

STATE OF TEXAS                   §  
  §  
COUNTY OF FORT BEND       §

**ADDENDUM TO QUOTE NUMBER #128850**

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 Quote **#128850** (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 identified in Exhibit A without delay.
2. **Payment.** Payment shall be made by County within thirty (30) days of receipt of invoice, which shall not exceed the costs shown on Exhibit A.
3. **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.
4. **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.
5. **Indemnity.** CONTRACTOR SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM DEFECTIVE MATERIAL OR WORKMANSHIP IN THE PRODUCTS PURCHASED PURSUANT TO THIS AGREEMENT.
6. **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.

7. **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.
8. **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.
9. **Ownership.** Upon payment of invoice, County shall own the equipment. Therefore, any restriction on resale to third parties is hereby deleted.
10. **Limitation on Legal Action.** County does not agree to limit Contractor's liability as a term or condition of the Agreement. County does not agree to any limitations on County's right to bring legal action that do not exist in law.
11. **Entire Agreement.** This Agreement consists of this Addendum, Quote Number #128850 and the attached copies of Contractor's Return and Warranty Policies, attached and incorporated as Exhibit B. References to any other content are hereby struck from the Agreement between the Parties. The content of Exhibit B shall cause the reference to any web page locations that appear on Exhibit A to be deleted.
12. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content.
  - A. Agreement to Not Boycott Israel Chapter 2270 Texas Government Code: By signature below, Contractor verifies Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.
  - B. Texas Government Code Section 2251.152 Acknowledgment: By signature below, Contractor represents pursuant to Section 2252.152 of the Texas Government Code, that Contractor is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153
13. **Conflict.** In the event there is a conflict, the following have priority with regard to the conflict: first: this document titled, ADDENDUM TO quote number #128850 second: Exhibit A QUOTE NUMBER #128850 and last: Exhibit B. RETURN AND WARRANTY POLICIES

FORT BEND COUNTY

\_\_\_\_\_  
Robert E. Hebert, County Judge

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Laura Richard, County Clerk

PHYSIO-CONTROL INC.

*Tom Tackabury*

\_\_\_\_\_  
Authorized Agent- Signature

Tom Tackabury

\_\_\_\_\_  
Authorized Agent- Printed Name

Sales Manager

\_\_\_\_\_  
Title

12/21/18

\_\_\_\_\_  
Date

Exhibit A: QUOTE NUMBER #128850

Exhibit B: RETURN AND WARRANTY POLICIES

**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

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# EXHIBIT A

QUOTE NUMBER # 128850



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) 772.3340

Quote Number 00128850  
 Create Date 6/6/2018 8:38 AM  
 Quote Expiration Date 12/04/2018  
 Quote Consultant Trish Lundeen  
 (425) 867-4785  
 trish.lundeen@stryker.com  
 WECC57

### Service Plan Quote

Account: 03909801	Service Plan Detail
FORT BEND CTY EMS Attn: Rita Graeber, Deputy Chief-Administration 4332 HWY 36 ROSENBERG, TX 77471 (281) 633-7088  rita.graeber@fortbendcountytexas.gov	Type New Service Plan Start Date 10/01/2018 Service Plan End Date 09/30/2019 Reference Plan Billing Frequency Annual Terms All quotes subject to credit approval and the following terms and conditions Net Terms NET 30 Promotion Coverage Details-Brochure <a href="http://www.physio-control.com/ServicePlans/">www.physio-control.com/ServicePlans/</a>
Notes	
Service plan customers receive 15% discount on Accessories and Disposables.	
LP 15 s/n s/n 40555542	

Product	Start Date	End Date	Qty	Term List Price	Disc %	Annual Net Price Per Unit	Term Net Price Per Unit	Extended Term Net Price
LP15-OSCOMP-1	10/01/2018	09/30/2019	1	1,764.00	0.00	1,764.00	1,764.00	1,764.00

\* Denotes Proration  
 Product Descriptions provided below signature line.

Subtotal	USD 1,764.00
Estimated Tax	USD 0.00
Estimated Shipping & Handling	USD 0.00
<b>Grand Total</b>	<b>USD 1,764.00</b>
<hr/>	
List Price Total	Pricing Summary Totals USD 1,764.00
Total Discount	USD 0.00
Estimated Tax + S&H	USD 0.00

Tax will be calculated at time of invoice and is based on the Ship To location where product will be shipped.

GRAND TOTAL FOR THIS QUOTE  
 USD 1,764.00

Please provide a company issued Purchase Order that includes Billing and Shipping Address.  
 PO must reference payment terms of Net 30 days.

- OR -

Required information if no Purchase Order is provided

<b>Billing Address</b> <input type="checkbox"/> same as address on quote <hr/> Account Name <hr/> Address <hr/> City <hr/> State                                  Zip Code <hr/> <b>Accounts Payable Contact Information</b> <hr/> Accounts Payable Contact <hr/> Accounts Payable Email <hr/> <b>Authorized Customer Signature</b> <hr/> Name <hr/> Title <hr/>	<b>Shipping Address</b> <input type="checkbox"/> same as Billing Address <hr/> Account Name <hr/> Address <hr/> City <hr/> State                                  Zip Code <hr/> Accounts Payable Phone Number <hr/> <b>Customer is Tax Exempt?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <hr/> Signature <hr/> Date <hr/>
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**Optional information:**

Special Ship to Address

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Comments

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For Multiple End Users, please attach a supporting document with End User name, physical location, product type and quantity

Reference Number TL/03909801/169041/00128850

Product	Product Description
LP15-OSCOMP-1	LIFEPAK 15 Service - 1 YEAR. On-site Comprehensive Coverage for LIFEPAK® 15 Includes: -Services performed at customer’s location by a Physio-Control Technical Specialist -Parts and labor necessary to restore device to original specifications -Annual Preventive Maintenance and inspections including quality assurance documentation -Discounts on accessories, disposables, and upgrades -Updates to the latest software version -Preconfigured loaner device provided if needed -Battery Replacement Service

**Service Plan Summary**

List of covered equipment by location will be provided upon Customer’s signature of this quote.

### **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 pro-rated 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.