

STATE OF TEXAS §
§
COUNTY OF FORT BEND §

ADDENDUM TO STRYKER SALES CORPORATION'S AGREEMENT

THIS ADDENDUM ("Addendum") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Stryker Sales, LLC, ("Stryker"), a company authorized to conduct business in the State of Texas (hereinafter each referred to as a "party" or collectively as the "parties").

WHEREAS, subject to the changes herein, the parties have executed and accepted Stryker's Quote (Quote Number: 10968955) and Standard Terms of Sale (the "Agreement"), attached hereto as Exhibit "A" and incorporated fully by reference, for the purchase of specified equipment and associated shipping services (collectively the "Services"); and

WHEREAS, County desires that Stryker provide Services as will be more specifically described in this Agreement; and

WHEREAS, Stryker represents that it is qualified and desires to perform such Services;
and

WHEREAS, the Texas County Purchasing Act, § 262.024(a)(7) of the Texas Local Government Code, exempts from competitive bidding contracts that may be obtained from only one source; and

WHEREAS, Stryker is the sole source provider of the Services as indicated by the letter attached hereto as Exhibit "B" and incorporated fully by reference; and

WHEREAS, the Fort Bend County Commissioners Court specifically finds that this Agreement may be obtained from only one source and therefore grants an exemption from competitive bidding, insofar as any competitive bidding statute might apply; and

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

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

1. **Recitals.** The recitals set forth above are incorporated herein by reference and made a part of this Agreement.
2. **Scope of Services.** Subject to this Addendum, Stryker will render Services to County as described in Exhibit A, attached hereto as and incorporated by reference in this Agreement.
3. **Payment; Non-appropriation; Taxes.** Payment shall be made by County within thirty (30) days of receipt of invoice. Stryker may submit invoice(s) electronically in a form acceptable

to County via: apauditor@fortbendcountytexas.gov. 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. 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. Interest resulting from late payments by County shall be governed by Chapter 2251, TEXAS GOVERNMENT CODE.

4. **Limit of Appropriation.** Stryker clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Three Hundred Ninety-Three Thousand, Two Hundred Twenty-Three dollars and 86/100 (\$393,223.86), specifically allocated to fully discharge any and all liabilities County may incur. Stryker does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Stryker may become entitled to and the total maximum sum that County may become liable to pay to Stryker shall not under any conditions, circumstances, or interpretations thereof exceed Three Hundred Ninety-Three Thousand, Two Hundred Twenty-Three dollars and 86/100 (\$393,223.86). In no event will the amount paid by the County for all Services under this Agreement exceed this Limit of Appropriation without an amendment executed by the parties.
5. **Public Information Act and Open Meetings Act.** Stryker 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 Stryker 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. Neither the terms and conditions of the Agreement nor this Addendum are proprietary or confidential information.

Stryker expressly acknowledges that County is subject to the Texas Open Meetings Act, TEX. GOV'T CODE ANN. §§ 551.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will comply with the provisions of the Texas Open Meetings Act in relation to the Agreement.

6. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold

harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless Stryker for any reason are hereby deleted.

7. **Applicable Law; Arbitration; Attorney Fees.** 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. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by Stryker in any way associated with the Agreement.
8. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content. For purposes of Sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, Stryker hereby verifies that Stryker and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:
 - a. Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
 - b. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Stryker does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of the Texas Government Code.
 - c. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Stryker does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in § 809.001 of the Texas Government Code.
 - d. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Stryker does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in § 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in § 2274.001(6) and (7) of the Texas Government Code.
9. **Modifications and Waivers.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course

of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

10. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, STRYKER ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
11. **Use of Customer Name.** Stryker may use County's name without County's prior written consent only in any of Stryker's customer lists, any other use must be approved in advance by County.
12. **Conflict.** In the event there is a conflict between this Addendum and the Agreement, this Addendum controls to the extent of the conflict.
13. **Understanding, Fair Construction.** By execution of this Addendum, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.
14. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.
15. **Electronic and Digital Signatures.** The parties to this Agreement agree that any electronic and/or digital signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.
16. **County Records.** Nothing in this Agreement will be construed to waive the requirements of § 205.009 of the Texas Local Government Code. Nothing in this Agreement will be construed to waive the requirements of any record retention laws applicable to County.
17. **Compliance with Laws.** Stryker shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Stryker shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Stryker in providing all Services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

18. **Independent Contractor.** In the performance of work or services hereunder, Stryker 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 Stryker or, where permitted, of its subcontractors. Stryker 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.
19. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.
20. **County Insurance.** In lieu of obtaining any insurance coverage as required by the Agreement, the County may elect to rely upon its self-insured status.

(Execution Page Follows)

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will. This Addendum is effective upon execution by both parties.

FORT BEND COUNTY

STRYKER SALES, LLC

KP George, County Judge



Authorized Agent – Signature

Date

Jennifer N. Collins

Authorized Agent- Printed Name

ATTEST:

Manager, Strategic Pricing & Contracts

Title

Laura Richard, County Clerk

September 16, 2024

Date

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$ \$393,223.86 are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant, County Auditor

Exhibit A: Stryker's Quote and Short Form Sales Agreement; and

Exhibit B: Stryker's Quote (Quote Number: 10968955) and Standard Terms of Sale

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Exhibit A



Power Load FY25

Quote Number:10968955

Version:1

Prepared For:FORT BEND COUNTY EMS

Attn:

Quote Date:08/15/2024

Expiration Date:11/13/2024

Remit to:Stryker Sales, LLC
21343 NETWORK PLACE
CHICAGO IL 60673-1213
USA

Rep:Kelly Vitt

Email:kelly.vitt@stryker.com

Phone Number:

Delivery Address		Sold To - Shipping		Bill To Account	
Name:	FORT BEND COUNTY EMS	Name:	FORT BEND COUNTY EMS	Name:	FORT BEND COUNTY CLERK
Account #:	20040609	Account #:	20040609	Account #:	20039003
Address:	4332 HWY 36 S	Address:	4332 HWY 36 S	Address:	301 JACKSON ST
	ROSENBERG		ROSENBERG		RICHMOND
	Texas 77471-9108		Texas 77471-9108		Texas 77469-3108

Equipment Products:

#	Product	Description	U/M	Qty	Sell Price	Total
1.0	639005550001	MTS POWER LOAD	PCE	6	\$28,861.64	\$173,169.84
2.0	650705550001	6507 POWER PRO 2, HIGH CONFIG	PCE	6	\$33,519.72	\$201,118.32
3.0	650700450102	ASSEMBLY, POWER CORD, NORTH AM	PCE	6	\$30.60	\$183.60
4.0	650700450301	ASSEMBLY, BATTERY CHARGER	PCE	6	\$1,326.85	\$7,961.10
5.0	650707000002	KIT, ALVARIUM BATTERY, SERVICE	PCE	6	\$927.35	\$5,564.10
Equipment Total:						\$387,996.96

Price Totals:

Estimated Sales Tax (0.000%):	\$0.00
Freight/Shipping:	\$5,226.90
Grand Total:	\$393,223.86

Prices: In effect for 30 days

Terms: Net 30 Days



Power Load FY25

Quote Number:	10968955	Remit to:	Stryker Sales, LLC 21343 NETWORK PLACE CHICAGO IL 60673-1213 USA
Version:	1	Rep:	Kelly Vitt
Prepared For:	FORT BEND COUNTY EMS	Email:	kelly.vitt@stryker.com
Attn:		Phone Number:	
Quote Date:	08/15/2024		
Expiration Date:	11/13/2024		

Terms and Conditions:
Deal Consummation: This is a quote and not a commitment. This quote is subject to final credit, pricing, and documentation approval. Legal documentation must be signed before your equipment can be delivered. Documentation will be provided upon completion of our review process and your selection of a payment schedule. Confidentiality Notice: Recipient will not disclose to any third party the terms of this quote or any other information, including any pricing or discounts, offered to be provided by Stryker to Recipient in connection with this quote, without Stryker's prior written approval, except as may be requested by law or by lawful order of any applicable government agency. A copy of Stryker Medical's terms and conditions can be found at https://techweb.stryker.com/Terms_Conditions/index.html.

STANDARD TERMS OF SALE (US)

- 1. General.** All sales of Products distributed by Stryker in the United States are subject to the following terms and conditions. In these “Standard Terms of Sale”, “Stryker” means Stryker Corporation and any of its affiliates providing Products to Customer, goods and services sold by Stryker are referred to as “Products”, and the purchaser of the Products is referred to as the “Customer.” Stryker and Customer are herein collectively referred to as “Parties”.
- 2. Price and Taxes.**
 - 2.1. Prices shown on Stryker invoices are net of discounts provided at the time of purchase and Products listed on an invoice may be subject to additional rebates or discounts, for which separate documentation is provided by Stryker. Customer must: (i) claim the value of all rebates and/or discounts in Customer’s fiscal year earned or the immediately following fiscal year; (ii) properly report and appropriately reflect and allocate prices paid net of all discounts and rebates in Medicare/Medicaid cost reports and all claims for payment filed with third party payors as required by law or contract; and (iii) provide agents of the U.S. or a state agency with access to all information from Stryker concerning discounts and rebates upon request.
 - 2.2. Stryker’s price does not include sales, use, value added, franchise, gross receipts, profits, excise, privilege, occupation, personal property, withholding and all other federal, state or local or foreign taxes, import or customs fees and duties associated with an order, however designated (collectively, “Taxes”). Customer will be liable for all Taxes, whether or not Stryker invoices Customer for such Taxes (unless Customer will provide Stryker at the time an order is submitted with an exemption certificate or other documents acceptable to taxing or customs authorities).
- 3. Payment Terms.** Unless otherwise provided on Stryker’s invoice, invoices must be paid in full by Customer thirty (30) days after the date of Stryker’s invoice. Any amount not paid on time may be subject to a late fee of 1.5% per month prorated (18% per annum), or the maximum interest rate allowable by law, whichever is the highest. Stryker, in its sole discretion, reserves the right to change terms of payment and/or discontinue further shipments or suspend services, without prejudice to any other lawful remedy, in the event that: (i) the sale would cause to be exceeded any credit limit that Stryker will have extended to Customer under Section 4 below; (ii) if at any time Stryker determines that Customer’s financial condition or credit rating does not justify a sale on credit; or (iii) Customer is at any time in default in any indebtedness or obligation that Customer owes to Stryker. Stryker may require advance payment or may ship Cash on Delivery (“COD”). Payment must be made to Stryker at the location designated in Stryker’s invoice. Customer must notify Stryker in writing of any disputed invoice within fifteen (15) days of its receipt. The writing must provide Stryker with sufficient detail regarding the basis and amount of the dispute. If Customer does not dispute an invoice within fifteen (15) days of its receipt, such invoice will be deemed to have been approved and accepted by Customer.
- 4. Credit Policies.** Based upon Customer’s financial position and payment history, Stryker may, in Stryker’s sole discretion, assign Customer a credit limit. Customer’s total pending orders and outstanding accounts payable to Stryker must remain within the amount of the credit limit. Stryker may at any time, in Stryker’s sole discretion, modify or discontinue Customer’s credit limit or modify Stryker’s credit terms and other credit policies. Neither this paragraph nor any other provision of these Standard Terms of Sale makes Customer a dealer or distributor of Stryker or obligates Stryker to sell any Products to Customer.
- 5. Delivery, Title and Risk of Loss.** Unless otherwise provided on an invoice, or except for Products purchased on a consignment basis, all Products purchased directly from Stryker will be shipped F.O.B Origin, freight, insurance and handling prepaid and added to the invoice. Title and risk of loss transfer to Customer upon Stryker’s delivery of the Products to a common carrier. Shipping and delivery dates are estimates only, and time is not of the essence. Stryker may ship all the Products at one time or in portions. Stryker will have the right to determine the method of shipment and routing of the Products, unless Stryker agrees otherwise in writing. All Products will be shipped to the address indicated in the “ship to” portion of Customer’s purchase order. Stryker reserves the right to refuse to ship the Products to third parties.
- 6. Consignment and Loaned Instrumentation.** To the extent Products are consigned or loaned to Customer, the additional terms and conditions set forth in in [Appendix 1](#) hereto will apply.
- 7. Stryker Communications Products.** To the extent Products purchased by Customer include equipment and installation services provided by Stryker’s Communications division, the additional terms and conditions set forth in [Appendix 2](#) hereto will apply.
- 8. Trade-in Equipment.** If applicable, any trade-in discount offered by Stryker and may be reflected on an invoice is an additional discount given by Stryker as a result of trade-in equipment remitted to Stryker by Customer at Customer’s request. Customer transfers and delivers unto Stryker all of Customer’s rights, title and interest in and to such trade-in equipment and all trade-in equipment must be shipped, at Customer’s expense, to the address designated by Stryker within the time period agreed to by the Parties. All trade-in equipment must be appropriately packaged, consistent with Stryker’s instructions or if such instructions have not been provided, with good commercial practice. Customer assumes responsibility for shipment of trade-in equipment to Stryker and for risk of loss or damage during shipment. Trade-in equipment must be accompanied by a copy of the purchase order or the trade-in order number. Failure to return trade-in equipment in accordance with these instructions may result in forfeiture of the trade-in discount, for which Stryker will bill Customer, to be paid by Customer in accordance with Section 3.
- 9. Product Training.** Stryker may provide technical training, including both initial training for new users and supplemental training for existing users, as needed to promote the safe and effective use of its Products sold to Customer. Such technical training will be provided

for any health care practitioner who uses or intends to use the Product and is employed by, or is on the active medical staff of, Customer. If Stryker provides the technical training to a health care professional, it may pay for or reimburse the reasonable expenses, including meals, lodging and transportation, actually incurred by eligible recipients in connection with the technical training provided under this paragraph. Such training is not deemed a condition precedent to sale of the Products or Customer's acceptance thereof.

10. Warranties, Return Policies and Maintenance.

- 10.1. In addition to Stryker's current standard Product warranties, if applicable, Stryker warrants that: (i) it has good title to Products shipped directly to Customer, free of all liens, claims and encumbrances; and (ii) the Products, at the time of sale, meet applicable FDA clearance or approval (as applicable) necessary for commercial sale. Notwithstanding the foregoing clause (i), Customer agrees that Stryker will retain a purchase money security interest in the Products, and to any proceeds from the disposition of such Products, until the purchase price and other charges due Stryker have been paid in full. Upon any default by Customer hereunder, Stryker will have any and all rights and remedies of secured party under the Uniform Commercial Code which right will be cumulative.
- 10.2. THE EXPRESS WARRANTIES SET FORTH IN SECTION 10.1 AND STRYKER'S STANDARD PRODUCT WARRANTY ARE THE ONLY WARRANTIES APPLICABLE TO THE PRODUCTS SOLD TO CUSTOMER AND ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTY BY STRYKER, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.
- 10.3. Products returned by Customer for credit, replacement and/or repair will be at Stryker's sole discretion and in accordance Stryker's applicable return policy.
- 10.4. Stryker's standard Product warranties and return policies can be found at www.stryker.com/returnpolicy. Stryker's Product warranties apply only to (i) the original end-user purchaser of Products directly from Stryker or its authorized distributors and (ii) Products manufactured by Stryker. Unless otherwise agreed to in writing by Stryker, non-Stryker Products are sold "as-is" with no warranty of any kind, express or implied.
- 10.5. In addition to Stryker's standard Product warranties, service plans for repairs and maintenance may be purchased at any time for a number of Stryker's capital equipment Products. These special service plans cover repair and/or maintenance that the designated piece of equipment may require during the term of the service plan contract. Specific service plan details are available through your local Stryker sales representative. Stryker's service terms and conditions are set forth in **Appendix 3** hereto.
- 10.6. Customer agrees that Stryker may monitor use of the Products, and services provided through the Products, by Customer and users and collect and use Stryker Data, including to compile information related to the provision, operation or use of a Product, facilitate the provision of support, consulting, training and other services, and verify compliance with the terms of this Standard Terms of Sale. Stryker may use and make publicly available, Stryker Data to the extent and in the manner permitted under applicable law. Stryker owns Stryker Data, and Customer grants Stryker a non-exclusive, perpetual, irrevocable, transferable, sublicenseable, royalty-free, fully paid-up, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer's Content incorporated within the Stryker Data. "Stryker Data" means any data relating to or arising from the business operations or plans, services and products of Stryker or the performance or use of the Products or that may aide Stryker in optimizing resources and support; may be used to improve products or services, may be used in research and development regarding products or services; may be used in verification of security and data integrity of products or services or in resource planning, industry trends, benchmarking, or contract administration (e.g., data used for sales compensation), and any Personal Information that is aggregated and not identified or identifiable to any individual.

11. Software License.

- 11.1. Certain Products contain software that is installed into the Products by Stryker. Stryker owns this software and each sale of a software-containing Product is not a sale of such software; it includes only a license to use the software in the Product in which the software was initially installed solely in accordance with the documentation provided with such Product. The license for any such software may be embedded in the equipment, the product documentation or available on <https://www.stryker.com/us/en/legal/it.html> and shall automatically apply to such product on first use of the product. ANY SOFTWARE LICENSE PROVIDED BY STRYKER DOES NOT EXTEND TO ANY MAINTENANCE OR SERVICE SOFTWARE SHIPPED TO OR LOCATED AT CUSTOMER'S PREMISES WHICH IS INTENDED TO ASSIST STRYKER EMPLOYEES OR AGENTS IN THE INSTALLATION, TESTING, SERVICE, AND MAINTENANCE OF ANY PRODUCT. CUSTOMER ACKNOWLEDGES THAT SOFTWARE PROVIDED WITH A PRODUCT MAY CONTAIN THIRD PARTY SOFTWARE (INCLUDING BUT NOT LIMITED TO OPEN SOURCE SOFTWARE LICENSES), AND THAT SUCH SOFTWARE IS SUBJECT TO THE TERMS AND CONDITIONS OF THE APPLICABLE LICENSE THAT ACCOMPANIES IT. A LIST OF OPEN SOURCE SOFTWARE USED IN STRYKER PRODUCTS AND THEIR APPLICABLE LICENSES MAY BE FOUND AT <https://www.stryker.com/us/en/legal/it.html>.
- 11.2. Any license granted by Stryker to use the software contained in its Products does not give the licensee the right to copy, alter, disassemble, reverse engineer, create derivative works of such software or to use such software in either original or modified form in any product other than the Stryker Product in which the software was initially installed by Stryker. Such use is strictly prohibited.
- 11.3. Prior to delivering a Product containing software, Stryker may, but is not required to, require Customer to execute a license agreement to acknowledge the terms of this Section 11 and any additional terms under which Stryker may elect to license its software. If a Customer elects not to sign a license agreement, Stryker reserves the right to cancel the order for the Product containing the software. If Customer accepts a Product without agreeing to any additional licensee agreement, Customer is still bound by the license term set forth herein. If Customer receives a Stryker Product without executing a license, the Customer is still bound by the applicable license.

12. Indemnity.

- 12.1. Stryker agrees to indemnify Customer from any third party liability ("Claims") which Customer suffers directly as a result of: (i) a defect in workmanship of the Products that are manufactured by Stryker; or (ii) if applicable, a defect in the reprocessing services, for any Products that are subject to Stryker's reprocessing services. This indemnification does not apply to Claims arising from: (a) an injury due to the negligence of any person other than an employee or agent of Stryker; (b) the failure of any person other than an employee or agent of Stryker to follow any labeling, manuals and/or instructions for use of the Products; (c) the use of any product (or any accessories) not purchased from Stryker; or (d) Product that has been modified, altered, or repaired by any person other than an employee or agent of Stryker. Customer agrees to indemnify Stryker against any Claims to the extent arising from (a) through (d) above due to the negligent acts or omissions of Customer or its officers, employees, representatives or agents. The rights and obligations relating to indemnification for any Claims relating to a Product are expressly defined only by these Standard Terms of Sale.
- 12.2. Stryker's indemnification obligations under this Section 12 are conditioned on Customer promptly providing Stryker with timely written notice of any Claim for which indemnification is sought. Stryker will not agree to any settlement or compromise that imposes or results in any finding of fault or any restriction or obligation on the part of Customer without Customer's prior written consent (which will not be unreasonably withheld).

13. Insurance.

- 13.1. Stryker will maintain general liability insurance, including coverage for products and completed operations liability, auto liability insurance and workers' compensation and employer's liability insurance subject to appropriate limits covering claims alleging negligence by or liability of Stryker that might arise out of Stryker's execution under these Standard Terms of Sale. To the extent permitted by applicable laws and regulations, Stryker has the right to comply with this requirement through a program of self-insurance. When requested by Customer in writing, Stryker will furnish an insurance certificate or other documentation evidencing the insurance or self-insurance coverage required above.
- 13.2. Customer will maintain appropriate types of liability insurance subject to appropriate limits covering claims alleging negligence by or liability of Customer that might arise out of purchases of Products by Customer hereunder, including liability arising out of Customer's indemnity obligations set forth in Section 12 above. When requested by Stryker in writing, Customer will provide a certificate of insurance evidencing such coverage.

14. Limitation of Liability. STRYKER'S LIABILITY ARISING IN CONNECTION WITH OR UNDER THESE STANDARD TERMS OF SALE (WHETHER UNDER THE THEORIES OF BREACH OF CONTRACT, TORT, MISREPRESENTATION, FRAUD, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY OF LAW) WILL NOT EXCEED THE PURCHASE PRICE OF THE APPLICABLE PRODUCTS MINUS DEPRECIATION OR IN THE CASE OF SERVICES, SERVICE FEES PAID BY CUSTOMER IN THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM. NEITHER PARTY WILL BE ENTITLED TO, NOR WILL BE LIABLE FOR, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE, INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, PROFITS OR REVENUE OR BUSINESS INTERRUPTION.

15. Confidentiality. Stryker and Customer: (i) will hold in strictest confidence Product pricing, proposals, invoices and any information and materials which are related to the business of the other or are designated as proprietary or confidential, herein or otherwise, or which a reasonable person would consider to be proprietary or confidential information; (ii) hereby covenant that, subject to Section 2.1, they will not disclose such information to any third party without prior written authorization of the one to whom such information relates; and (iii) agree that any breach or threatened breach of this section may cause irreparable harm, that a remedy at law will be inadequate to remedy such a breach or threatened breach, and that this section will be enforceable by way of a restraining order or injunction, without the necessity of posting a bond, in addition to any other available legal remedies.

16. Default. In the event of Customer's default in payment for the Products purchased hereunder, Customer will be responsible for all reasonable costs and expenses (including reasonable attorney's fees) incurred by Stryker in collection of any sums owing by Customer, and Stryker will not be obligated to make any further deliveries to Customer. Should Customer elect to cancel its order, in whole or in part, Customer will be liable to Stryker for any non-refundable deposits and reasonable cancellation charges that will include, but not be limited to, all costs and expenses incurred by Stryker in connection with procuring and filling Customer's purchase order.

17. Unavoidable Delay. If Stryker is not able to finish and deliver the Products to Customer on time because of anything that Stryker cannot control (such as act of God, casualty, labor trouble, accidents or unavailability of supplies or transportation), then the estimated delivery time will be extended accordingly, and Stryker will not be liable to Customer for any damages that the delay causes.

18. Compliance with Law; Not For Resale or Export. Customer represents and warrants that it: (i) will comply with all applicable laws and regulations of the various states and of the United States in the use of the Products; and (ii) is buying Product(s) for its internal use only, and not for resale or export.

19. Miscellaneous. These Standard Terms of Sale constitute the entire agreement between the Parties with respect to the purchase of Products, and any modification or amendments must be in writing and signed by both Parties. The Standard Terms of Sale are in lieu of and replace any and all terms and conditions set forth in any documents issued by Customer. In the event the Parties enter into a written agreement with respect to the purchase of Products and there is a conflict between the written agreement and these Standard Terms of Sale, the terms and conditions of such written agreement shall govern. Any additional, different, or conflicting terms and conditions on any such document issued by Customer at any time are hereby rejected by Stryker and will not be binding in any way on Stryker. Neither Party will transfer or assign any or all of its rights or interests, or delegate any of its obligations, hereunder, without the prior written

consent of the other Party (which consent will not be unreasonably withheld); provided, however, Stryker may assign its rights or interests, or delegate its obligations, in whole or in part, to any of its affiliates without the prior consent of Customer. The Standard Terms of Sale will be binding upon, will inure to the benefit of, and be enforceable by permitted successors and assigns of the Parties. The rights and remedies conferred under these Standard Terms of Sale apply only to Stryker and Customer and will not be construed to inure to the benefit of or provide any right of action to any other person, including without limitation any patient or third-party payor. In the event that any provision of these Standard Terms of Sale is determined to be unenforceable or invalid, such provision will nonetheless be enforced to the fullest extent permitted by applicable law, and such determination will not affect the validity and enforceability of any other remaining provisions. These Standard Terms of Sale will be governed by and construed in accordance with the laws of the State of Michigan as applicable to contracts made and to be performed in that state, without regard to conflicts of laws principles.

20. Professional Services. Stryker may provide professional services to Customer, including, but not limited to, consulting, advisory, program development and implementation and data analytics services. Such services are only provided to Customer, and governed by, separate services contracts entered into by Stryker and Customer and are not subject to these Standard Terms of Sale.

APPENDIX 1 - CONSIGNMENT AND LOANED INSTRUMENTATION TERMS

1. Consignment.

- 1.1. Stryker will place at Customer's facility on a consignment basis, such quantities and types of Product as Customer and Stryker may mutually agree upon (the "**Consigned Inventory**"). The initial quantities, types and applicable par levels for Consigned Inventory (and any future modification thereto) will be agreed upon in writing by the Parties. Customer must provide appropriate space to store and safeguard the Consigned Inventory. Customer fully acknowledges and accepts complete responsibility for the Consigned Inventory and agrees to handle and store the Consigned Inventory in compliance with all applicable Product labeling, laws and regulations. Customer agrees to maintain protocols and/or procedures to ensure compliance with the same.
- 1.2. All Consigned Inventory is the property of Stryker until withdrawn by Customer; however, Customer accepts all risk of loss and full responsibility for the condition of any shortages in and the payment for all Consigned Inventory which may be used, opened, lost, or damaged. Customer must return to Stryker all damaged Consigned Inventory, and Stryker will arrange to have the damaged items destroyed. Customer must use reasonable efforts to: (i) identify all Consigned Inventory as being the property of Stryker and label it separately by Stryker division within Customer's storerooms and operating rooms; (ii) separate Consigned Inventory from property of Customer (including products housed in inventory carts); and (iii) maintain complete and accurate records concerning the Consigned Inventory.
- 1.3. Customer, in its sole discretion, will determine whether to withdraw items of Consigned Inventory. As a Product is withdrawn from the Consigned Inventory, the Product will be deemed to have been purchased by Customer, title in the Product will pass to Customer and title in the sale proceeds will vest in and belong to Stryker. Within two (2) business days from the withdrawal from Consigned Inventory, Customer must issue to Stryker a purchase order for such withdrawn Product. In the event Customer fails to issue a purchase order to Stryker, Stryker, at its option, may place Customer on credit hold and remove Consigned Inventory from Customer's facility.
- 1.4. Stryker may conduct an audit (including a physical inventory) of the Consigned Inventory during business hours upon 24 hours' notice to Customer. In the event that Stryker's audit of the Consigned Inventory concludes that inventory is missing, Customer agrees that it will pay to Stryker any monies which are due and owing based on the missing inventory. In the event that Stryker's audit of the Consigned Inventory concludes that a surplus exists, Stryker will adjust Consigned Inventory par levels as necessary to reflect the levels as determined by the audit. Customer and Stryker agree to meet within fifteen (15) days after an audit has been completed by Stryker to resolve whether a surplus or a shortfall exists.
- 1.5. In the event the Consigned Inventory includes human tissue grafts, Customer agrees to: (i) comply with all applicable federal and state laws and regulations relating to the consigned human tissue grafts, including, without limitation, all applicable tissue tracking requirements and applicable standards and guidelines adopted by the American Association of Tissue Banks; and (ii) control the consigned human tissue grafts according to temperature requirements and JCAHO Tissue and Issuance Standards 17.10, 17.20, and 17.30.
- 1.6. Upon notice or expiration or termination of a consignment arrangement, Customer will, within ten (10) days, deliver as directed by Stryker all Consigned Inventory then in the possession or control.

2. Loaned Instrumentation. If applicable, Stryker may provide certain of its non-disposable orthopaedic surgical instruments ("**Instrumentation**") to Customer as follows:

- 2.1. Stryker will place at Customer's facility on a loaned basis, such quantities and types of Product or Instrumentation as Customer and Stryker mutually agree upon (collectively, the "**Loaned Inventory**").
- 2.2. Customer will have no ownership interest in the Instrumentation; however, Customer is responsible for maintaining the Instrumentation in good condition and for using reasonable care in its handling and storage. Customer will be responsible for any loss of or damage to the Instrumentation. Customer must use reasonable efforts to (i) identify all Loaned Inventory as being the property of Stryker, (ii) separate Loaned Inventory from other property of Customer, and (iii) maintain complete and accurate records concerning the Loaned Inventory.
- 2.3. Except as otherwise provided, Instrumentation will be provided by Stryker on a loaned basis at no additional cost or expense to Customer except as noted in the preceding paragraph. The Instrumentation provided is restricted for use with the Products only and is not separately reimbursable and has no independent value. Customer will maintain appropriate property insurance on the Instrumentation during the term of any Instrumentation loan arrangement to provide coverage against loss by theft, fire damage, acts of nature or other cause. Upon request by Stryker, Customer will provide a certificate of insurance evidencing such coverage, which will name Stryker as a named insured and loss payee, as its interests may appear.
- 2.4. Upon expiration or termination of an Instrumentation loan arrangement, Customer shall within ten (10) days, deliver by Stryker all Loan Inventory then in its possession or control.

APPENDIX 2 – STRYKER COMMUNICATIONS EQUIPMENT PURCHASE AND INSTALLATION SERVICES TERMS

The terms of this Appendix 2 will apply to Customer's purchase of Stryker Communications equipment ("**Equipment**") and any related services from Stryker's Communications division. In the event of a conflict or inconsistency between the Standard Terms of Sale and this Appendix 2, relative to Equipment and services sold by the Communications division only, this Appendix 2 will govern. Stryker Communications may offer standalone software products to Customer. Such software is only licensed to Customer, and governed by, separate software license agreements entered into by Stryker Communications and Customer and are not subject to these Standard Terms of Sale, including this Appendix 2.

1. **Equipment Purchases.**

1.1. Payment Terms:

- 1.1.1. **Deposit:** A non-refundable deposit of fifty percent (50%) of the Equipment purchase price will be due upon Stryker Communications acceptance of Customer's purchase order ("**Deposit**").
- 1.1.2. **Additional Payments:** Additional payments for Equipment will be invoiced upon Stryker Communications shipment of the Equipment and are payable by Customer in accordance with the Standard Terms of Sale.
- 1.1.3. **Engineering Services:** Charges for any Engineering Services (as defined in Section 1.3 below) will be invoiced by Stryker Communications as they are performed, or upon shipment of Equipment to Customer, whichever is later. Such invoices are payable by Customer in accordance with the Standard Terms of Sale.
- 1.1.4. **Contingency:** Customer may elect to include a contingency charge amount on its purchase order that may be applied as a credit for potential future changes or additions to the Stryker Communications Equipment that Customer wishes to purchase ("**Contingency Charge**"). If Customer elects to make such a change or addition, any charges for such change or addition will be added to the Equipment purchase price and will be deducted from the Contingency Charge until such Contingency Charge is exhausted. Customer may make changes or additions in an amount up to the then current balance of the Contingency Charge without initiating the Change Order process as further described in Section 1.4 below. Pricing for all Equipment changed or added in such a way will be at a discount off Stryker Communications list price equivalent to the discount provided on the applicable purchase order. In the event of an unapplied Contingency Charge balance upon completion of the order, Customer will not be obligated to pay such amount. Unapplied Contingency Charge balances may be cancelled upon written request from the Customer.

1.2. Shipment and Installation Dates:

- 1.2.1. The Parties agree to estimate the date that installation of the Equipment will occur (the "**Anticipated Installation Date**"). The actual dates of shipment will be mutually agreed upon between Stryker Communications and Customer ("**Shipment Date**"); provided, however, that the Anticipated Installation Date may not be changed less than eight (8) weeks prior to the scheduled Anticipated Installation Date. Stryker Communications will use its commercially reasonable best efforts to meet all Shipment Dates requested by Customer. Customer understands that production and installation scheduling will not occur until Stryker Communications' receipt of: (i) Customer's deposit payment pursuant to Section 1.1.1; and (ii) a completed shipment and installation date confirmation form. If Customer requests a rescheduling of the installation date with less than eight (8) weeks' notice prior to the Anticipated Installation Date, Customer agrees to accept all shipments of ordered Products no later than the original installation date and, if necessary, make necessary arrangements for storage of the Stryker Communications Equipment at Customer's expense until the rescheduled installation date.
- 1.2.2. If Customer delays or extends shipment or installation of the Equipment, Customer will arrange for and notify Stryker Communications of the place or places to which Stryker Communications will ship the Equipment for storage at Customer's expense and all risk of loss or damage to the Equipment will be the responsibility of the Customer. Stryker Communications will invoice Customer for the Equipment upon shipment and Customer agrees to pay such invoice in accordance with the Standard Terms of Sale.
- 1.3. **Engineering Services:** Stryker Communications agrees to provide the engineering services described in the project proposal provided to Customer, if any, subject to the terms and conditions hereof ("**Engineering Services**").
- 1.4. **Change Orders:** Options, upgrades and additions to Stryker Communications Equipment may be available ("**Change Orders**"). Change Orders will require a new purchase order or an addendum to the original purchase order, which could result in changes to the total purchase price. Change Orders made less than eight (8) weeks prior to the scheduled installation date may result in shipping delays and additional expenses for expedited shipping.

2. **Installation Services:** Charges for Installation Services (as defined in Section 2.2 below) will be invoiced upon Customer Acceptance (as defined in Section 2.2 below). If installation of the Equipment is completed in phases at Customer's request, Stryker Communications will invoice Customer separately for the Installation Services provided in each phase. Such invoices are payable by Customer in accordance with the Standard Terms of Sale.

- 2.1. **Customer Acceptance:** Acceptance of Installation Services will occur on the earlier of the following: (i) Stryker Communications' receipt of a "Customer Acceptance Form" signed by Customer; (b) clinical utilization of Stryker Communications Equipment by Customer; or (iii) fifteen (15) days after the completion of installation of Stryker Communications Equipment ("**Customer Acceptance**").
- 2.2. **Installation Services:** The Installation Services to be provided by Stryker in connection with Stryker Communications Equipment are further defined in the project proposal provided to Customer (the "**Installation Services**"). Customer's proposal should state whether

installation pricing includes work on nights, weekends, multiple trips (e.g. phased project installations), and/or union support. If not explicitly noted, Installation Services are presumed to include regular working hours, single phase, and no union support. Please consult the appropriate Stryker Communications Sales Representative with any questions. If additional Installation Services are required: (i) because of Customer's failure to complete its Pre-Installation Responsibilities described below in Section 2.4.2; (ii) because of a Customer requests to install in a manner dissimilar to that quoted (e.g. weekends only); or (iii) if the installation date is rescheduled with less than eight (8) weeks' notice prior to the Anticipated Installation Date, Stryker Communications may, at its discretion, invoice Customer an additional \$1,500 per day per installation technician.

2.3. **Stryker Responsibilities**

- 2.3.1. **Pre-Installation Meeting Responsibilities:** Stryker Communications will facilitate an Equipment pre-installation planning meeting to be held at Customer's site before construction begins. At, or before this meeting, Stryker Communications will provide Customer and Customer representatives with Stryker Communications Equipment pre-installation guide ("**Pre-Installation Guide**"). Additional detailed pre-installation requirements are included in the Pre-Installation Guides. All pre-installation work performed must adhere to the Pre-Installation Guide. Stryker Communications will schedule and lead the discussions and review the Drawings (as defined in Section 2.4.2 below) with Customer's Project Manager, Clinical Department Manager and representatives from all installing contractors. Stryker Communications will schedule and lead the discussion and review of the Pre-Installation Guide and designation of exact responsibilities of all contractors. Stryker Communications will schedule and lead the discussion of mounting plate(s) placement, pre-install design specifications and routing requirements of all applicable services.
- 2.3.2. **Layout/Placement Drawings:** Stryker Communications will provide final Equipment layout/placement drawings ("**Drawings**") for review within five (5) business days of acceptance of purchase order and Deposit payment. The Drawings will include Product placement and configuration of services. Within six (6) weeks after acceptance of Customer's purchase order and no less than fourteen (14) weeks before the scheduled Shipment date, Customer must deliver to Stryker Communications a copy of the signed Drawings, which have been approved by the Customer's Project Manager and the Clinical Department Manager (or respective designees). Customer understands Stryker Communications will not schedule production until the signed Drawings are received by Stryker Communications; and Stryker Communications is not responsible for any direct or indirect costs related to resulting delays.
- 2.3.3. **Inspection and Evaluation Responsibilities:** Stryker Communications will review superstructure requirement (e.g. weights and moments) with Customer's contractors and Project Manager. When requested, Stryker Communications will provide Customer with knowledgeable third-party resources regarding superstructure. Any consulting done with said third parties will be at the Customer's expense. Stryker Communication will review equipment installation procedures and process with Customer. Stryker Communications will track construction schedules and make certain both Parties are adhering to originally agreed upon timelines. Stryker Communications will provide Customer with specifications necessary to order applicable network services (obtaining and payment for these services are the Customer's responsibility).
- 2.3.4. **Installation Responsibilities:** Stryker Communications is responsible for the Equipment installation responsibilities as stated in the Pre-Installation Guide (these responsibilities apply only to purchased Stryker Communications Equipment unless otherwise agreed upon in the project proposal).
- 2.3.5. **Technical Support:** Technical phone support for trouble shooting and technical questions on the Equipment is available at no charge to Participant during the applicable warranty period. Technical phone support for trouble shooting and technical questions is available 8:00 a.m. to 5:00 p.m. CST Monday- Friday. Additional service and support packages, if not purchased under this Agreement, are available at Stryker Communications then-prevailing rates for such services. Please contact your Stryker Communications Sales Representative for more information.

2.4. **Customer Responsibilities**

- 2.4.1. **Customer Pre-Installation Meeting Responsibilities:** Customer commits to: (i) ensure representatives of Customer's contractors (e.g. electrical, mechanical, gas installer, architect, structural engineer) and Customer's Project Manager, Clinical Department Manager, and any other appropriate Customer personnel are in attendance at all meetings; (ii) provide final completion dates for completion of electrical panel test, gas performance test, and superstructure; (iii) obtain all necessary permits, inspections and/or licenses related to the proposed work; (iv) ensure that the superstructure meets the Stryker Communications requirements; (v) ensure that all Customer requirements in the Pre-Installation Guides have been addressed; and (vi) provide network access (as applicable).
- 2.4.2. **Customer Pre-Installation Responsibilities:** Prior to installation date, Customer agrees to: (i) remove all old Equipment from the installation area and transport to Customer's disposal area; (ii) provide ready access to installation site(s) for Stryker Communications personnel; (iii) ensure that the installation site has been prepared in compliance with Stryker Communications specifications as detailed in the Pre-Installation Guides, (including the installation of mounting ring and other support apparatus for the Equipment); (iv) ensure all conduits and gas installation provided by Customer's contractors are installed as specified in the Drawings and any applicable architectural drawings; (v) ensure Equipment shipping containers (unopened) are in the installation location (including endoscopic equipment, if applicable); (vi) ensure that AC electrical circuits are installed as provided in the Pre-Installation Guides; and (vii) ensure data and other rough-in requirements specified in the Pre-Installation Guides are connected, working and complete. Customer understands and agrees to complete and send to Stryker Communications the install and ship confirmation form at least eight (8) weeks prior to installation date.
- 2.4.3. **Customer Installation Responsibilities:** Customer responsibilities include: (i) arrange for a locally certified electrician to complete electrical power connections to Stryker Communications Equipment; (ii) arrange for a locally certified medical gas technician to test gas connections in Stryker Communications Equipment; (iii) ensure that the Customer designated staff members who are responsible for Product maintenance are available for instruction on basic maintenance procedures; and (iv)

perform inspection and functional assessment of installed Stryker Communications Equipment to agreed upon specifications and provide written notification of approval (Customer acceptance form) or complete a project punch list (nonconforming items that have no functional effect on the system) within ten (10) business days of completed Installation Services.

- 2.4.4. Stryker Communications and Customer jointly agree to organize an inspection and valuation meeting to be held at least thirty (30) days before installation date. Customer is responsible for ensuring all appropriate personnel are in attendance.

APPENDIX 3 - PROCARE SERVICES – TERMS AND CONDITIONS

The terms of this Appendix 3 will apply to Customer's purchase of Services as outlined in the Stryker Quote for Service ("Quote"). In the event of a conflict or inconsistency between the Standard Terms of Sale and this Appendix 3, relative to Service, this Appendix 3 will govern.

- 1. Service.** Stryker will perform the repair and maintenance services (collectively, the "Services") to Capital Equipment ("Equipment") rendered in connection with the Quote.
- 2. Service Terms and Conditions.** The Services will be subject to the ProCare Services Terms and Conditions set forth below.
- 3. Product Maintenance.** Customer is required to adhere to the routine maintenance instructions provided by Stryker, its equipment and operations manuals, and accompanying labels and/or inserts for each item of Equipment. Customer covenants and agrees that its appropriate user personnel will follow the instructions and contents of those manuals, labels and inserts.
- 4. Warranty; Limitations of Warranty and Liability.** During the Term, Stryker warrants, with the exception of software maintenance services, the following:
 - 4.1. Stryker has the experience, capability and resources to perform the Services, and Stryker further represents and warrants that the Services will be performed in a workmanlike manner and with professional diligence and skill;
 - 4.2. Services will comply with all applicable laws and regulations and all applicable standards set forth by law or ordinance or established by the rules and regulations of any federal, state or local agency, department, commission, association or pertinent governing, accrediting or advisory body, including The Joint Commission having authority to set standards for healthcare facilities;
 - 4.3. If the Services are to be performed on Customer's premises, Stryker represents and warrants that Stryker will comply with all applicable safety laws and Customer's then current safety and other applicable regulations, all human resource policies and health and drug and alcohol screening policies; provided that Customer has provided advance written notification of such rules, regulations and policies to Stryker;
 - 4.4. Stryker currently has, or prior to the commencement thereof, will obtain, pay for, and maintain any and all licenses, fees, and qualifications required to perform the Services.
 - 4.5. TO THE FULLEST EXTENT PERMITTED BY LAW, THE EXPRESS WARRANTIES SET FORTH HEREIN ARE THE ONLY WARRANTIES APPLICABLE TO THE SERVICES AND ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTY BY STRYKER, AND STRYKER HEREBY EXPRESSLY DISCLAIMS ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES REGARDING THE SERVICES, INCLUDING, BUT NOT LIMITED TO, MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. IN NO INSTANCE WILL STRYKER BE LIABLE TO CUSTOMER FOR INCIDENTAL, PUNITIVE, SPECIAL, COVER, EXEMPLARY, MULTIPLIED OR CONSEQUENTIAL DAMAGES OR ATTORNEYS' FEES OR COSTS.
- 5. Customer Obligations.** Customer will use commercially reasonable efforts to cooperate with Stryker in connection with Stryker's performance of the Services. Customer understands and acknowledges that Stryker employees will not provide surgical or medical advice, will not practice surgery or medicine, will not come in physical contact with the patient, will not enter the "sterile field" at any time, and will not direct equipment or instruments that come in contact with the patient during surgery. Customer's personnel will refrain from requesting Stryker employees to take any actions in violation of these requirements or in violation of applicable laws, rules or regulations, Customer policies, or the patient's informed consent. A refusal by Stryker employees to engage in such activities will not be a breach of the Standard Terms of Sale. Customer consents to the presence of Stryker employees in its operating rooms, where applicable, in order for Stryker to provide Services under the Standard Terms of Sale and represents that it will obtain all necessary consents from patients.
- 6. Limitations and Exclusions from Service.** Notwithstanding any other provision set forth herein, the Services not covered under this Standard Terms of Sale as determined by Stryker in its sole discretion are as follows: (1) abnormal wear or damage caused by reckless or intentional misconduct, abuse, neglect or failure to perform normal and routine maintenance as set out in the applicable maintenance manual or operating instructions provided with the Equipment; (2) catastrophe, fire, flood or act(s) of God; (3) damage resulting from faulty maintenance, improper storage, repair, handling or improper use (including use of non-Stryker accessories or consumables), damage and/or alteration by non-Stryker-authorized personnel; (4) equipment on which any original serial numbers or other identification marks have been removed or destroyed; (5) damage caused as a result of the use of the Equipment beyond the useful life, if any, specified for such equipment in the user manual; (6) service Stryker cannot perform because the Equipment has been discontinued or its parts have been discontinued or made obsolete; (7) service to the Equipment if the Equipment or the Equipment site is contaminated with potentially infectious substances; (8) Equipment that has been repaired or used with any unauthorized or non-Stryker components or by an unauthorized or non-Stryker third party; (9) any Services provided by Stryker Endoscopy do not include replacement lamps, fee-based software upgrades, voice control upgrades and disposable or consumable products or parts; (10) any Services provided by the Stryker Medical division do not include batteries or mattresses; (11) any Services provided for Equipment used for Navigation does not include: (a) parts, labor & travel associated with hardware or instrument upgrades needed to accommodate software upgrades, and (b) products associated with or required for use to accommodate software upgrades; or (12) any Services provided by Stryker Communications do not include surgical light replacement bulbs, documentation stations, fee-based software upgrades, service lines, mounting structures, upgrades/field modifications and disposable or consumable products or parts. Customer agrees to provide personal protective equipment ("PPE") to OnSite/Clinical Specialists. Notwithstanding anything else in this Standard Terms of Sale in the event

Customer fails to provide appropriate industry-standard PPE to all OnSite/Clinical Specialists, as determined in Stryker's sole discretion, then Stryker may immediately, in its sole discretion: (i) suspend the OnSite/Clinical Specialist Coverage until Customer provides such PPE; or (ii) terminate the applicable Service.

7. Indemnification.

- 7.1. Stryker will indemnify Customer against any third party liability and/or damages ("**Claims**") which Customer suffers directly as a result of bodily injury (including death) or property damage arising solely from the gross negligence or, willful misconduct of Stryker or its employees agents, or contractors in the course of providing Services. The foregoing indemnification will not apply to any Claims arising from: (i) an injury or damage due to the negligence of any person other than a Stryker employee or agent; (ii) the failure of any person other than a Stryker employee or agent to follow any instructions outlined in the labeling, manual, and/or instructions for use of the Equipment; (iii) the use of any equipment or part not purchased from Stryker; or (iv) any equipment or any part thereof that has been modified, altered or repaired by any person other than Stryker's employee or agent. Customer agrees to indemnify and defend Stryker against any Claims arising from (i) through (iv) above due to the negligent acts or omissions of Customer or its officers, employees, representatives or agents.
- 7.2. Stryker's indemnification obligations under this Section 7 are conditioned on Customer promptly providing Stryker with timely written notice of any Claim for which indemnification is sought. Stryker will not agree to any settlement or compromise that imposes or results in any finding of fault or any restriction or obligation on the part of Customer without Customer's prior written consent (which will not be unreasonably withheld).

8. Return of Instrumentation or Equipment. In the event instrumentation ("**Instrumentation**") or Equipment provided to Stryker contains patient information ("**PHI**"), such PHI should be removed before servicing. Moreover, PHI is not needed in order to properly repair any Instrumentation or Equipment provided by Customer. Stryker is not responsible for and may not be held liable for the integrity or security of any PHI contained on any Instrumentation or Equipment.

9. Confidentiality. Stryker and Customer: (a) shall hold in confidence this Standard Terms of Sale and any information and materials which are related to the business of the other or are designated as proprietary or confidential, herein or otherwise, or which a reasonable person would consider to be proprietary or confidential information; and (b) hereby covenant that they shall not disclose such information to any third party without prior written authorization of the one to whom such information relates. The rights and remedies available to a Party hereunder shall not limit or preclude any other available equitable or legal remedies.

10. Non-Solicitation and Non-Hire. Customer agrees that, during the Term and for a period of one (1) year following Service, it will not solicit any employees of Stryker to terminate their employment with Stryker, unless Stryker consents in writing.

11. Background Check. Stryker warrants that all of its employees who will be on a Customer's premises to perform Services will have undergone a criminal background check as part of Stryker's hiring practice. The background check consists of the following:

- Education verification, which includes a review of employee's submitted educational institutions to ensure proper accreditation;
- Employment history verification;
- SSN trace, including address history verification;
- OFAC Watch List search, including a search of global terrorist and national drug trafficker lists;
- FDA Debarment and Disqualified/Restricted List search;
- OIG/HHS Exclusion List check;
- EPLS/GSA Exclusion List check;
- Criminal history search, including a National Criminal Database (NCD) search and a national sex offender registry search and a search of all jurisdictions where the employee has lived or worked during the last seven years; and
- Motor vehicle check

During the Term, a Customer may request a meeting with Stryker to review the performance, behavior or expectations of Stryker service personnel who are assigned to provide service at Customer's facility. Any Stryker service personnel who willingly and knowingly violate Customer's rules, regulations, procedures, or policies may be removed from Customer's facility at Customer's option and will be replaced by Stryker promptly.

12. Parts and Subcontracting. Stryker may elect to use new or used parts related to the Services in its sole discretion. Stryker reserves the right to hire subcontractors to perform the Services.

13. Independent Contractor. The relationship between the Parties is that of independent contractors. It is mutually agreed that Stryker is at all times acting and performing as an independent contractor with respect to Customer, and nothing is intended nor shall be construed to create an employer/employee relationship between Stryker and Customer. It is agreed that any person employed by Stryker to perform hereunder shall not be deemed to be an employee of Customer, and Stryker and Stryker's employees, agents or representatives shall not be, or represent themselves to be, officers, employees, agents or representatives of Customer.

Exhibit B

August 2023

To whom it may concern,

Stryker's Medical division certifies that it is the original equipment manufacturer (OEM) or sole source distributor of parts for Emergency Care products. All parts are either manufactured by Stryker or outside suppliers and are new, tested and approved for use on Stryker's products.

Our field service team, ProCare® Services, uses OEM parts for repairs and has exclusive use of certain proprietary tools for diagnostics and repairs. Stryker's Emergency Care products that require the use of such proprietary tools include, but are not limited to:

- Power-PRO™ 2 powered ambulance cot
(Model 6507), high configuration
- MTS Power-LOAD® powered cot fastener
- Lithium battery
- Battery charger assembly
- Power cord assembly

Stryker's quality team reviews and documents service repairs. We track and trend service to help ensure the highest level of product performance. Preventive maintenance (PM) and service history documentation is available

Please contact your sales representative for further information. Sincerely,



John Guyeskey
Senior Marketing Manager

Stryker or its affiliated entities own, use, or have applied for any referenced trademarks or service marks: Power-LOAD, Power-PRO, ProCare, Stryker. All other trademarks are trademarks of their respective owners or holders. The absence of a product, feature, or service name, or logo from this list does not constitute a waiver of Stryker's trademark or other intellectual property rights concerning that name or logo.

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Emergency Care

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