, wars, embargoes, Internet disruptions, hacker attacks, or communications failures (a "**Force Majeure Event**").

12.13. Entire Agreement; Amendment; No Third Party Beneficiaries; Survival. This Agreement, which may be accepted by performance, constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral, except agreements at zollonline.com. Any other representation or agreement, whether written or oral, including but not limited to any purchase order issued by Customer, shall be wholly inapplicable to the Software and Services and shall not be binding in any way on ZOLL. This Agreement may not be amended or changed or any provision hereof waived except in writing signed by both parties. Any different or additional terms in any purchase order, confirmation or similar form issued or otherwise provided by Customer but not signed by an authorized representative of ZOLL shall have no force or effect. There are no third party beneficiaries of this Agreement. Those provisions of this Agreement that may be reasonably interpreted as surviving termination of this Agreement or the survival of which is necessary for the interpretation or enforcement of this Agreement shall continue in full force and effect in accordance with their terms notwithstanding the termination hereof including, but not limited to, Section 7 (Confidentiality), Section 8 (Indemnification), Section 9 (Limitation on Liability), Section 10 (Ownership), Section 11.3 (Effects of Termination) and Section 12 (General Provisions). This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

13. HIPAA. This Section 13 applies if and to the extent that ZOLL creates, receives, maintains or transmits, directly or indirectly, any protected health information of Customer ("**PHI**") in the course of providing Software or Services to Customer. Capitalized terms used but not defined in this Section 13 have the meanings assigned to them elsewhere in the Agreement or, if not defined therein, as defined in the Health Insurance Portability and Accountability Act of 1996 (P.L. 104 191), 42 U.S.C. Section 1320d, et seq., and regulations promulgated thereunder, as amended from time to time (such statute and regulations collectively referred to as "**HIPAA**"). "**Covered Entity**" as used herein means Customer. "**Business Associate**" as used herein means ZOLL. The purpose of this Section 13 is to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing PHI and business associates under HIPAA.

13.1. Applicability. This Section 13 applies if and to the extent that Business Associate creates, receives, maintains or transmits, directly or indirectly, any PHI in the course of providing Software or Services to Covered Entity.

13.2. Compliance and Agents. Business Associate agrees that, to the extent it has access to PHI, Business Associate will fully comply with the requirements of this Section 13 with respect to such PHI. Business Associate will ensure that every agent, including a subcontractor, of Business Associate to whom it provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity will comply with the same restrictions and conditions as set forth herein.

13.3. Use and Disclosure; Rights. Business Associate agrees that it shall not use or disclose PHI except as permitted under this Agreement, and in compliance with each applicable requirement of 45 CFR Section 164.504(e). Business Associate may use or disclose the PHI received or created by it, (a) to perform its obligations under this Agreement, (b) to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, or (c) to provide data aggregation functions to Covered Entity as permitted by HIPAA. Further, Business Associate may use the PHI received by it in its capacity as Business Associate, if necessary, to properly manage and administer its business or to carry out its legal responsibilities. Business Associate may disclose the PHI received by it in its capacity as Business Associate to properly manage and administer its business or to carry out its legal responsibilities if: (a) the disclosure is required by law, or (b) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it is disclosed to the person and the person notifies Business Associate of any instances of which it is aware that the confidentiality of the information has been breached. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Covered Entity.

13.4. Safeguards. Business Associate agrees to develop, document, use, and keep current appropriate procedural, physical, and electronic safeguards, as required in 45 C.F.R. §§164.308 - 164.312, sufficient to prevent any use or disclosure of electronic PHI other than as permitted or required by this Agreement.

13.5. Minimum Necessary. Business Associate will limit any use, disclosure, or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request.

13.6. Report of Improper Use or Disclosure. Business Associate shall report to Covered Entity any information of which it becomes aware concerning any use or disclosure of PHI that is not permitted by this Agreement and any security incident of which it becomes aware. Business Associate will, following the discovery of a breach of "**unsecured protected health information**," as defined in 45 C.F.R. § 164.402, notify Covered Entity of such breach within 15 days. The notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by Business Associate to have been, accessed,

acquired, or disclosed during such breach. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement.

13.7. Individual Access. In accordance with an individual's right to access to his or her own PHI in a designated record set under 45 CFR §164.524 and the individual's right to copy or amend such records under 45 CFR §164.524 and §164.526, Business Associate shall make available all PHI in a designated record set to Covered Entity to enable the Covered Entity to provide access to the individual to whom that information pertains or such individual's representative.

13.8. Amendment of and Access to PHI. Business Associate shall make available for amendment PHI in a designated record set and shall incorporate any amendments to PHI in a designated record set in accordance with 45 CFR §164.526 and in accordance with any process mutually agreed to by the parties.

13.9. Accounting. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to an individual's request for an accounting of disclosures of their PHI in accordance with 45 CFR §164.528. Business Associate agrees to make available to Covered Entity the information needed to enable Covered Entity to provide the individual with an accounting of disclosures as set forth in 45 CFR §164.528.

13.10. DHHS Access to Books, Records, and Other Information. Business Associate shall make available to the U.S. Department of Health and Human Services ("DHHS"), its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity for purposes of determining the Covered Entity's compliance with HIPAA.

13.11. Individual Authorizations; Restrictions. Covered Entity will notify Business Associate of any limitation in its notice of privacy practices, any restriction to the use or disclosure of PHI that Covered Entity has agreed to with an individual and of any changes in or revocation of an authorization or other permission by an individual, to the extent that such limitation, restriction, change, or revocation may affect Business Associate's use or disclosure of PHI.

13.12. HITECH Act Compliance. Covered Entity and Business Associate agree to comply with the amendments to HIPAA included in the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), including all privacy and security regulations issued under the HITECH Act that apply to Business Associate.

13.13. Breach; Termination; Mitigation. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Section 13, Covered Entity and Business Associate shall take any steps reasonably necessary to cure such breach and make Business Associate comply, and, if such steps are unsuccessful, Covered Entity may terminate this Agreement. Business Associate shall take reasonable actions available to it to mitigate any detrimental effects of such violation or failure to comply.

13.14. Return of PHI. Business Associate agrees that upon termination of this Agreement, and if feasible, Business Associate shall (a) return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate has continued to maintain in any form or manner and retain no copies of such information or, (b) if such return or destruction is not feasible, immediately notify Covered Entity of the reasons return or destruction are not feasible, and extend indefinitely the protection of this Section 13 to such PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI not feasible.

13.15. De-identified Health Information. Business Associate may de-identify any and all PHI and may create a "Limited Data Set" in accordance with 45 C.F.R. § 164.514(b) & (e). Covered Entity acknowledges and agrees that de-identified information is not PHI and that Business Associate may use such de-identified information for any lawful purpose. Use or disclosure of a Limited Data Set must comply with 45 CFR 164.514(e).

13.16. Survival. All representations, covenants, and agreements in or under this Section 13 shall survive the execution, delivery, and performance of this Agreement.

13.17. Further Assurances; Conflicts. Each party shall in good faith execute, acknowledge or verify, and deliver any and all documents which may from time to time be reasonably requested by the other party to carry out the purpose and intent of this Section 13. The terms and conditions of this Section 13 will override and control any expressly conflicting term or condition of the Agreement. All non-conflicting terms and conditions of the Agreement shall remain in full force and effect. Any ambiguity shall be resolved in a manner that will permit Covered Entity to comply with HIPAA. For the avoidance of doubt, a limitation on liability in the Agreement does not conflict with this Section 13.

13.18. Applicable Law. The parties acknowledge and agree that HIPAA may be amended and additional guidance or regulations implementing HIPAA may be issued after the date of the execution of this Agreement and may affect the parties' obligations hereunder. The parties agree to take such action as is necessary to amend this Agreement from time in order as is necessary for Covered Entity to comply with HIPAA.

By signing below, the Customer acknowledges and agrees to those terms and conditions. The person signing below represents and warrants that she or he has the authority to bind the Customer to those terms and conditions.

Customer

Signature:

exhibit - do not sign

Name: _____

Title: _____

Company: _____

Company Address: _____

Date: _____

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation

1. ADD Exhibit A, Section 4.0 Letter of Understanding, Case Review Premium Subscription, R Series and X Series, 5 Year Hosted



275 50 1 8001
 275 42 1 4010 1000
 275 42 1 4010 1000
 275 42 1 4010 1000

LETTER OF UNDERSTANDING

The following Letter of Understanding serves to ensure that ZOLL Medical Corporation ("ZOLL") and Riverside County Fire Department ("FIRE DEPARTMENT") hold an equal understanding of the following issues as they are outside the realm of ZOLL's general Terms and Conditions. Therefore, once you have read and fully understand the content of this letter, please sign and date on the line provided below.

Case Review: ZOLL agrees to provide 113 licenses of Case Review to FIRE DEPARTMENT at no charge from April 1, 2022 to July 15, 2022. This offer is to bridge the end of life of FIRE DEPARTMENT'S current QA/QI software to the FIRE DEPARTMENT'S new budget year. In return, FIRE DEPARTMENT agrees to issue a valid Purchase Order on or before July 15, 2022 for Quote #Q-25532 Version: 1 in its entirety. Payments will be due in three equal annual installments of \$46,439.61 due July 31, 2024, July 31, 2025 and July 31, 2026.

If you have any questions regarding this issue, please contact your ZOLL Sales Manager, Ryan Grulke. Otherwise, please sign on the appropriate line provided below and return this letter to the attention of Audra Tella, Contracts Manager, ZOLL Medical Corporation via email at contracts@zoll.com

<p>Riverside County Fire Department</p> <p>Signature: <u><i>Jeff Hewitt</i></u></p> <p>Name: (print) <u>JEFF HEWITT</u></p> <p>Title: <u>Chair, Board of Supervisors</u></p> <p>Phone: _____</p> <p>Date: <u>MAR 29 2022</u></p>	<p>ZOLL Medical Corporation</p> <p>Signature: <u><i>Steven K Flora</i></u></p> <p>Name: (print) <u>Steven K Flora</u></p> <p>Title: <u>Sr. VP, Vice President N.A. Sales</u></p> <p>Phone: <u>800-348-9011</u></p> <p>Date: <u>3/17/2022</u></p>
--	--

Sincerely,

FORM APPROVED COUNTY COUNSEL
 BY *Ryan D Yabko* 3/18/22
 RYAN D YABKO for AMRIT P. DHILLON DATE

Jeff Roberts
 Vice President, US EMS Sales

ATTEST:
 KECIA R. HARPER, Clerk
 By *Kecia R Harper*
 DEPUTY

COUNTY OF RIVERSIDE
 AMENDMENT NO. 1 TO THE AGREEMENT
 FOR DEFIBRILLATOR EQUIPMENT, SUPPLIES, ACCESSORIES, AND
 PREVENTATIVE MAINTENANCE REPAIR SERVICES
 WITH
 ZOLL® Medical Corporation



ZOLL Medical Corporation
 269 Mill Road
 Chelmsford, MA 01824-4105
 Federal ID# 04-2711626
 Phone: (800) 348-9011
 Fax: (978) 421-0015
 Email: esales@zoll.com

Quote No: Q-25532 Version: 1

Riverside County Fire Department
 Clark Training Center
 3423 Davis Avenue
 Riverside, CA 92518

Quote No: Q-25532
 Version: 1

ZOLL Customer No: 5664
 Scott Phillipbarr
 (909) 486-2825

Issued Date: February 16, 2022
 Expiration Date: March 31, 2022
 Terms: Three annual installments with
 1st Payment due NET 730

FOB: Shipping Point
 Freight: Prepay & Add

Prepared by: Catherine Prophet
 EMS Territory Manager
cprophet@zoll.com
 949-436-4369

Item	Contract Reference	Part Number	Description	Qty	List Price	Adj. Price	Total Price
1		5400-110045	CaseReview Premium Subscription, R Series and X Series, 5 Year- Hosted Provides detailed post-case information, including CPR quality on compression depth, rate, pause time and release velocity, as well as ECG, shocks, EtCO2 and SpO2 vital signs.	113	\$1,232.91	\$1,232.91	\$139,318.83
Subtotal:							\$139,318.83
Total:							\$139,318.83

Additional Language
Promotional pricing valid for customer migration from CaseReview Basic to CaseReview Premium. CaseReview Premium Subscription Payable in three annual installments with 1st payment due Net 730.

To the extent that ZOLL and Customer, or Customer's Representative have negotiated and executed overriding terms and conditions ("Overriding T's & C's"), those terms and conditions would apply to this quotation. In all other cases, this quote is made subject to ZOLL's Standard Commercial Terms and Conditions ("ZOLL T's & C's") which for capital equipment, accessories and consumables can be found at <http://www.zoll.com/GTC> and for software products can be found at <http://www.zoll.com/SSPTC> and for hosted software products can be found at <http://www.zoll.com/SSHTC>. Except in the case of overriding T's and C's, any Purchase Order ("PO") issued in response to this quotation will be deemed to incorporate ZOLL T's & C's, and any other terms and conditions presented shall have no force or effect except to the extent agreed in writing by ZOLL.

1. Delivery will be made 120-160 days after receipt of accepted purchase order.
2. Applicable tax, shipping & handling will be added at the time of invoicing.
3. All purchase orders are subject to credit approval before being accepted by ZOLL.
4. To place an order, please forward the purchase order with a copy of this quotation to esales@zoll.com or via fax to 978-421-0015.
5. All discounts from list price are contingent upon payment within the agreed upon terms.
6. Place your future accessory orders online by visiting www.zollwebstore.com

ALS/BLS Software Solutions Master Application Service Provider Agreement

1. **Orders.** ZOLL Data Systems, Inc. ("ZOLL") shall provide the ASP Services, Implementation Services and Support Services identified in any order or contract ("Order") between ZOLL and another party ("Customer") incorporating this Software Solutions Master Application Service Provider Agreement (together with each such Order, the "Agreement"). ASP Services are further defined in [Section 3](#). Implementation Services are further defined in [Section 4](#). Support Services are further defined in [Section 5](#). The ASP Services, Implementation Services, and Support Services are each, and are collectively, "Services". The terms and conditions set forth in this Agreement shall only apply to ALS/BLS Software Solutions products that are used with ZOLL Medical Corporation defibrillators. For the sake of clarity, these terms and conditions do not apply to any ZOLL patient care reporting software.

2. **Payment.** Customer shall pay fees to ZOLL for Services as provided in any Order and this Agreement ("Fees"). Unless otherwise provided in the applicable Order, Customer will pay ZOLL all Fees due under this Agreement within thirty (30) days after the date of ZOLL's invoice. The first invoice will be sent after the Deployment Effective Date. "Deployment Date" means the date upon which the deployment of the ASP Services is complete and it is able to function as described in the warranty set forth in this Agreement, regardless of whether Customer actually uses such ASP Services. "Deployment Effective Date" means the earlier of (a) the Deployment Date or (b) 90 days from the date after ZOLL's shipment of defibrillators that are included on the Order (the "Latest Deployment Date"), unless a delay in the Deployment Date has been caused by ZOLL, in which case the Deployment Effective Date shall be postponed by a number of days equal to the delay that ZOLL has caused. Fees are non-refundable other than as expressly set forth herein. Amounts not paid when due will accrue interest at the rate of 1.5% per month, or the maximum allowed by law, whichever is less. Customer shall pay all expenses (including reasonable attorney's fees) incurred by ZOLL in connection with collection of late payments. Any amounts not paid by Customer when due may result in the forfeiture by Customer, in ZOLL's sole discretion, of any discounts previously offered by ZOLL. In addition, ZOLL may cease providing any or all of the Services if any invoice is not paid in a timely manner, in which event ZOLL will not be liable to Customer for any damages caused by such cessation. Payment terms are subject to ZOLL's credit approval. Fees exclude all applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges ("Taxes").

3. **ASP Services.** "ASP Services" means the hosting and maintenance of ZOLL software, as modified, updated, and enhanced (the "Underlying Software"), for remote electronic access and use by Registered Users on the website with a unique URL to be provided by ZOLL to Customer (the "ZOLL Site") in substantial conformity with the instructions for use, documentation and users manuals from time-to-time provided by ZOLL (the "Documentation"), as listed in any Order, on and after the Implementation Date (defined below) for such services and before that Order has expired or been terminated in accordance with the Agreement. Customer acknowledges that the ASP Services are only compatible with ZOLL equipment that has been enabled and configured for use with the ASP Services in accordance with the Documentation and only with the browser and other technical environment that supports the use of the ASP Services in accordance with the Documentation.

3.1. **Provision of ASP Services.** Subject to the terms and conditions of the Agreement, ZOLL will use commercially reasonable efforts to make the ASP Services available to Customer and Customer's employees, directors, principals, partners, consultants and agents authorized to use ASP Services on behalf of Customer and registered through the ZOLL Site for such use ("Registered Users") through the ZOLL Site over normal network connections in accordance with the Documentation, excepting downtime due to necessary maintenance and troubleshooting. Customer, not ZOLL, shall be responsible for controlling Registered Users and protection of confidentiality of its login identifications and passwords. Customer acknowledges that (i) it is responsible for maintaining its interface and connectivity to the ASP Services and (ii) any facilities used for provision of the ASP Services may be owned or operated by ZOLL, or a ZOLL affiliate or a third party, or any combination of such facilities, as determined by ZOLL. Customer acknowledges that ZOLL may modify and upgrade the ASP Services, on an ongoing basis, to improve or adapt the ASP Services. Without limiting the foregoing, ZOLL will have the right, in its sole discretion, to develop, provide and market new, upgraded or modified ASP Services to Customer, including adding, removing or modifying the functionality or features of the ASP Services accessible by Registered Users. ZOLL will use commercially reasonable efforts to notify Customer within a reasonable period of time prior to the implementation of such changes so that Customer is reasonably informed of alterations to the ASP Services that will affect the ASP Services and Customer's use of them. Notwithstanding anything to the contrary in the Agreement, ZOLL may cease providing any ASP Services upon at least six months advance notice to Customer.

3.2. **Access Software.** Subject to the terms and conditions of this Agreement, ZOLL grants to Customer, during the Term, a non-exclusive, non-transferable, non-sublicensable license for Registered Users to access and use the ASP Services using the ZOLL software that Registered Users may download at the ZOLL Site to access the ASP Services, as modified, updated and enhanced (the "Access Software"), each as made available to Customer through the ZOLL Site, solely for Customer's internal business purposes and solely in accordance with the Documentation. Access Software and Underlying Software are, collectively, the "Software".

3.3. **Restrictions.** Customer shall not, and shall not permit any third party to: (a) use, reproduce, modify, adapt, alter, translate or create derivative works from the ASP Services, Software or Documentation; (b) merge the ASP Services, Software or Documentation with other software or services; (c) sublicense, distribute, sell, use for service bureau use, lease, rent, loan, or otherwise transfer or allow access to the ASP Services, Software or the Documentation to any third party; (d) reverse engineer, decompile, disassemble, or otherwise attempt to alter or derive the Source Code for the ASP Services or Software; (e) remove, alter, cover or obfuscate any copyright notices or other proprietary rights notices included in the ASP Services, Software or Documentation; or (f) otherwise use or copy the ASP Services, Software or Documentation in any manner not expressly permitted by the Agreement. Customer agrees not to use the ASP Services in excess of its authorized login protocols. Customer shall immediately notify ZOLL of any unauthorized use of Customer's login ID, password or account or other breach of security. If Customer becomes aware of any actual or threatened activity contemplated by the restrictions on use set forth in this section, Customer will, and will cause Registered Users to, immediately take all reasonable measures necessary to stop the activity or threatened activity and to mitigate the effect of such activity including: (i) discontinuing and limiting any improper access to any data; (ii) preventing any use and disclosure of improperly obtained data; (iii) destroying any copies of improperly obtained data that may have been made on their systems; (iv) otherwise attempting to mitigate any harm from such events; and (v) immediately notifying ZOLL of any such event so that ZOLL may also attempt to remedy the problem and prevent its future occurrence.

3.4. Service Level Agreement.

3.4.1. **Downtime.** "Downtime", expressed in minutes, is any time the ASP Services are not accessible to Registered Users.

3.4.2. **Planned Downtime.** "Planned Downtime" is Downtime during which ASP Services may not be available in order for ZOLL to continue to provide commercially reasonable services, features and performance to its customers. Planned Downtime includes, but is not limited to: (a) Standard Maintenance; and (b) Emergency Maintenance. "Standard Maintenance" is performed when upgrades or system updates are desirable. "Emergency Maintenance" is performed when a critical system update must be applied quickly to avoid significant Downtime. Standard Maintenance may be performed weekly on Monday and Wednesday between the hours of 7 p.m. to 11 p.m. in Broomfield, Colorado. ZOLL will provide Customer with notice at least 24 hours in advance of Standard Maintenance.

3.4.3. **Excused Downtime.** "Excused Downtime" time is Downtime caused by: (a) services, software or hardware provided by anyone or any entity other than ZOLL, (b) software, services or systems operating outside of a ZOLL Site, including any software or systems operating on a Customer's premises (including ZOLL software); (c) a Force Majeure Event or (d) Customer's failure to comply with its obligations under the Agreement or use of the ASP Services in ways that were not intended.

3.4.4. **Unplanned Downtime.** Unplanned Downtime in a calendar month is expressed as a percentage calculated as follows:

$$\frac{(\text{Downtime} - (\text{Planned Downtime} + \text{Excused Downtime}))}{\text{Total number of minutes in the calendar month}} \times 100 = x\%, \text{ where "x" is Unplanned Downtime.}$$

3.4.5. **Unplanned Downtime Goal.** ZOLL shall provide the ASP Services such that there is less than 1% of Unplanned Downtime in a calendar month (the "Unplanned Downtime Goal"). The ASP Services covered by the Unplanned Downtime Goal are those for which Customer has paid all Fees when due and is using in the course of carrying out its normal business operations in accordance with the Agreement.

3.4.6. **Revocation of Administrative Rights.** Notwithstanding anything to the contrary in the Agreement, ZOLL may revoke administrative rights, including database access rights, if the use of any such rights results in Downtime.

3.4.7. Customer Content; Security; Backup.

3.4.7.1. Customer Content. As between ZOLL and Customer, and without limiting the rights of any patient, Customer will retain all right, title and interest in and to all data, information or other content provided by Customer in its use of the ASP Services (“**Customer Content**”); *provided, however*, that ZOLL may de-identify and use Customer Content for any lawful purpose consistent with all applicable law.

3.4.7.2. Security. Subject to Customer’s obligations under this Agreement, ZOLL will implement commercially reasonable security measures within the ASP Services in an attempt to prevent unlawful access to Customer Content by third parties. Such measures may include, where appropriate, use of updated firewalls, commercially available virus screening software, logon identification and passwords, encryption, intrusion detection systems, logging of incidents, periodic reporting, and prompt application of current security patches and virus definitions.

3.4.7.3. Backup of Customer Content (Not Applicable to Remote View). Although ZOLL will use commercially reasonable efforts to maintain the integrity of the Customer Content, to back up the Customer Content, and to provide full and ongoing access to the ASP Services, loss of access to the ASP Services and loss of Customer Content may occur. Customer will make provision for additional back-up storage of any critical Customer Content and shall be responsible for compliance with all records retention requirements applicable to Customer. ZOLL will not be responsible for any loss, corruption of or inaccessibility of the Customer Content due to interruption in the ASP Services or otherwise arising out of circumstances not within ZOLL’s control.

3.4.7.4. Availability of Customer Content (Not Applicable to Remote View). It is Customer’s responsibility to maintain any Customer Content that it requires for archival purposes, ongoing management of its operations and compliance with applicable records retention requirements. Unless specified otherwise in the Agreement, ZOLL will store Customer Content, other than Inactive Customer Content as defined below (the “**Active Customer Content**”), in ZOLL’s working data set until the earlier of (i) five years (calculated from the date of creation of such Customer Content, or ZOLL’s receipt of such Customer Content, whichever is later) or (ii) the expiration or termination of this Agreement or the Order under which such Active Customer Content was stored (the “**Active Retention Period**”). Upon the expiration of the Active Retention Period, ZOLL will notify Customer in writing and will provide Customer the option, which Customer shall exercise by informing ZOLL in writing, within 30 days of receiving the notice, that either (a) Customer wishes to receive Active Customer Content in a database determined by ZOLL in its sole and absolute discretion (a “**Database**”), or (b) Customer will pay ZOLL, at ZOLL’s then-current storage rates and upon ZOLL’s then-current terms and conditions, to continue to store the Active Customer Content. If Customer fails to exercise one of the foregoing options within such 30-day period, ZOLL will have the right to destroy the Active Customer Content. During the time ZOLL stores Customer Content for Customer hereunder, ZOLL may periodically identify Customer Content that has had no activity associated with it for at least 180 days (“**Inactive Customer Content**”) and will notify Customer in writing of its intent to remove the Inactive Customer Content from ZOLL’s working data set and destroy such data, unless Customer requests, in writing, within 30 days of receiving the notice from ZOLL, that either (z) Customer wishes to receive the Inactive Customer Content in a Database, or (y) Customer will pay ZOLL, at ZOLL’s then-current storage rates and upon ZOLL’s then-current terms and conditions, to continue to store such Inactive Customer Content. If Customer fails to exercise one of the foregoing options within such 30-day period, ZOLL will have the right to destroy the applicable Inactive Customer Content in its possession or under its control. Except for this [Section 3.4.7.4](#), the terms of [Section 3.4](#) (including, without limitation, the Unplanned Downtime Goal) do not apply to Customer’s access of Inactive Customer Content. Customer represents, warrants and agrees that it (A) is solely responsible for determining the retention period applicable to it with respect to Customer Content maintained by ZOLL; (B) has consulted with or has had the opportunity to consult with legal, information governance or records management professionals; and (C) is not relying upon ZOLL to assist with determining the records maintenance or retention requirements applicable to it.

3.4.8. Remedies. A “**Service Credit**” means a percentage of the monthly Fee to be credited to Customer (subject to Customer’s written request therefor and ZOLL’s verification thereof) for any ASP Service for which the Unplanned Downtime Goal is exceeded in a calendar month. For any calendar month where the aggregate total of Unplanned Downtime for any ASP Service exceeds one percent ZOLL will provide a 10% Service Credit towards Customer’s monthly Fee for such ASP Service that was affected; *provided, that* Customer (i) requests such Service Credit in writing within 30 days of the end of the calendar month in which such Unplanned Downtime occurred, (ii) includes in such request the nature of, and date and time of such Unplanned Downtime and (iii) such Unplanned Downtime is verified by ZOLL. Such Service Credit will be applied to a future month’s invoice for such ASP Services, which typically is two months later. Failure to submit a written request for Service Credit as provided in this [Section 3.4.8](#) shall constitute a waiver of such Service Credit by Customer. Further, Service Credits shall not be issued if Customer is not current on all Fees due and payable. The remedy set forth in this [Section 3.4.8](#) shall be the Customers’ sole and exclusive remedy with respect to ZOLL exceeding the Unplanned Downtime Goal.

3.4.9. Modifications. Changes to this [Section 3.4](#) may be made from time to time at ZOLL’s sole discretion. Customer will be notified of any such changes that are material.

4. Implementation Services. ZOLL shall provide ASP Services implementation, training and any related services identified in an Order (the “**Implementation Services**”). Customer shall, in a timely manner and at its own expense, cooperate and provide or make available to ZOLL access to the Customer’s premises, systems, telephone, terminals and facsimile machines and all relevant information, documentation and staff reasonably required by ZOLL to enable ZOLL to perform the Implementation Services. Customer acknowledges that any time frames or dates for completion of the Implementation Services set out in an Order are estimates only and the ability to meet them is influenced by a range of factors including, without limitation, response times and level of cooperation of Customer. Any obligations as to time are therefore on a “reasonable efforts” basis only and ZOLL shall not be liable for failure to meet time frames or completion dates unless solely due to ZOLL’s negligence.

5. Support Services. ZOLL shall provide the following Support Services for ASP Services without any additional Fees, except that ZOLL will have no obligation to provide such Support Services if any Fees for ASP Services are past due.

5.1. Support.

5.1.1. Emergency Support. ZOLL shall provide telephone support to Customer for 24 hours a day, 7 days a week, to address Errors that prevent Customer from using Supported ASP Services for a purpose for which Customer has an immediate and material need. “**Supported ASP Services**” means the ASP Services for which Customer has paid the then-current Fees. “**Supported Environment**” means a browser and other technical environment that supports the use of the ASP Services in accordance with the Documentation. “**Error**” means a reproducible defect in the Supported ASP Services when operated in accordance with the Documentation in a Supported Environment that causes the Supported ASP Services not to operate substantially in accordance with such Documentation.

5.1.2. Technical Support. ZOLL shall provide telephone support to Customer during 6 a.m. to 6 p.m. Eastern Time, Monday to Friday, excluding ZOLL holidays (“**Business Hours**”) to address all other Errors relating to any Supported ASP Services. Such telephone support will include (i) clarification of functions and features of the Supported ASP Services; (ii) clarification of the Documentation; (iii) guidance in operation of the Supported ASP Services; (iv) assistance in identifying and verifying the causes of suspected Errors in the Supported ASP Services; and (v) advice on bypassing identified Errors in the Supported ASP Services, if reasonably possible. Responses to such reporting shall be provided at a minimum within twenty-four (24) hours during Business Hours.

5.1.3. Resolution. ZOLL shall use commercially reasonable efforts to provide a modification or workaround to Supported ASP Services that resolves an Error in all material respects (“**Resolution**”).

5.1.4. Expenses. Support Services provided hereunder shall be provided from Chelmsford, Massachusetts or Broomfield, Colorado, as determined in ZOLL’s sole discretion. Should Customer request that ZOLL send personnel to Customer’s location to resolve any Error in the Supported ASP Services, ZOLL may charge Customer a fee of \$2,500 for each day ZOLL personnel is at Customer’s location.

5.1.5. Exceptions. ZOLL shall have no responsibility under this Agreement to fix any Errors arising out of or related to the following causes: (a) Customer’s modification or combination of the Access Software (in whole or in part), (b) use of the Supported ASP Services in an environment other than a Supported Environment, or (c) accident, unusual physical, electrical or electromagnetic stress; neglect, misuse; failure or fluctuation of electric power, air conditioning or humidity control; failure of media not furnished by ZOLL; excessive heating, fire and smoke damage; operation of the Supported ASP Services with other media and hardware, software or telecommunication

interfaces; or causes other than ordinary use. Any corrections performed by ZOLL for such Errors shall be made, in ZOLL's reasonable discretion, at ZOLL's then-current time and material charges. ZOLL will provide the Support Services only for the most current release and the one immediately preceding major release of any Access Software. Notwithstanding anything to the contrary in the Agreement, (i) ZOLL may cease providing Support Services for any ASP Services upon at least six (6) months advance notice to Customer of such cessation and (ii) Support Services do not cover Third Party Products or Services (defined below).

5.2. Conditions and Limitations. Customer shall provide ZOLL with access to Customer's personnel and its equipment. This access must include the ability to remotely access the equipment on which the Supported ASP Services are operating and to obtain the same access to the equipment as those of Customer's employees having the highest privilege or clearance level. ZOLL will inform Customer of the specifications of the remote access methods available and associated software needed, and Customer will be responsible for the costs and use of said equipment. Fees for third party software and services are set by the owner of such software.

6. Warranties.

6.1. Implementation Services and Support Services. Subject to Customer's payment of the Fees, ZOLL warrants that any Implementation Services or Support Services provided to Customer will be performed with due care in a professional and workmanlike manner. ZOLL shall, as its sole obligation and Customer's sole and exclusive remedy for any breach of the warranty set forth in this [Section 6.1](#), perform again the Implementation Services or Support Services that gave rise to the breach or, in the case of Implementation Services, at ZOLL's option, refund the Fees for such Implementation Services paid by Customer for the Implementation Services which gave rise to the breach. The availability of any remedy for a breach of the warranty set forth in this [Section 6.1](#) is conditioned upon Customer notifying ZOLL in writing of such breach within thirty (30) days following performance of the defective Implementation Services or Support Services, specifying the breach in reasonable detail.

6.2. ASP Services and Access Software. Subject to Customer's payment of the Fees, ZOLL represents and warrants with respect to any ASP Services that (i) ZOLL has the right to license the Access Software and Documentation and make the ASP Services available to Customer pursuant to this Agreement and (ii) the ASP Services, when used as permitted and in accordance with the Documentation, will materially conform to the Documentation. ZOLL does not warrant that Customer's use of the ASP Services will be error free or uninterrupted. Customer will notify ZOLL in writing of any breach of this warranty with respect to any ASP Services prior to the expiration or termination of the Order for such ASP Services. If ZOLL is unable to provide a correction or work-around pursuant to the terms governing the provision of the ASP Services after using commercially reasonable efforts, ZOLL may terminate such Order upon written notice to Customer. Any such correction or work-around shall not extend the term of such Order. This [Section 6.2](#) sets forth Customer's exclusive remedy, and ZOLL's entire liability, for breach of the warranty for the ASP Services contained herein.

6.3. Warranty Disclaimers. The warranties for the Software and Services are solely and expressly as set forth in [Section 6.1](#) and [Section 6.2](#) and are expressly qualified, in their entirety, by this [Section 6.3](#) EXCEPT AS EXPRESSLY SET FORTH IN [SECTION 6.1](#) AND [SECTION 6.2](#). (A) THE SOFTWARE AND SERVICES ARE PROVIDED STRICTLY "AS IS", WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, WRITTEN OR ORAL; (B) ZOLL DOES NOT PROMISE THAT THE SOFTWARE OR SERVICES WILL BE SECURE, UNINTERRUPTED OR ERROR-FREE OR THAT THEY ARE SUITABLE FOR THE PARTICULAR NEEDS OF CUSTOMER, REGISTERED USERS OR ANY THIRD PARTY; AND (C) ZOLL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE OR USAGE IN TRADE. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN THIS AGREEMENT, AND THAT NO WARRANTIES ARE MADE BY ANY OF ZOLL'S LICENSORS OR SUPPLIERS WITH RESPECT TO THIRD PARTY PRODUCTS OR SERVICES. Customer acknowledges and agrees that, in entering into this Agreement, it has not relied upon the future availability of any new or enhanced feature or functionality, or any new or enhanced product or service, including, without limitation, updates or upgrades to ZOLL's existing products and services. ZOLL's performance obligations hereunder are limited to those expressly enumerated herein, and payment for ZOLL's performance obligations shall be due as described herein.

7. Confidentiality. Neither party will use any trade secrets, information, or other material, tangible or intangible, that relates to the business or technology of the other party and is marked or identified as confidential or is disclosed in circumstances that would lead a reasonable person to believe such information is confidential ("Confidential Information") for any purpose not expressly permitted by this Agreement, and will further disclose the Confidential Information of the party disclosing it ("Disclosing Party") only to the employees or contractors of the party receiving it ("Receiving Party") who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care. The ASP Services, Software and Documentation shall be ZOLL's Confidential Information (including without limitation any routines, subroutines, directories, tools, programs, or any other technology included in the Software), notwithstanding any failure to mark or identify it as such. The Receiving Party's obligations under this [Section 7](#) with respect to any Confidential Information of the Disclosing Party will terminate when and to the extent the Receiving Party can document that such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without access to, or use of, Confidential Information. In addition, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent that such disclosure is: (i) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (ii) required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such disclosure in writing prior to making such disclosure and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such disclosure.

8. Indemnification.

8.1. By ZOLL. ZOLL will defend, at its own expense, any action against Customer or its or any of its agents, officers, director, or employees ("Customer Parties") brought by a third party alleging that any Software or Services infringe any U.S. patents or any copyrights or misappropriate any trade secrets of a third party, and ZOLL will pay those costs and damages finally awarded against the Customer Parties in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Customer: (a) notifying ZOLL promptly in writing of such claim or action; (b) giving ZOLL sole control of the defense thereof and any related settlement negotiations; and (c) cooperating with ZOLL and, at ZOLL's request and expense, assisting in such defense. If any of the Software or Services become, or in ZOLL's opinion is likely to become, the subject of an infringement claim, ZOLL may, at its sole option and expense, either: (i) procure for Customer the right to continue using such Software or Services; (ii) modify or replace such Software or Services with substantially similar software or services so that such Software or Services becomes non-infringing; or (iii) terminate this Agreement, in whole or in part. Notwithstanding the foregoing, ZOLL will have no obligation under this [Section 8.1](#) or otherwise with respect to any infringement claim based upon: (1) use of any of the Software or Services not in accordance with this Agreement; (2) any use of any Software or Services in combination with products equipment, software, services or data not supplied by ZOLL if such infringement would have been avoided but for the combination with other products, equipment, software, services or data; (3) the failure of Customer to implement any replacements, corrections or modifications made available by ZOLL for any Software or Services including, but not limited to, any use of any release of the Software other than the most current release made commercially available by ZOLL; (4) any Customer Content; or (5) any modification of any Software or Services or use thereof by any person other than ZOLL or its authorized agents or subcontractors. This [Section 8](#) states ZOLL's entire liability and the exclusive remedy for any claims of infringement.

8.2. By Customer. Customer shall indemnify, defend and hold ZOLL and its agents, officers, directors and employees (the "ZOLL Parties") harmless from and against any and all liabilities, losses, expenses, damages and claims (collectively, "Claims") that arise out of the following except to the extent the Claims are due to the gross negligence, intentional misconduct or breach of this Agreement by the ZOLL Parties: (i) information provided to any of the ZOLL Parties by any of the Customer Parties; (ii) any of the Customer Parties' use or misuse of any of the Software or Services, including without limitation in combination with Customer's software or services or third party software or services; (iii) any modifications made by any of the Customer Parties to any of the Software or Services; (iv) infringement by any of the Customer

Parties of any third party intellectual property right; (v) Taxes (other than taxes based on ZOLL's net income) and any related penalties and interest, arising from the payment of the Fees or the delivery of the Software and Services to Customer, and (ix) any violation of laws or regulations, including without limitation applicable export and import control laws and regulations in the use of any of the Software or Services, by any of the Customer Parties.

9. Limitation of Liability. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT WILL ZOLL OR ITS AFFILIATES, SUBCONTRACTORS OR SUPPLIERS, OR ANY OF THEIR OFFICERS OR DIRECTORS, BE LIABLE, EVEN IF ADVISED OF THE POSSIBILITY, FOR: (i) SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), (ii) LOSS OF PROFIT, DATA, BUSINESS OR GOODWILL, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR (iii) ANY LOSSES, COSTS OR DAMAGES ASSOCIATED WITH CUSTOMER'S PRODUCTS OR OTHER ELEMENTS INCORPORATED OR USED THEREWITH WHICH WERE NOT PROVIDED BY ZOLL OR WITH RESPECT TO ANY MODIFICATIONS MADE TO THE SOFTWARE OR SERVICES OR MISUSE OF THE SOFTWARE OR SERVICES. ZOLL'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT PAID TO ZOLL BY CUSTOMER FOR THE SOFTWARE AND SERVICES PROVIDED UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. Customer acknowledges that these limitations reflect the allocation of risk set forth in this Agreement and that ZOLL would not enter into this Agreement without these limitations on its liability. Customer agrees that these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. The remedies in this Agreement are Customer's sole and exclusive remedies. In addition, ZOLL disclaims all liability of any kind of ZOLL's licensors and suppliers, for third party products or services, and for the actions or omissions of Customer's representatives.

10. Ownership. All right, title and interest, including but not limited to all existing or future copyrights, trademarks, service marks, trade secrets, patents, patent applications, know how, moral rights, contract rights, and proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing, in and to the following are the exclusive property of ZOLL (or, as the case may be, its subsidiaries, licensors and suppliers): (i) ASP Services, Software, Documentation, and all proprietary technology used by ZOLL to perform its obligations under this Agreement; (ii) all software, tools, routines, programs, designs, technology, ideas, know-how, processes, techniques and inventions that ZOLL makes, develops, conceives or reduces to practice, whether alone or jointly with others, in the course of performing the Services; (iii) the fully compiled version of any of the foregoing software programs that can be executed by a computer and used without further compilation (the "Executable Code"); (iv) the human readable version of any of the foregoing software programs that can be compiled into Executable Code (the "Source Code"); and (v) all enhancements, modifications, improvements and derivative works of each and any of the foregoing (the "ZOLL Property"). If any derivative work is created by Customer from the Software or Services, ZOLL shall own all right, title and interest in and to such derivative work. Any rights not expressly granted to Customer hereunder are reserved by ZOLL (or its licensors and suppliers, as the case may be).

11. Term and Termination.

11.1. Term. The term of this Agreement ("Term") begins on the effective date of the first Order incorporating this Agreement and continues until it is terminated. The term of each Order begins on the effective date of such Order and continues until it expires or is terminated; *provided, however*, that such term (and any extension thereof) shall automatically renew for an equivalent period at ZOLL's then current list pricing unless either party notifies the other party in writing of an intent to not renew such term at least ninety (90) days prior to the expiration of such term. "Implementation Date" for any ASP Services means the earlier of (a) the date upon which the activation of such ASP Services is complete and such ASP Services are able to function as described in the warranty for such ASP Services, regardless of whether Customer uses such ASP Services or (b) one hundred eighty (180) days following the shipment of the monitor/defibrillators in connection with which such ASP Services are to be used, unless a delay in the activation of such ASP Services is caused by ZOLL, in which case the Implementation Date shall be postponed by a number of days equal to the delay that ZOLL has caused; or (c) if Customer does not use Implementation Services to activate such ASP Services, the date of the Order for such ASP Services.

11.2. Termination. Either party may terminate this Agreement or any Order without cause on thirty (30) days' prior written notice to the other party. Either party may terminate this Agreement or any Order if the other party materially defaults in the performance of any of its obligations hereunder and fails to cure such default within twenty (20) days after written notice from the non-defaulting party.

11.3. Effects of Termination. Upon expiration or termination of this Agreement or any Order for any reason: (a) all amounts, if any, owed to ZOLL under this Agreement or the Order that has expired or been terminated (the "Expired or Terminated Document") before such termination or expiration will become immediately due and payable; (b) Customer's right to access the ASP Services, and all licensed rights granted, in the Expired or Terminated Document will immediately terminate and cease to exist; and (c) Customer must (i) promptly discontinue all use of any ASP Services provided under the Expired or Terminated Document (ii) erase all copies of Access Software from Customer's computers and the computers of its customers and return to ZOLL or destroy all copies of such Access Software and related Documentation on tangible media in Customer's possession and (iii) return or destroy all copies of the Documentation in Customer's possession or control; (d) each party shall promptly discontinue all use of the other party's Confidential Information disclosed in connection with the Expired or Terminated Document and return to the other party or, at the other party's option, destroy, all copies of any such Confidential Information in tangible or electronic form. Additionally, if any Order for ASP Services is terminated by ZOLL for a material default or by Customer without cause, then Customer immediately shall pay ZOLL an early termination fee equal to the amount of (x) the Fees for such ASP Services otherwise payable during the initial term of such Order had such Order not been terminated during such term minus (y) the sum of such Fees paid by Customer to ZOLL prior to the date of termination. Upon ZOLL's request, Customer will provide a written certification (in a form acceptable to ZOLL), certifying as to Customer's compliance with its post-termination obligations set forth in this [Section 11.3](#).

12. General Provisions.

12.1. Compliance with Laws. Customer shall comply with all applicable laws and regulations, and obtain required authorizations, concerning its use of the ASP Services, including without limitation if applicable all export and import control laws and regulations. Customer will not use any ASP Services for any purpose in violation of any applicable laws. ZOLL may suspend performance if Customer violated applicable laws or regulations.

12.2. Audits and Inspections. Upon written request from ZOLL, Customer shall furnish ZOLL with a certificate signed by an officer of Customer stating that the ASP Services are being used strictly in accordance with the terms and conditions of this Agreement. During the Term and for a period of six months following the termination or expiration of this Agreement, upon prior written notice, ZOLL will have the right, during normal business hours, to inspect, or have an independent audit firm inspect, Customer's records relating to Customer's use of the ASP Services to ensure it is in compliance with the terms of this Agreement. The costs of the audit will be paid by ZOLL, unless the audit reveals that Customer's underpayment of Fees exceeds five percent. Customer will promptly pay to ZOLL any amounts shown by any such audit to be owing (which shall be calculated at ZOLL's standard, non-discounted rates) plus interest as provided in [Section 2](#) above.

12.3. Assignments. Customer may not assign or transfer, by operation of law or otherwise (including in connection with a sale of substantially all assets or equity, merger or other change in control transaction), any of its rights under this Agreement or any Order to any third party without ZOLL's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void. ZOLL shall have the right to assign this Agreement or any Order to any affiliate, or to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise, and to contract with any third party to provide part of any of the Software and Services, and to delegate performance of this Agreement or any Order to any of its subsidiaries.

12.4. U.S. Government End Users. If Customer is a branch or agency of the United States Government, the following provision applies. The Software and Documentation are composed of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 (SEPT 1995) and are (i) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202 1 (JUN 1995) and 227.7202 3 (JUN 1995).

12.5. Notices. All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, electronic facsimile, or certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth in the most recent Order (or to such other address or person as from time to time provided by such party in accordance with this [Section 12.5](#)), and will be effective upon receipt or three (3) business days after being deposited in the mail as required above, whichever occurs sooner.

12.6. Governing Law and Venue; Waiver of Jury Trial. This Agreement will be governed by and interpreted in accordance with the laws of the State of California without reference to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement shall be brought in a federal or state court in the State of California, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

12.7. Remedies. Except as otherwise expressly provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that the Software and Services are built on valuable trade secrets and proprietary information of ZOLL, that any actual or threatened breach hereof will constitute immediate, irreparable harm to ZOLL for which monetary damages would be an inadequate remedy, and that ZOLL will be entitled to injunctive relief for such breach or threatened breach. Customer further agrees to waive and hereby waives any requirement for the security or the posting of any bond in connection with such remedies. Such remedies shall not be considered to be the exclusive remedies for any such breach or threatened breach, but shall be in addition to all other remedies available at law or equity to ZOLL.

12.8. Waivers. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

12.9. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement will continue in full force and effect. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of this Agreement, and this Agreement shall continue in full force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.

12.10. Independent Contractors. The parties are entering into, and will perform, this Agreement as independent contractors. Nothing in this Agreement will be construed to make either party the agent of the other for any purpose whatsoever, to authorize either party to enter into any contract or assume any obligation on behalf of the other or to establish a partnership, franchise or joint venture between the parties.

12.11. Third Parties. Customer is solely responsible for, and none of the fees set forth herein shall be deemed to cover, any amounts owed to third parties in connection with the use of the ASP Services. If Customer engages a third-party provider ("**Third Party Provider**") to deliver products or services, including without limitation software, integrated into or receiving data from or accessing the ASP Services ("**Third Party Products or Services**"), Customer represents, warrants and agrees that: (i) ZOLL shall have no liability, and makes no representation, with respect to such Third Party Products or Services; and (ii) the Third Party Provider shall not be an agent of ZOLL. To the extent the ASP Services or Software contains software owned by a third party for which ZOLL has a license agreement with a third party, the ASP Services and Software and all rights granted hereunder are expressly limited by and subject to any license agreements ZOLL may have for such software.

12.12. Force Majeure. Neither party shall be liable for damages for any delay or failure of performance hereunder (other than payment obligation) arising out of causes beyond such party's reasonable control and without such party's fault or negligence, including, but not limited to, failure of its suppliers to timely deliver acceptable parts or services, any act or omission of Customer that interferes with or impedes ZOLL's performance hereunder, acts of God, acts of civil or military authority, fires, riots, wars, embargoes, Internet disruptions, hacker attacks, or communications failures (a "**Force Majeure Event**").

12.13. Entire Agreement; Amendment; No Third Party Beneficiaries; Survival. This Agreement, which may be accepted by performance, constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral, except agreements at zollonline.com. Any other representation or agreement, whether written or oral, including but not limited to any purchase order issued by Customer, shall be wholly inapplicable to the Software and Services and shall not be binding in any way on ZOLL. This Agreement may not be amended or changed or any provision hereof waived except in writing signed by both parties. Any different or additional terms in any purchase order, confirmation or similar form issued or otherwise provided by Customer but not signed by an authorized representative of ZOLL shall have no force or effect. There are no third party beneficiaries of this Agreement. Those provisions of this Agreement that may be reasonably interpreted as surviving termination of this Agreement or the survival of which is necessary for the interpretation or enforcement of this Agreement shall continue in full force and effect in accordance with their terms notwithstanding the termination hereof including, but not limited to, [Section 7](#) (Confidentiality), [Section 8](#) (Indemnification), [Section 9](#) (Limitation on Liability), [Section 10](#) (Ownership), [Section 11.3](#) (Effects of Termination) and [Section 12](#) (General Provisions). This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

13. HIPAA. This [Section 13](#) applies if and to the extent that ZOLL creates, receives, maintains or transmits, directly or indirectly, any protected health information of Customer ("**PHI**") in the course of providing Software or Services to Customer. Capitalized terms used but not defined in this [Section 13](#) have the meanings assigned to them elsewhere in the Agreement or, if not defined therein, as defined in the Health Insurance Portability and Accountability Act of 1996 (P.L. 104 191), 42 U.S.C. Section 1320d, et seq., and regulations promulgated thereunder, as amended from time to time (such statute and regulations collectively referred to as "**HIPAA**"). "**Covered Entity**" as used herein means Customer. "**Business Associate**" as used herein means ZOLL. The purpose of this [Section 13](#) is to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing PHI and business associates under HIPAA.

13.1. Applicability. This [Section 13](#) applies if and to the extent that Business Associate creates, receives, maintains or transmits, directly or indirectly, any PHI in the course of providing Software or Services to Covered Entity.

13.2. Compliance and Agents. Business Associate agrees that, to the extent it has access to PHI, Business Associate will fully comply with the requirements of this [Section 13](#) with respect to such PHI. Business Associate will ensure that every agent, including a subcontractor, of Business Associate to whom it provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity will comply with the same restrictions and conditions as set forth herein.

13.3. Use and Disclosure; Rights. Business Associate agrees that it shall not use or disclose PHI except as permitted under this Agreement, and in compliance with each applicable requirement of 45 CFR Section 164.504(e). Business Associate may use or disclose the PHI received or created by it, (a) to perform its obligations under this Agreement, (b) to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, or (c) to provide data aggregation functions to Covered Entity as permitted by HIPAA. Further, Business Associate may use the PHI received by it in its capacity as Business Associate, if necessary, to properly manage and administer its business or to carry out its legal responsibilities. Business Associate may disclose the PHI received by it in its capacity as Business Associate to properly manage and administer its business or to carry out its legal responsibilities if: (a) the disclosure is required by law, or (b) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it is disclosed to the person and the person notifies Business Associate of any instances of which it is aware that the confidentiality of the information has been breached. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Covered Entity.

13.4. Safeguards. Business Associate agrees to develop, document, use, and keep current appropriate procedural, physical, and electronic safeguards, as required in 45 C.F.R. §§164.308 - 164.312, sufficient to prevent any use or disclosure of electronic PHI other than as permitted or required by this Agreement.

13.5. Minimum Necessary. Business Associate will limit any use, disclosure, or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request.

13.6. Report of Improper Use or Disclosure. Business Associate shall report to Covered Entity any information of which it becomes aware concerning any use or disclosure of PHI that is not permitted by this Agreement and any security incident of which it becomes aware. Business Associate will, following the discovery of a breach of "**unsecured protected health information**," as defined in 45 C.F.R. § 164.402, notify Covered Entity of such breach within 15 days. The notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by Business Associate to have been, accessed,

acquired, or disclosed during such breach. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement.

13.7. Individual Access. In accordance with an individual's right to access to his or her own PHI in a designated record set under 45 CFR §164.524 and the individual's right to copy or amend such records under 45 CFR §164.524 and §164.526, Business Associate shall make available all PHI in a designated record set to Covered Entity to enable the Covered Entity to provide access to the individual to whom that information pertains or such individual's representative.

13.8. Amendment of and Access to PHI. Business Associate shall make available for amendment PHI in a designated record set and shall incorporate any amendments to PHI in a designated record set in accordance with 45 CFR §164.526 and in accordance with any process mutually agreed to by the parties.

13.9. Accounting. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to an individual's request for an accounting of disclosures of their PHI in accordance with 45 CFR §164.528. Business Associate agrees to make available to Covered Entity the information needed to enable Covered Entity to provide the individual with an accounting of disclosures as set forth in 45 CFR §164.528.

13.10. DHHS Access to Books, Records, and Other Information. Business Associate shall make available to the U.S. Department of Health and Human Services ("DHHS"), its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity for purposes of determining the Covered Entity's compliance with HIPAA.

13.11. Individual Authorizations; Restrictions. Covered Entity will notify Business Associate of any limitation in its notice of privacy practices, any restriction to the use or disclosure of PHI that Covered Entity has agreed to with an individual and of any changes in or revocation of an authorization or other permission by an individual, to the extent that such limitation, restriction, change, or revocation may affect Business Associate's use or disclosure of PHI.

13.12. HITECH Act Compliance. Covered Entity and Business Associate agree to comply with the amendments to HIPAA included in the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), including all privacy and security regulations issued under the HITECH Act that apply to Business Associate.

13.13. Breach; Termination; Mitigation. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this Section 13, Covered Entity and Business Associate shall take any steps reasonably necessary to cure such breach and make Business Associate comply, and, if such steps are unsuccessful, Covered Entity may terminate this Agreement. Business Associate shall take reasonable actions available to it to mitigate any detrimental effects of such violation or failure to comply.

13.14. Return of PHI. Business Associate agrees that upon termination of this Agreement, and if feasible, Business Associate shall (a) return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate has continued to maintain in any form or manner and retain no copies of such information or, (b) if such return or destruction is not feasible, immediately notify Covered Entity of the reasons return or destruction are not feasible, and extend indefinitely the protection of this Section 13 to such PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI not feasible.

13.15. De-identified Health Information. Business Associate may de-identify any and all PHI and may create a "Limited Data Set" in accordance with 45 C.F.R. § 164.514(b) & (e). Covered Entity acknowledges and agrees that de-identified information is not PHI and that Business Associate may use such de-identified information for any lawful purpose. Use or disclosure of a Limited Data Set must comply with 45 CFR 164.514(e).

13.16. Survival. All representations, covenants, and agreements in or under this Section 13 shall survive the execution, delivery, and performance of this Agreement.

13.17. Further Assurances; Conflicts. Each party shall in good faith execute, acknowledge or verify, and deliver any and all documents which may from time to time be reasonably requested by the other party to carry out the purpose and intent of this Section 13. The terms and conditions of this Section 13 will override and control any expressly conflicting term or condition of the Agreement. All non-conflicting terms and conditions of the Agreement shall remain in full force and effect. Any ambiguity shall be resolved in a manner that will permit Covered Entity to comply with HIPAA. For the avoidance of doubt, a limitation on liability in the Agreement does not conflict with this Section 13.

13.18. Applicable Law. The parties acknowledge and agree that HIPAA may be amended and additional guidance or regulations implementing HIPAA may be issued after the date of the execution of this Agreement and may affect the parties' obligations hereunder. The parties agree to take such action as is necessary to amend this Agreement from time in order as is necessary for Covered Entity to comply with HIPAA.

By signing below, the Customer acknowledges and agrees to those terms and conditions. The person signing below represents and warrants that she or he has the authority to bind the Customer to those terms and conditions.

Customer

Signature:



Name: JEFF HEWITT

Title: CHAIR, BOARD OF SUPERVISORS

Company: County of Riverside

Company Address: _____

Date: 03/29/2022

FORM APPROVED COUNTY COUNSEL
BY  3/18/22
RYAN D JABKO for DATE
AMRIT P DHILLON

ATTEST:

KECIA R. HARPER, Clerk
By 
DEPUTY