

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

ADDENDUM TO TECHNICAL SERVICES AGREEMENT AND QUOTE #00057671

THIS ADDENDUM is entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Physio-Control Inc, (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

THAT, WHEREAS, the parties have executed and accepted that certain Technical Services Agreement and Quote **#00057671** (hereinafter the "Agreement"), attached hereto as Exhibit "A" and incorporated by reference; and

WHEREAS, the following changes are incorporated as if a part of the Agreement:

1. **Services.** Contractor shall provide the equipment and services identified in Exhibit A.
2. **Term.** The Agreement is effective as of October 1, 2016 and shall terminate on September 30, 2019. The Agreement shall not automatically renew.
3. **Payment.** Payment shall be made by County within thirty (30) days of receipt of invoice.
4. **Maximum Compensation.** Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations thereof exceed amount certified to by the Fort Bend County Auditor, unless agreed by both Parties in writing with a signed certification of available funds provided by the Fort Bend County Auditor.
5. **Non-appropriation.** It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County.
6. **Taxes.** County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.
7. **Insurance.** Prior to commencement of Service, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services

commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services.

- A. Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
 - i. Workers Compensation in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.
 - ii. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
 - iii. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
 - iv. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
- B. County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court.
- C. If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the Contract and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time the work under this Contract is completed.
- D. Contractor shall not commence any portion of the work under this Contract until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- E. No cancellation of or changes to the certificates, or the policies, may be made without thirty (30) days prior, written notification to Fort Bend County.
- F. Approval of the insurance by Fort Bend County shall not relieve or decrease the liability of the Contractor.

8. **Indemnity.** CONTRACTOR SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.
9. **Independent Contractor.** In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors. Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.
10. **Performance Warranty.** Contractor warrants to County that Contractor has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Contractor will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the highest professional standards.
11. **Confidential Information.** Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Contractor shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.
12. **Attorney Fees.** County does not agree to pay any and/or all attorney fees or litigations expenses incurred by Contractor in any way associated with the Agreement.
13. **Applicable Law.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.
14. **Conflict.** If there is a conflict between this Addendum and the Agreement, the provisions of this Addendum shall prevail.

FORT BEND COUNTY


Robert E. Hebert, County Judge

Date

ATTEST:

Laura Richard, County Clerk

PHYSIO-CONTROL INC.



Authorized Agent- Signature

ANDREW VANDEKERK

Authorized Agent- Printed Name

ASSOC. REGIONAL MANAGER

Title

11/11/16

Date

Exhibit A: TECHNICAL SERVICES AGREEMENT AND QUOTE #00057671

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$_____ are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant, County Auditor

I/2016 agreements/purchasing 11.8.16 MTR

EXHIBIT A

**TECHNICAL SERVICES AGREEMENT AND
QUOTE #00057671**

**AS ATTACHED TO
ADDENDUM TO TECHNICAL SERVICES AGREEMENT
AND QUOTE #00057671**



Physio-Control, Inc
11811 Willows Road NE
P.O. Box 97006
Redmond, WA 98073-9706 U.S.A.
www.physio-control.com
tel 800.442.1142
fax 800.732.0956

To Rita Graeber, Deputy Chief
FORT BEND CTY EMS
4332 HWY 36
ROSENBERG, TX 77471
(281) 633-7088
rita.graeber@fortbendcountytexas.gov

Quote Number	00057671
Revision #	Renewal
Created Date	10/26/2016
Sales Consultant	MikeFlowers 281-415-3929
FOB	Redmond, WA
Terms	All quotes subject to credit approval and the following terms and conditions
NET Terms	NET 30

Renewal of PB16M676

3 Year Plan Coverage: 10/01/2016-9/30/2019
*Add New 3 Lucas effective 10/27/16.
*Add New 5 LP15 effective 12/14/16.
*LP500 limited to 1yr w/battery, 1yr No battery.

Add from PB17Q987:
15 LP15 & 12 Lucas effective 12/01/16.
**15 LP15 & 9 Lucas lock rate expires 9/30/18.
**3 Lucas not included on lock rate.

Payable in Annual Installments
15% discount on accessories and electrodes
Fax: 800-772-3340
Territory Code: WECC57

Expiration Date 12/31/2016

Product	Product Description	Quantity	List Price	Unit Discount	Unit Sales Price	Total Price
50999-000118	Zone2: (26 to 50Mi) or (41 to 81Km)	3.00	79.00	0.00	79.00	237.00
LP12-OSCOMP-3	LIFEPAK 12 Service - 3 YEAR. On-site Comprehensive Coverage.	9.00	3,933.00	-393.30	3,539.70	31,857.30
LP15-OSCOMP-1	LIFEPAK 15 Service - 1 YEAR. On-site Comprehensive Coverage.	15.00	1,680.00	-84.00	1,596.00	23,940.00
LP15-OSCOMP-2	LIFEPAK 15 Service - 2 YEAR. On-site Comprehensive Coverage.	15.00	3,360.00	-526.40	2,833.60	42,504.00
LP15-OSCOMP-3	LIFEPAK 15 Service - 3 YEAR. On-site Comprehensive Coverage.	5.00	5,040.00	-573.78	4,466.22	22,331.10
LP500-OSPMLITH-1	LIFEPAK 500 Service - 1 YEAR. On-site Preventative Maintenance w/ 1 lithium battery. Monophasic devices are not eligible.	3.00	347.00	0.00	347.00	1,041.00
LP500-OSPMNB	LIFEPAK 500 Service On-site Preventative Maintenance w/ no battery. Monophasic devices are not eligible.	3.00	287.00	0.00	287.00	861.00
LPCR-OSPM-3	LIFEPAK CR+ Service - 3 YEAR. On-site Preventative Maintenance.	3.00	1,071.00	-107.10	963.90	2,891.70
LUCAS-OSCOMP-1	LUCAS Service - 1 YEAR. On-site Comprehensive Coverage.	9.00	1,550.00	-77.50	1,472.50	13,252.50
LUCAS-OSCOMP-2	LUCAS Service - 2 YEAR. On-site Comprehensive Coverage.	9.00	3,100.00	-485.67	2,614.33	23,528.97
LUCAS-OSCOMP-3	LUCAS Service - 3 YEAR. On-site Comprehensive Coverage.	3.00	3,406.25	0.00	3,406.25	10,218.75
LUCAS-OSCOMP-3	LUCAS Service - 3 YEAR. On-site Comprehensive Coverage.	3.00	4,172.08	0.00	4,172.08	12,516.24

Subtotal	USD 185,179.56
Estimated Tax	USD 0.00
Estimated Shipping & Handling	USD 0.00
Grand Total	USD 185,179.56

	Pricing Summary Totals
List Price Total	USD 206,133.99
Total Contract Discounts Amount	USD -15,135.93
Total Discount	USD -5,818.50
Trade In Discounts	USD 0.00
Tax + S&H	USD 0.00

GRAND TOTAL FOR THIS QUOTE
USD 185,179.56

PHYSIO-CONTROL, INC. REQUIRES WRITTEN VERIFICATION OF THIS ORDER. A PURCHASE ORDER IS REQUIRED ON ALL ORDERS \$5,000 OR GREATER BEFORE APPLICABLE FREIGHT AND TAXES. THE UNDERSIGNED IS AUTHORIZED TO ACCEPT THIS ORDER IN ACCORDANCE WITH THE TERMS AND PRICES DENOTED HEREIN.

CUSTOMER APPROVAL (AUTHORIZED SIGNATURE)

NAME

TITLE

DATE

Reference Number JS/03909801/92334

General Terms for all Products, Services and Subscriptions.

Physio-Control, Inc. ("Physio") accepts Buyer's order expressly conditioned on Buyer's assent to the terms set forth in this document. Buyer's order and acceptance of any portion of the goods, services or subscriptions shall confirm Buyer's acceptance of these terms. Unless specified otherwise herein, these terms constitute the complete agreement between the parties. Amendments to this document shall be in writing and no prior or subsequent acceptance by Seller of any purchase order, acknowledgment, or other document from Buyer specifying different and/or additional terms shall be effective unless signed by both parties.

Pricing. Prices do not include freight insurance, freight forwarding fees, taxes, duties, import or export permit fees, or any other similar charge of any kind applicable to the goods and services. Sales or use taxes on domestic (USA) deliveries will be invoiced in addition to the price of the goods and services unless Physio receives a copy of a valid exemption certificate prior to delivery. Discounts may not be combined with other special terms, discounts, and/or promotions.

Payment. Payment for goods and services shall be subject to approval of credit by Physio. Unless otherwise specified by Physio in writing, the entire payment of an invoice is due thirty (30) days after the invoice date for deliveries in the USA, and sight draft or acceptable (confirmed) irrevocable letter of credit is required for sales outside the USA.

Minimum Order Quantity. Physio reserves the right to charge a service fee for any order less than \$200.00.

Patent Indemnity. Physio shall indemnify Buyer and hold it harmless from and against all demands, claims, damages, losses, and expenses, arising out of or resulting, from any action by a third party against Buyer that is based on any claim that the services infringe a United States patent, copyright, or trademark, or violate a trade secret or any other proprietary right of any person or entity. Physio's indemnification obligations hereunder will be subject to (i) receiving prompt written notice of the existence of any claim; (ii) being able to, at its option, control the defense and settlement of such claim (provided that, without obtaining the prior written consent of Buyer, Physio will enter into no settlement involving the admission of wrongdoing); and (iii) receiving full cooperation of Buyer in the defense of any claim.

Limitation of Interest. Through the purchase of Physio products, services, or subscriptions, Buyer does not acquire any interest in any tooling, drawings, design information, computer programming, patents or copyrighted or confidential information related to said products or services, and Buyer expressly agrees not to reverse engineer or decompile such products or related software and information.

Delays. Physio will not be liable for any loss or damage of any kind due to its failure to perform or delays in its performance resulting from an event beyond its reasonable control, including but not limited to, acts of God, labor disputes, the requirements of any governmental authority, war, civil unrest, terrorist acts, delays in manufacture, obtaining any required license or permit, and Physio inability to obtain goods from its usual sources.

Limited Warranty. Physio warrants its products and services in accordance with the terms of the limited warranties located at <http://www.physio-control.com/Documents/>. The remedies provided under such warranties shall be Buyer's sole and exclusive remedies. Physio makes no other warranties, express or implied, including, without limitation, NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IN NO EVENT SHALL PHYSIO BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES.

Compliance with Confidentiality Laws. Both parties acknowledge their respective obligations to maintain the security and confidentiality of individually identifiable health information and agree to comply with applicable federal and state health information confidentiality laws.

Compliance with Law. The parties agree to comply with any and all laws, rules, regulations, licensing requirements or standards that are now or hereafter promulgated by any local, state, and federal governmental authority/agency or accrediting/administrative body that governs or applies to their respective duties and obligations hereunder.

Regulatory Requirement for Access to Information. In the event 42 USC § 1395x(v)(1)(I) is applicable, Physio shall make available to the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of these terms, such books, documents and records as are necessary to certify the nature and extent of the costs of the products and services provided by Physio.

No Debarment. Physio represents and warrants that it and its directors, officers, and employees (i) are not excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 USC § 1320a-7b(f); (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services; and (iii) are not under investigation which may result in Physio being excluded from participation in such programs.

Choice of Law. The rights and obligations of Physio and Buyer related to the purchase and sale of products and services described in this document shall be governed by the laws of the state where Buyer is located. All costs and expenses incurred by the prevailing party related to enforcement of its rights under this document, including reasonable attorney's fees, shall be reimbursed by the other party.

Additional Terms for Purchase and Sale of Service Plans.

In addition to the General Terms above, the following terms apply to all Physio Service Plans.

Service Plans. Physio shall provide services according to the applicable Service Plan purchased by Buyer and described at <http://www.physio-control.com/ServicePrograms.aspx> for the length of the subscription purchased and for the devices specified as covered by the Service Plan ("Covered Equipment").

Pricing. If the number or configuration of Covered Equipment changes during the Service Plan subscription, pricing shall be prorated accordingly. For Preventative Maintenance, Inspection Only, Comprehensive, and Repair & Inspect Service Plans, Buyer is responsible to pay for preventative maintenance and inspections that have been performed since the last anniversary of the subscription start date and such services shall not be pro-rated.

Device Inspection Before Acceptance. All devices that are not covered under Physio's Limited Warranty or a current Service Plan must be inspected and repaired (if necessary) to meet specifications at then-current list prices prior to being covered under a Service Plan.

Unavailability of Covered Equipment. If Covered Equipment is not made available at a scheduled service visit, Buyer is responsible to reschedule with the Physio Service Technician, or ship-in the Equipment to a Physio service depot. Physio reserves the right to charge Buyer a surcharge for a return visit. Surcharges will be based on then-current Physio list price of desired services, less 10% for labor and 15% for parts, plus applicable travel costs. The return visit surcharge will be in addition to the subscription price of the Service Plan. To avoid the surcharge, Buyer may ship devices to a Physio service depot. Buyer shall be responsible for round-trip freight for ship-in service.

Unscheduled or Uncovered Services. If Buyer requests services to be performed on Covered Equipment which are not covered by a Service Plan, or are outside of designated Services frequency or hours, Physio-Control will charge Buyer for such services at 10% off Physio-Control's standard rates (including overtime, if appropriate) and applicable travel charges. Repair parts required for such repairs will be made available at 15% off the then-current list price.

Loaners. If Covered Equipment must be removed from service to complete repairs, Physio will provide Buyer with a loaner device, if one is available. Buyer assumes complete responsibility for the loaner and shall return the loaner to Physio in the same condition as received, normal wear and tear exempted, upon the earlier of the return of the removed Covered Equipment or Physio's request.

Cancellation. Buyer may cancel a Service Plan upon sixty (60) days' written notice to Physio. In the event of such cancellation, Buyer shall be responsible for the portion of the designated price which corresponds to the portion of the Service Plan subscription prior to the effective date of termination and the list-price cost of any preventative maintenance, inspections, or repairs rendered after the last anniversary date of the subscription start date.

No Solicitation. During the Service Plan subscription and for one (1) year following its expiration Buyer agrees to not to actively and intentionally solicit anyone who is employed by Physio to provide services such as those described in the Service Plan.

Quote Number: 00057671

ADDRESS

11811 Willows Road NE
Redmond, WA 98052

PHONE

GENERAL
425 867 4000

TOLL-FREE
800 442 1142

www.physio-control.com

Physio-Control, Inc. is the sole-source provider in the Hospital (hospitals and hospital-owned facilities), Emergency Response Services and Emergency Response Training (paramedics, professional and volunteer fire) markets for the following products:

- New LIFEPAK® 15 monitor/defibrillators
- New LIFEPAK 20e defibrillator/monitors
- New LIFEPAK 1000 automated external defibrillators
- New LUCAS® 2 Chest Compression System
- TrueCPR™ Coaching Devices

Physio-Control, Inc. is the sole-source provider in all markets for the following products and services:

- RELISM (Refurbished Equipment from the Lifesaving Innovators) devices
- LIFENET® System and related software
- Factory-authorized inspection and repair services which include repair parts, upgrades, inspections and repairs
- PulsePoint Agency Services
- HealthEMS® Software
- HomeSolutions.NET® Software
- ACLS (non-clinical) LIFEPAK defibrillator/monitors

Physio-Control is also the sole-source distributor of the following products for EMS customers in the U.S. and Canadian markets:

- McGRAT™ MAC EMS Video Laryngoscope
- McGRATH MAC Disposable Laryngoscope Blades
- McGRATH X Blade™

Physio-Control does not authorize any resellers to sell these products or services in the markets listed above. We will not fulfill orders placed by non-authorized businesses seeking to resell our products. If you have questions, please feel free to contact your local Physio-Control sales representative at 800.442.1142.

Sincerely,

PHYSIO-CONTROL, INC.



Allan Criss, Vice-President, Americas Sales

GDR 3321967_E

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Physio-Control, Inc.
Redmond, WA United States

Certificate Number:
2016-136731

Date Filed:
11/14/2016

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

14922

Maintenance on existing equipment. Renewal of PB16M676 (Quote# 00057671)

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said

20 16, to certify which, witness my hand and seal of office.

this the

day of

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath

