

**PURCHASE CONTRACT NO. 240148-JL  
LIFEPAK CARDIAC MONITORS - DEFIBRILLATORS**

This Purchase Contract for Goods is being entered into, effective as of \_\_\_\_\_, by and between the City of Las Vegas (the "City"), a municipal corporation in the State of Nevada, and STRYKER SALES, LLC, through its Medical division (the "Company"), an Illinois limited liability company, having its corporate office at 1941 Stryker Way, Portage, MI 49002 and principal location at 11811 Willows Road NE, Redmond, WA 98052.

**SECTION A – CONTRACT OVERVIEW****A-1 Summary of Contract** [CAO-08/22/2019]

- (a) This Contract sets forth the terms and conditions for ordering and delivering the Goods described herein, and the execution hereof by the parties hereto forms a legally binding contract. The City may order, and the Company is obligated to deliver, the Goods in accordance with the terms and conditions of this Contract
- (b) This Contract covers a one-time purchase of the Goods described in Section C. The City will issue a Purchase Order subsequent to the Award Date. The sole purpose of the Purchase Order will be to facilitate payment processing and will not represent the ordering of any additional quantities of Goods beyond what is set forth in this Contract. The Contract number will be reflected on the face of the Purchase Order.

(c) <b>Contract Synopsis</b> The Goods to be procured are more fully defined in Section C	This Contract provides for Purchase of Cardiac Monitors – Defibrillators, "ProCare Prevent" maintenance, and related software	
<b>Performance Dates</b> The Performance Period is more fully defined in Section A-2	<b>Award Date</b> See first paragraph	<b>Expiration Date</b> After delivery of all goods or upon conclusion of ProCare Services subscription, whichever is later
<b>Contract Type</b>	The contract type is Firm Fixed Price.	
<b>Contract Amount</b>	\$3,165,000.00 for goods including initial year of ProCare Services for 75 devices; thereafter, \$1,700 per year/device for up to 75 devices for up to four (4) additional years	Firm Fixed

(d) <b>Contract Exhibits / Attachments</b> The following documents are hereby incorporated into this Contract	
Exhibit A – Standard Terms of Sale Exhibit B - Quote Exhibit C - ProCare Features	Exhibit D - Software and Hosting Terms Exhibit E – Warranty Information

(e) <b>City Representative:</b> All routine Company inquiries should be directed to the person identified by the City on the Purchase Order per Section D-5			
<b>Company Representative</b> Per Section D-5	<b>Name</b> Corey Halm	<b>Phone</b> 702-426-0464	<b>Email</b> corey.halm@stryker.com
(f) <b>City Legal Notice Representative:</b> Per Section E-1			
<b>Company Legal Notice Representative</b> Per Section E-1	<b>Name &amp; Title</b> Corey Halm	<b>Address</b> 702-426-0464	<b>Email</b> corey.halm@stryker.com

**A-2 Performance Period** [CAO-08/22/2019]

- (a) The City may place orders against this Contract from the Award Date through and including the Expiration Date, unless extended in writing.
- (b) The City reserves the right to exercise an option to temporarily extend this Contract for up to one hundred eighty (180) calendar days from the Expiration Date, for any reason.

**SECTION B – DEFINITIONS****B-1 Definitions** [CAO-01/20/2016]

The following definitions apply to this Contract:

- (a) **Award Date:** The date that a Contract becomes effective. It is the date entered into the first paragraph of the Contract upon execution by an authorized representative of the City.
- (b) **Contract:** This document, consisting of Sections A through E and the Exhibits and Attachments attached hereto, which is binding and effective only upon execution by the City.
- (c) **Contract Amount:** The maximum amount of compensation that may be paid to the Company for performance of the Contract, which includes, without limitation, compensation for all direct and indirect expenses.
- (d) **Firm Fixed Price:** Means a contract that provides for a firm price that is not subject to any adjustment on the basis of the Company's cost experience in performing the Contract.
- (e) **F.O.B. Destination:** Means that the Company is responsible for paying the costs (including, without limitation, the loading, unloading and shipping costs) of transporting the Goods to the point of delivery designated by the City, and includes the risk of loss or destruction associated with such transportation.
- (f) **Goods:** The item(s) to be purchased from the Company, which are listed or described in Section C, "Specifications", and substitutes for such common usage terms as "materials", "equipment", "products" and "supplies".
- (g) **Purchase Order (or P.O.):** The administrative document issued by the City to facilitate the ordering of and payment for the Goods purchased pursuant to this Contract.

**SECTION C - SPECIFICATIONS**

- C-1** Technical Specifications are set forth in "Exhibit B - Quote", Section 1.0 "Equipment Products" and Section 2.1 "ProCare Products" and as more fully described in "Exhibit C – ProCare Features" attached hereto.

**SECTION D– SPECIAL CONDITIONS****D-1 Pricing and Payment** [CAO-08/22/2019]

- (a) Payment to the Company will be made only for the actual quantities of the Goods delivered and accepted by the City, upon receipt of an invoice submitted in accordance with Section D-3, "Invoices".
- (b) The City will pay the Company in accordance with the pricing set forth in this Contract.
- (c) The prices set forth herein include the costs and expenses associated with delivering and tendering the Goods to the City including, without limitation, expenses for inspection, meeting warranty requirements and complying with all the terms and conditions of this Contract.

**D-2 Pricing Revisions** [CAO-01/20/16]

For the term of this Contract, the pricing for the Goods shall remain firm.

**D-3 Invoices** [CAO-9/2020]

- (a) The Company shall timely submit a detailed invoice to the City within sixty (60) days after shipment of Goods for the quantities delivered and accepted. Each invoice shall contain the following information:
- (b) Each invoice shall contain the following information:
- (i) the date of the invoice and invoice number;
  - (ii) the Purchase Order number;
  - (iii) the Contract Item against which charges are made; and
  - (iv) the performance dates covered by the invoice.
- (c) Upon reconciliation of all errors, corrections, credits, and disputes, payment to the Company will be made in full within thirty (30) calendar days. **Invoices received without a valid Purchase Order number will be returned unpaid.** If the Company does not timely submit a detailed invoice to the City as required herein, the City shall not have any obligation or liability to effect any payment for said late invoice. The City shall also not be liable for any errors or omissions in an invoice once said invoice is paid by the City, all of which shall be expressly waived by Company. Notwithstanding the foregoing, this paragraph shall in no way waive the City's rights and remedies should the City find any errors or omissions in an invoice before or after said invoice is paid by the City

The Company shall submit the original invoice to:

Department of Finance  
ATTN: Accounts Payable  
City of Las Vegas  
495 South Main Street, 4<sup>th</sup> Floor  
Las Vegas, NV 89101-2986

- (d) A duplicate copy of the invoice is to be sent to the City's designated representative, John C. Feedar at [jfeedar@lasvegasnevada.gov](mailto:jfeedar@lasvegasnevada.gov).

**D-4 Delivery Requirements** [CAO-4/2020]

- (a) Delivery - F.O.B. Destination The Company shall deliver the Goods F.O.B. Destination. The delivery point shall be specified delivery address as listed on each Purchase Order.
- (b) Delivery Coordination The Company shall provide the City with twenty-four (24) hour notice prior to delivery. All deliveries are to be coordinated with John Feedar at 702-229-0305 or 702-349-4319. The City reserves the right to refuse delivery if advance notice is not given.
- (c) Maximum Delivery Time The maximum delivery time is sixty (60) calendar days after receipt of Purchase Order. Failure to meet the delivery time specified shall constitute a breach of contract. The time allotted for delivery of the Goods under the Purchase Order commences on the date the City successfully electronically transmits or faxes the Purchase Order to the Company, or three (3) days after the mailing date of the Purchase Order to the Company. Any Purchase Order issued hereunder incorporates the terms and conditions of this Contract.
- (d) Partial Shipments. Partial shipments will be permitted.
- Failure to Deliver In the event that the Company fails to deliver the Goods in accordance with the terms and conditions of the Contract, the City shall have the option to either terminate the Contract or procure the Goods from another supplier.
- (e) Inspection Upon Delivery

- (i) The Goods will be inspected at time of delivery by an authorized representative of the City for compliance with the specifications, workmanship, appearance, proper functioning of all equipment and systems, and conformance to all other requirements of this Contract. In the event deficiencies are detected, the Goods will be rejected to enable the Company to make the necessary repairs, adjustments, or replacements. Payment will not be made until Goods have been re-inspected and accepted by the City, which shall be, in no event longer than thirty (30) days following delivery.
- (ii) It shall be the responsibility of the Company to arrange for return and pay all costs for return of Goods rejected pursuant to this clause.

**D-5 City/Company Representative [CAO - 08/22/2019]**

- (a) All routine Company inquiries should be directed to the person identified by the City on the Purchase Order, or with City Representative John C. Feedar at 702-229-0305 or 702-349-4319.
- (b) The Company's Representative for this Contract is named in Section A-1 (e). The Company Representative shall have full authority to act for the Company on all matters arising under or relating to this Contract until written notice to the City is provided by the Company of any change in the person acting in this capacity.

**D-6 Insurance [CAO-3/31/2022]**

- (a) The Company shall procure and maintain, at its own expense, during the entire term of the Contract, the following coverage(s):
  - (i) Workers' Compensation Insurance subject to statutory limits protecting the Company and the City from potential Company employee claims based upon job-related sickness, injury, or accident, during performance of this Contract, and must submit proof of such insurance on a certificate of insurance issued by an insurer authorized to underwrite workers' compensation insurance in the State of Nevada, in accordance with NRS 616A-616D, inclusive. If Company is a sole proprietor, it will be required to submit an affidavit indicating that the Company has elected not to be included in the terms, conditions and provisions of NRS 616A-616D, inclusive, and is otherwise in compliance with those terms, conditions and provisions. The Company's Workers' Compensation policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas.
  - (ii) Commercial General Liability Insurance (bodily injury, property damage) with respect to the Company's employees and agents assigned to the activities performed under this Contract with limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, for bodily injury, products and completed operations liability, personal and advertising injury and property damages. Such coverage shall be on an "occurrence" basis and not on a "claims made" basis. The form must be written on an ISO Form CG 00 01 10 01, or an equivalent form. The Company's General Liability policy shall include the City, its officers, and employees as additional insured with respect to the City's vicarious liability which occurs as a result of the Company's performance under this Agreement.
  - (iii) Commercial Automobile Liability Insurance with a combined single limit of \$1,000,000 each accident for bodily injury and property damage, covering claims for injuries to persons or damages to property which may arise from Company's use of any auto used in the performance of services under this Contract, including owned, non-owned and hired vehicles. If the services requested do not require the use of the vehicle to perform, the Commercial Automobile Liability Insurance requirements as described in this paragraph do not apply. The Company's Automobile Liability policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas. The Company's Automobile Liability policy shall include the City, its officers, and employees as additional insured with respect to the City's vicarious liability which occurs as a result of the Company's performance under this Agreement.
  - (iv) Network Security and Data Privacy Liability (i.e. Cyber Liability) Insurance with limits of \$2,000,000 per occurrence or claim and \$2,000,000 annual aggregate. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which arise from failure of Company's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public Data – including but not limited to, confidential or medical or private/personal identifiable information, transmission of a computer virus, denial of service, information theft, damage to or destruction of electronic information, alteration of electronic information, or extortion. The policy shall provide coverage for breach response costs, regulatory fines and penalties, and credit monitoring expenses.
- (b) The Company must provide certificates of insurance and copies of required endorsements evidencing compliance with the insurance requirements of this Contract to the City or its designated certificate tracking service upon reasonable

request. The Company shall maintain coverage for the duration of this Contract, and any renewal periods if applicable. The Company shall annually provide the City's designated certificate tracking service with a certificate of insurance and copies of required endorsements as evidence that all insurance requirements have been met. In the event that the City has a reasonable expectation of defense and/or indemnification with respect to a third party claim under the terms of this Contract and the Company or its insurer declines to accept the City's tender of such claim, the Company shall provide copies of the relevant insurance policy(ies) to the City upon request by City.

- (c) All required aggregate limits must be disclosed and amounts entered on the certificate(s) of insurance. The certificates must identify the Contract number, the Contract description, and for internal City routing purposes only the name of the appropriate City division/department. The Company and/or insurance carrier shall provide the City with a 30-day advance notice if coverage is to be non-renewed, cancelled or materially modified in some way so as to not meet the requirements herein.
- (d) The certificates and copies of required endorsements for each insurance policy are to be signed by a person authorized by that insurer. Each insurance carrier shall be authorized to do business in the State of Nevada and shall maintain a Best's Key minimum rating of A- VII, A- VIII, A- IX, A- X, or higher, or otherwise approved by the City. Notwithstanding any other insurance requirements within this Contract to the contrary, to the extent allowed by applicable law or regulation, the Company shall be permitted to comply with these insurance requirements through a program of self-insurance.
- (e) All self-insurance retentions (Except with respect to Michigan self-insured workers' compensation.) shall be fully disclosed in the certificate of insurance. No self-insured retention (Except with respect to Michigan self-insured workers' compensation.) may exceed \$25,000 without the prior written approval of the City.
- (f) **Companies requesting increased self-insured retentions must provide the City a written request stating the desired amounts along with recent audited financial statements for review. The City will review the request and determine if the requested self-insured retentions are acceptable. In the event the request for increased self-insured retentions is denied, the Company is obligated to provide the self-insured retentions established in the Contract at no additional expense to the City.**
- (g) If the Company fails to carry the required insurance, the City may (i) order the Company to stop further performance hereunder, declare the Company in breach, pursuant to Section E-5, "Event of Default", terminate the Contract if the breach is not remedied and, if permitted, assess liquidated damages, or (ii) purchase replacement insurance and withhold the costs or premium payments made from the payments due to the Company or charge the replacement insurance costs back to the Company.
- (h) Any subcontractor or subconsultant approved by the City shall be required to procure, maintain, and submit proof of insurance to the City of the same insurance requirements as specified above, and as required in this paragraph.
- (i) The Company is encouraged to purchase any additional insurance it deems necessary.

#### **D-7 Warranty – Goods [CAO-4/2020]**

- (a) Company's Warranty The Company warrants that the Goods supplied to the City are (i) free of defects and deficiencies in design, workmanship and materials, (ii) suitable for the purpose intended by the City, (iii) in compliance with the applicable specifications, and (iv) free from any liens or encumbrances on title of the Goods. If, during the warranty period, any defect or deficiency is found in the Goods, the Company shall immediately, after notification by the City, proceed at its own expense to (i) repair the Goods on-site, together with remedying any damage caused to the finishes, fixtures, equipment and furnishings of the Goods, or (ii) replace the Goods if not capable of repair. If the repairs cannot be made on-site, the Company agrees to arrange at Company's sole expense for the transportation of the Goods to a repair facility unless otherwise agreed in writing by the City. The City's remedy for breach of this warranty is contained in Article 2 of the Uniform Commercial Code. The warranty set forth in this subsection shall be in effect for a period of one (1) year after the final acceptance of the Goods by the City, or, if available, for the period of the manufacturer's warranty, whichever is longer. The Company must complete the warranty repair or replacement within the time set forth in subsection (d) below.
- (b) Manufacturer's Warranty The manufacturer's standard warranty for the Goods, if applicable, applies in its entirety.
- (c) Warranty Exclusions.
- (d) Warranty Completion Periods



- (i) On-Site Repairs All on-site warranty repairs shall be completed within Fifteen (15) days of the service request (holidays and weekends excluded). If the repairs cannot be made within the aforementioned time, and the portion or unit of the Goods to be repaired is critical to the operation of the City, the Company shall provide at no additional charge a "loaner" unit of the Goods to be repaired, which is comparable in performance, quality and operation to that subject to repair until completion of the repairs and return to the City. If the Company is unable to provide a "loaner" unit, the City shall have the option to terminate the Contract, or procure a comparable unit from another supplier, in which case the Company shall pay to the City any difference between the Contract price and the price paid to the other supplier.
- (ii) Off-Site Repairs If the repairs cannot be made on-site, the Company shall have thirty (30) days after notification from the City to complete the repairs, including arranging for the delivery of the defective or deficient unit of the Goods to the proper repair facility, and return thereof to the City. During the time of the repair, if the unit of the Goods to be repaired is critical to the operation of the City, the Company shall provide at no additional charge a "loaner" unit, which is comparable in performance, quality and operation for use by the City until completion of the repairs and return to the City. If the Company is unable to provide a "loaner" unit, the City shall have the option to terminate the Contract.
- (iii) Replacement If repair is not possible as required herein, the Company shall replace the defective or deficient unit with a new unit of the Goods within thirty (30) days after notification from the City unless otherwise extended in writing by the City. Until the replacement is effectuated, if the unit to be repaired is critical to the operation of the City, the Company shall provide at no additional charge a "loaner" unit, which is comparable in performance, quality and operation to the unit of the Goods to be repaired until the replacement unit has been installed. If the Company is unable to provide a "loaner" unit, the City shall have the option to terminate the Contract.
- (iv) New Parts The parts delivered under this Contract must be new. New parts are defined as parts that are made up entirely of unused materials and/or genuine original parts. The parts must not have been operated for any purpose other than routine operational testing, except as specifically authorized elsewhere in this Contract. Demonstrator and reconditioned parts are not acceptable.
- (e) Claim Documentation The Company shall provide written documentation of each warranty repair claim, in the form of a work order or an invoice, to the City representative who initiated the warranty claim. The following information must be included in the documentation:
  - (i) Date of warranty claim
  - (ii) Identification number(s) of affected Goods (Model number, serial number, VIN, etc.)
  - (iii) Reason for claim
  - (iv) Corrective action or repair
  - (v) Parts and labor hours provided
  - (vi) Malfunction codes
  - (vii) Completion date

This entire Warranty Section will survive termination or expiration of this Contract for any reason.

- (f) Additional Warranty The following express warranty applies: Contractor Warranty in Exhibit E, hereto. The Company must complete the warranty repair or replacement as required pursuant to subsection (d) above.
- (g) Warranty Extensions If warranty repairs cannot be completed within thirty (30) days, then the Warranty Period will be extended for the entire time period that the Warranty Claim has been active.

#### **D-8 New Goods [CAO-01/20/16]**

Except as provided in Section D-9, "Reconditioned Equipment", the Goods delivered under this Contract must be new. New Goods are defined as Goods that are made up entirely of unused materials and/or genuine original parts. The Goods must not have been operated for any purpose other than routine operational testing, except as specifically authorized elsewhere in this Contract. Demonstrator and reconditioned Goods are not acceptable.

**D-9 Updates [CAO-01/20/16]**

(a) The Company shall provide updates to the City as follows:

- (i) If the manufacturer discontinues, upgrades, and/or makes other changes to the Good(s), the Company shall notify the City of the change within a commercially reasonable period of time. Upon receipt of the notification, the City has the option of either accepting the replacement or canceling the replaced Good(s) from the Contract. Should the Company ship the replacement Good(s) without the City's prior written approval, the Good(s) may not be accepted.
- (ii) If the City determines that an update is substantial in terms of number of changes, the Company shall provide an updated list of all items available for ordering under this Contract, as of a date specified by the City.

(b) The City will not accept any substitute Goods for those specified in this Contract.

**D-10 Discontinued or Upgraded Goods [CAO-4/2020]**

If, after execution of this Contract, the Company, or the Company's manufacturer, discontinues, upgrades, and/or makes other changes to the Goods ordered by the City, the Company shall notify the Buyer listed on the current Purchase Order within fifteen (15) calendar days of the change by the Company, or notification from the Company's manufacturer. Upon receipt of notification, the City may (i) accept the upgraded Goods, (ii) accept the replacement Goods in lieu of the discontinued Goods, or (iii) cancel the order of discontinued Goods. If the Company ships replacement Goods without the City's prior written approval, such Goods shall be deemed to be automatically rejected by the City unless otherwise agreed to in writing by the City.

**D-11 Packing and Shipping [CAO-01/20/16]**

- (a) The Company shall package the Goods in a manner that ensures protection against damage, deterioration and contamination. The Goods must be delivered in new shipping containers suitable for storage or shipment.
- (b) Shipments are to meet applicable Department of Transportation (D.O.T.) Regulations. Serial numbers (if any) noted on the packing slip must match the serial number of the actual goods shipped. Incorrect or questionable documentation of serial numbers may result in shipment rejection. Shipments rejected due to Company's error will be returned solely at the Company's cost.
- (c) Carton(s) shall include one (1) complete packing list that identifies (i) the Purchase Order number, (ii) item number, (iii) item description, and (iv) quantity. **The packing list is to be enclosed in a removable plastic pouch labeled "Packing List Enclosed" and affixed in a readily visible location on the outside of each carton.**

**D-12 Purchase Orders [CAO-4/2020]**

- (a) A Purchase Order will be issued for the acquisition of the Goods, specifying a single scheduled delivery or multiple scheduled deliveries of the Goods. The time allotted for delivery of the Goods under the Purchase Order commences on the date the City successfully electronically transmits or faxes the Purchase Order to the Company, or three (3) days after the mailing date of the Purchase Order to the Company. Any Purchase Order issued hereunder incorporates the terms and conditions of this Contract.

**D-13 Service Calls and Response Times [CAO-01/20/16]**

Upon receipt of a service call, the Company's qualified maintenance technician must respond by phone within 24 hours of the initial call for service. If on-site service is required, the technician must respond on-site within fifteen (15) calendar days. If response is not possible due to insufficient time remaining in the day (before 5:30 p.m.), the fifteen (15) calendar day maximum continues from 8:00 a.m. of the next workday.

**D-14 Liquidated Damages [CAO-01/20/16]**

Assessment of liquidated damages does not apply to this Contract.

**D-15 Material Safety Data Sheets [CAO-01/20/16]**

- (a) The Company shall provide the City with the current Material Safety Data Sheets (MSDS) applicable for any hazardous Goods delivered under this Contract. Any MSDS submission to the City is a separate requirement from any requirement

that may be contained in the hazardous materials regulations promulgated by the Department of Transportation (49 CFR 100, et. seq.). Any updates to the MSDS shall be proved to the City as such updates are published.

- (b) If the Company has any inquiries regarding the MSDS requirements imposed herein, the inquiries should be directed to the following: City of Las Vegas, Human Resources Department, ATTN: Safety/Loss Control Officer, 495 South Main Street, Las Vegas, Nevada 89101.

#### **D-16 Technical Services [CAO-01/20/16]**

If the Goods purchased under this Contract consist of equipment, and the equipment fails to operate properly on start-up by the City, the Company agrees to provide the services of a field engineer, as needed, to determine the cause of the failure. This service shall be furnished at no additional cost to the City.

#### **D-17 Documentation [CAO-01/20/16]**

The Company shall be required to furnish one (1) complete set of operator manuals for each system delivered. Operator manuals are to be written so that a qualified technician can read and interpret effectively the contents.

### **SECTION E – GENERAL CONDITIONS**

#### **E-1 Legal Notice [CAO-4/2020]**

- (a) Any notice required to be given hereunder shall be deemed to have been given when written notice is (i) received by the party to whom it is directed by personal service; (ii) three (3) days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the party to be notified at the address for such party; (iii) one (1) day after deposit with a nationally recognized air courier service such as FedEx; or (iv) by an email sent to the email address of the recipient stated in this Section. All notices shall be effective upon receipt by the party to which notice is given or if it is delivered by email, when the recipient acknowledges having received that email, with an automatic “read receipt” not constituting acknowledgment of an email for notice purposes. Either party hereto may change its address by giving ten (10) days advance notice to the other party as provided herein. Phone and fax numbers, if listed, are listed for information only:

FOR THE CITY:                      Manager, Purchasing and Contracts  
City of Las Vegas  
495 South Main Street, 4th Floor  
Las Vegas, Nevada 89101-2986  
Fax: (702) 384-9964  
Email: [purchasing@lasvegasnevada.gov](mailto:purchasing@lasvegasnevada.gov)

FOR THE COMPANY:              LEGAL COUNSEL  
3800 E. Centre Avenue  
Portage, MI 49002  
With copy to: [USContracts@stryker.com](mailto:USContracts@stryker.com)

- (b) The parties shall provide written notification of any change in the information stated above.
- (c) For purposes of this Contract, legal notice shall be required for all matters involving potential termination actions, litigation, indemnification, and unresolved disputes. This does not preclude legal notice for any other actions having a material impact on the Contract.
- (d) Routine correspondence should be directed to the Project Manager or the Company Representative, as appropriate.

#### **E-2 Disputes [CAO-4/2020]**

- (a) For each claim or dispute arising between the parties under this Contract, the parties shall attempt to resolve the matter through escalating levels of management. In the event the matter cannot be successfully resolved in this manner For parties agree that any dispute, claim, or controversy arising out of or relating to this Contract, or the breach thereof, may be settled by binding arbitration.



- (b) If arbitration is selected by parties, such claim or dispute shall be filed with the American Arbitration Association under its then current Commercial Arbitration Rules, Expedited Procedures, regardless of the amount of the claim or dispute. Each party shall bear an equal share of the arbitrators' and administrative fees of arbitration.

The laws of the State of Nevada shall govern the validity, construction, performance, and effect of this Contract, without giving effect to its conflict of law provisions. If arbitration is selected, each party hereto consents to, and waives any objection to, venue being the offices of the American Arbitration Association located in Las Vegas, Nevada, or other venue mutually agreed by the parties. If litigation is selected, each party hereto consents to, and waives any objection to, the State courts located in the County of Clark, State of Nevada as the proper and exclusive venue for any disputes arising out of or relating to this Contract or any alleged breach thereof.

#### **E-3 Notice of Delay [CAO-01/20/16]**

- (a) If timely performance by the Company is jeopardized by the non-availability of City provided personnel, data, or equipment, the Company shall use reasonable efforts to notify the City promptly in writing of the facts and circumstances causing such delay.
- (b) The Company shall advise the City in writing of an impending failure to meet established milestones or delivery dates based on the Company's failure to perform. Notice shall be provided as soon as commercially reasonable following when the Company is made aware of the situation; however, such notice shall not relieve the Company from any existing obligations regarding performance or delivery.

#### **E-4 Termination for Convenience [CAO - 08/22/2019]**

The City shall have the right at any time to terminate further performance of this Contract, in whole or in part, for any reason whatsoever (including no reason). Such termination shall be effected by written notice from the City to the Company specifying the extent and effective date of the termination. On the effective date of the termination, the Company shall terminate all work and take all reasonable actions to mitigate expenses. The Company shall submit an invoice for Goods shipped and for services performed through the date of termination, and shall provide any substantiating documentation requested by the City. In the event of such termination, the City agrees to pay the Company within thirty (30) days after receipt of a correct, adequately documented written request. The City's sole liability under this Section is for payment of costs for Goods and services requested by the City and actually performed by the Company.

#### **E-5 Event of Default [CAO-12/30/2020]**

- (a) If, during the term of this Contract, the Company (i) fails to deliver Goods or perform services that comply with the specifications, (ii) fails to deliver the Goods or services within the time specified in the Purchase Order or specifications or any extension thereof, (iii) fails to make progress so as to endanger the material performance of this Contract, (iv) becomes insolvent, bankrupt or makes an assignment for the benefit of creditors, or if a receiver or trustee in bankruptcy is appointed for the Company, or if any proceeding in bankruptcy, receivership, or liquidation is instituted against the Company and is not dismissed within thirty (30) days following commencement thereof, or (v) fails to perform any of the other material obligations or material requirement of this Contract, then any of the aforementioned failures shall constitute an "Event of Default" under this Contract.
- (b) If there occurs an Event of Default, the Company shall be entitled to fifteen (15) calendar days from written notice thereof to remedy the Event of Default, provided, however, such is capable of being remedied within that period. If the Event of Default can be remedied, but the remedy cannot be completed within the fifteen (15) day period, the Company may be allowed such additional time as may be reasonably necessary to remedy the Event of Default, provided, however, the remedy is commenced within the ten (10) day period and is diligently pursued to completion but in no event later than thirty (30) days after such written notice. Said time period may be extended at City's sole discretion. If the Event of Default is incapable of remediation, or is not remedied as required herein, the City may, in addition to any other remedies available in law or equity, invoke any of the remedies provided for under Section E-6, "Termination for Default", below.

#### **E-6 Termination for Default [CAO-4/2020]**

- (a) If the Event of Default is not remedied as required pursuant to Section E-5, "Event of Default", the City may, by written notice to the Company pursuant to Section E-1, "Legal Notice", terminate this Contract in whole or in part.
- (b) If this Contract is terminated in whole or in part because the Company has failed to provide Goods in compliance with the specifications by the deadline of remediation period, the City may acquire, replacement goods. If the City terminates

this Contract only in part, the Company shall continue to perform the un-terminated obligations or portions of this Contract.

- (c) The Company shall not be liable for any excess costs if the failure to perform the Contract arises from circumstances beyond the control of, and without the fault or negligence on the part of, the Company. These circumstances are limited to such causes as (i) acts of God or of the public enemy, (ii) acts of governmental bodies, (iii) fires, (iv) floods, (v) epidemics/pandemics, (vi) quarantine restrictions, (vii) labor strikes, (viii) freight embargoes, or (ix) unusually severe weather. The time of performance of the Company's obligations under this Contract shall be extended by such period of enforced delay; provided, however, that such reasonably extended time period shall not exceed sixty (60) days. If the foregoing circumstances result in a delay greater than 60 days, the City may terminate the affected portion of the Contract pursuant to the terms of Section E-4, "Termination for Convenience".
- (d) The City retains the right to terminate for default immediately if the Company fails to maintain the required insurance, fails to comply with applicable local, state, and federal statutes governing performance of these services, or fails to comply with statutes involving health or safety.
- (e) If the City fails to perform any of its obligations required under this Contract, and the City does not remedy the failure after notice thereof is provided to the City by the Company pursuant to the requirements of Section E-1, "Legal Notice" above, the Company shall have the right to treat the failure as a claim or dispute subject to the resolution provisions of E-2, "Disputes" of this Contract. During the period of such resolution, the Company shall continue with its performance under the Contract.

#### **E-7 Limitation of Funding/Non-Appropriation [CAO-4/2020]**

The Company acknowledges that City is a governmental entity and the Contract's validity is based upon the availability of public funding under its authority. The City reserves the right to reduce estimated or actual quantities, in whatever amount necessary, without prejudice or liability to the City, if funding is not available or if legal restrictions are placed upon the expenditure of monies for the services required under this Contract. In addition, and without prejudice or liability to the City, if funds are not appropriated or otherwise made available to support continuation in any fiscal year succeeding the first fiscal year, this Contract will be deemed to have been terminated automatically **when appropriated funds expire and** are not available. The City shall notify Company in writing of any such non-allocation of funds at the earliest possible date and shall pay Company any reasonable fees earned and costs incurred in performing this Contract for any period prior to such notice.

#### **E-8 Changes - Fixed-Price Goods or Services [CAO-4/2020]**

- (a) The City may at any time, by written order signed by Contractor, , make changes within the general scope of this Contract in any one or more of the following:
  - (i) Description of services to be performed or Goods to be provided.
  - (ii) Time of performance is as outlined in the service plan (i.e., hours of the day, days of the week, etc.).
  - (iii) Place of performance of the services.
  - (iv) Time or place of delivery of Goods
- (b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Contract, the Company shall provide current, complete, and accurate documentation to the City in support of any request for equitable adjustment.
- (c) The Company must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order. In the event the parties are unable to mutually agree to any requested adjustment, either party may have the option to terminate the agreement.
- (d) The parties shall negotiate a timely requested equitable adjustment by mutual written agreement and the change will be effected by purchase order revision. Failure to agree to any adjustment shall be a dispute under Section E-2, "Disputes"; however, nothing in this clause shall excuse the Company from proceeding with the Contract as changed.

**E-9 Entire Contract, Section and Paragraph Headings [CAO-4/2020]**

- (a) This Contract represents the entire and integrated agreement between the City and the Company. It supersedes all prior and contemporaneous understandings, negotiations, communications, representations, and agreements, whether oral or written, including terms published online, relating to the subject matter of this Contract.
- (b) The section and paragraph headings appearing in this Contract are inserted for the purpose of convenience and ready reference. They do not purport to define, limit, or extend the scope or intent of the language of the sections and paragraphs to which they pertain.

**E-10 Order of Precedence [CAO-7/24/08]**

In the event of a conflict between the specific language set forth in Sections A through E of this Contract and any Attachment or Exhibit, the specific language in Sections A through E shall prevail. Any exception to this order of precedence will be addressed through specific language elsewhere in Sections A through E.

**E-11 Severability [CAO-7/24/08]**

The invalidity, illegality, or unenforceability of any provision of this Contract or the occurrence of any event rendering any portion or provision of this Contract void shall in no way affect the validity or enforceability of any other portion or provision of this Contract. Any void provision shall be deemed severed from this Contract, and the balance of this Contract shall be construed and enforced as if this Contract did not contain the particular portion or provision held to be void. The parties further agree to amend this Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this clause shall not prevent this entire Contract from being void should a provision which is of the essence of this Contract be determined void.

**E-12 Waiver [CAO-7/24/08]**

Waiver of any of the terms of this Contract shall not be valid unless it is in writing signed by each party. The failure of the City to enforce any of the provisions of this Contract, or to require performance of any of the provisions herein, shall not in any way be construed as a waiver of such provisions or to affect the validity of any part of this Contract, or to affect the right of the City to thereafter enforce each and every provision of this Contract. Waiver of any breach of this Contract shall not be held to be a waiver of any other or subsequent breach of this Contract.

**E-13 Modification/Amendment [CAO-7/24/08]**

This Contract shall not be modified or amended except by the express written agreement of the parties, signed by a duly authorized representative for each party. Any other attempt to modify or amend this Contract shall be null and void, and may not be relied upon by either party.

**E-14 Assignment [CAO-7/24/08]**

Neither party may assign their rights nor delegate their duties under this Contract without the written consent of the other party. Such consent shall not be withheld unreasonably. Notwithstanding the foregoing, Company may assign without the consent of City to a purchaser of all or substantially all of Company's assets to which this agreement relates or in connection with Company's merger, consolidation, change of control or similar transaction. Any purported assignment in violation of the preceding sentence will be void. Any assignment or delegation shall not relieve any party of its obligations under this Contract.

**E-15 Indemnification [CAO-4/2020]**

Company agrees to indemnify and defend City its elected officials, officers, employees, agents, and consultants (collectively the "City") City from any third party claims related to bodily injury or damage to personal property which City may suffer solely as a result of (i) a defect in workmanship or design of the Goods or (ii) the gross negligence or willful misconduct or violation of applicable law by Company, its employees and authorized agents in their performance under this agreement. This indemnification does not apply to liability and/or damages arising from: (a) the negligence of any person other than an employee or agent of Company; (b) the failure of any person other than an employee or agent of Company to follow any labeling, manuals and/or instructions for use of the Goods; or (c) the use of any product not purchased from Company, Goods that have been modified, altered, reprocessed, or repaired by any person other than an

employee or agent of the Company. Stryker will have no liability hereunder unless it is notified promptly of any such claim and given control of the defense and any settlement thereof.

#### **E-16 Patent Indemnity [CAO-12/30/2020]**

The Company agrees to indemnify and defend City (as such term is defined in E-15 above) from any third-party claims against City alleging that City's use of the Goods in accordance with the products' labeling, manuals, and/or instructions for use, constitutes an infringement, misappropriation or other violation of any U.S. patent, trademark, copyright, trade secret or other intellectual property right. Should a Good become, or in Company's opinion is likely to become, the subject of a claim of any such infringement, the Company may, in its sole discretion, either procure for City the right to continue using the Good or replace it or modify it to make it non-infringing. If the foregoing options are not available on commercially reasonable terms, Company may refund the purchase price for the Good pro-rated for depreciation based on a three-year straight-line model. The foregoing indemnification does not apply to any claims arising from: (i) the combination of any Company Good with one or more non-Stryker products wherein such combination is the sole basis of the claim; (ii) the use of the Goods contrary to their labeling, manuals, and/or instructions for use or (iii) modification of any Good by any person other than Company without Company's express written authorization. Company will have no liability hereunder unless it is notified promptly of any such claim and given control of the defense and any settlement thereof.

#### **E-17 Audit of Records [CAO-5/2/12]**

- (a) The Company agrees to maintain the financial books and records (including supporting documentation) pertaining to the performance of this Contract according to standard accounting principles and procedures. The books and records shall be maintained for a period of three (3) years after completion of this Contract, except that books and records which are the subject of an audit finding shall be retained for three (3) years after such finding has been resolved. If the Company goes out of business, the Company shall forward the books and records to the City to be retained by the City for the period of time required herein.
- (b) The City or its designated representative(s) shall have the right to inspect and audit (including the right to copy and/or transcribe) the books and records of the Company pertaining to the performance of this Contract during normal business hours. The City will provide prior written notice to the Company of the audit and inspection. If the books and records are not located within Clark County, the Company agrees to deliver them to the City, or to an address designated by the City within Clark County. . The Company's failure to remedy the deficiency shall constitute a material breach of this Contract. The City shall be entitled to its costs and reasonable attorney fees in enforcing the provisions of this Section.
- (c) If at any time during the term of this Contract, or at any time after the expiration or termination of the Contract, the City or the City's designated representative(s) find the dollar liability is less than payments made by the City to the Company, the Company agrees that the difference shall be either: (i) repaid immediately by the Company to the City or (ii) at the City's option, credited against any future billings due the Company.

#### **E-18 Confidentiality – City Information [CAO-4/2020]**

- (a) All information, including but not limited to, oral statements, computer files, databases, and other material or data supplied to the Company is confidential and privileged. The Company shall not disclose this information, nor allow to it be disclosed to any person or entity without the express prior written consent of the City. The Company will use at least the same standard of care and exercise equivalent security measures to maintain the confidentiality of the City's information that it uses to maintain the confidentiality of its own confidential information; provided in no event shall such standard be less than reasonable care. The Company shall have the right to use any such confidential information only for the purpose of providing the services under this Contract, unless the express prior, written consent of the City is obtained. City shall be and remain the sole owner of such confidential information. Nothing contained in this Contract shall be construed as granting or conferring any right or license in the City's information or in any patents, software, or other technology, either expressly or by implication to the Company. Upon request by the City, the Company shall promptly return to the City all confidential information supplied by the City, together with all copies and extracts. Company is required to employ the highest ethical standards and shall avoid those actions that are inconsistent with the City's best interest.
- (b) The confidentiality requirements shall not apply where (i) the information is, at the time of disclosure by the City, then in the public domain; (ii) the information is known to the Company prior to obtaining the same from the City; (iii) the information is obtained by the Company from a third party who did not receive the same directly or indirectly from the

City; or (iv) the information is subpoenaed by court order or other legal process, but in such event, the Company shall notify the City. In such event the City, in its sole discretion, may seek to quash such demand.

(c) The obligations of confidentiality shall survive the termination of this Contract.

#### **E-19 Marketing Restrictions [CAO-4/2020]**

The Company shall at all times be in compliance with Las Vegas Municipal Code 1.08.050, and shall not publish or sell any information from or about this Contract without the prior written consent of the City. This restriction does not apply to the use of the City's name in a general list of customers, so long as the list does not represent an express or implied endorsement of the Company or its services. The City logo shall not be used without the prior written consent of the City.

#### **E-20 Intellectual Property Rights [CAO-4/2020] Intentionally omitted.**

#### **E-21 Taxes/Compliance with Laws [CAO-08/01/13]**

- (a) The City is exempt from paying Sales and Use Taxes under the provisions of Nevada Revised Statutes 372.325(4), and Federal Excise Tax, under Registry Number 88-87-0003k. The Company shall pay all taxes, levies, duties and assessments of every nature and kind which may be applicable to any work under this Contract. The Company shall make any and all payroll deductions required by law. The Company agrees to indemnify and hold the City harmless from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.
- (b) The Company, in the performance of the obligations of this Contract, shall comply with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the performance of this Contract including, but not limited to, the Federal Occupational Safety and Health Act.

#### **E-22 Licenses/Registrations [CAO-01/20/16]**

During the entire performance period of this Contract, the Company shall maintain all federal, state, and local licenses, certifications and registrations applicable to the work performed under this Contract, including maintaining an active City of Las Vegas business license if required by Las Vegas Municipal Code 6.02.060.

#### **E-23 Non-Discrimination and Fair Employment Practices [CAO-07/31/13]**

- (a) Discrimination: The City of Las Vegas is committed to promoting full and equal business opportunity for all persons doing business in Las Vegas. The Company acknowledges that the City has an obligation to ensure that public funds are not used to subsidize private discrimination. Company recognizes that if the Company or their subcontractors or subconsultants are found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other legally protected status, City may declare the Company in breach of contract and terminate Contract.
- (b) Fair Employment Practices: In connection with the performance of work under this Contract, the Company agrees not to discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other legally protected status. Such agreement shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- (c) The Company further agrees to insert this provision in all subcontracts hereunder. Any violation of such provision by a Company shall constitute a material breach of this Contract.

#### **E-24 Employment of Unauthorized Aliens [CAO-01/20/16]**

In accordance with the Immigration Reform and Control Act of 1986, the Company agrees that it will not employ unauthorized aliens in the performance of this Contract.



**E-25 Conforming Services [CAO-4/2020]**

The Services performed under this Contract shall conform in all respects with the requirements set forth in this Contract as negotiated between the parties hereto. The Company shall furnish the City with sufficient data and information needed to determine if the Services performed conform to all the requirements of this Contract.

**E-26 Independent Contractor [CAO-4/2020]**

In the performance of its obligations under this Contract, the Company and any other person employed by it shall be deemed to be an independent contractor and not an agent or employee of the City. The Company shall be liable for the actions of any person, organization, or corporation with which it subcontracts to fulfill this Contract. Accordingly, Company shall be responsible for payment of all taxes including federal, state and local taxes arising out of the Company's activities in accordance with this Contract, including by way of illustration but not limitation, federal and state income tax, Social Security tax, unemployment insurance taxes, and any other taxes or business license fees as required under existing or subsequently enacted laws, rules or regulations. Company shall not be entitled to any benefits afforded to City's employees, including without limitation worker's compensation, disability insurance, health insurance, vacation, or sick pay. Company shall be responsible for providing, at Company's expense, and in Company's name, unemployment, disability, worker's compensation, and other insurance, as well as licenses and permits usual or necessary for performance of its obligations pursuant to this Contract. Company shall hereby defend, indemnify, and hold the City harmless from any claims, losses, costs, fees, attorney's fees, liabilities, damages or injuries suffered by the City arising out of Company's failure with respect to its obligations in this Section. Company, upon request, shall furnish evidence satisfactory to the City that any or all of the foregoing obligations have been fulfilled. During Company's contacts with third parties they shall identify themselves as an independent party and not as an employee for the City. Company understands and agrees that they do not have the power or authority to bind City in any capacity. The City shall hold the Company as the sole responsible party for the performance of this Contract. The Company shall maintain complete control over its employees and all of its subcontractors. Nothing contained in this Contract or any subcontract awarded by the Company shall create a partnership, joint venture, or agency with the City. Neither party shall have the right to obligate or bind the other party in any manner to any third party.

**E-27 Official, Agent and Employees of the City Not Personally Liable [CAO-01/20/16]**

It is agreed by and between the parties of this Contract, that in no event shall any official, officer, employee, or agent of the City in any way be personally liable or responsible for any covenant or agreement therein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Contract.

**E-28 Conflict of Interest (City Officials) [CAO-4/2020]**

- (a) An official of the City, who is authorized on behalf of the City to negotiate, make, accept or approve, or take part in negotiating, making, accepting, or approving this Contract, payments under this Contract, or work under this Contract, shall not be directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of, or for the City, who is authorized on behalf of the City to exercise any legislative, executive, supervisory or other similar functions in connection with this Contract, shall become directly or indirectly interested personally in this Contract or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to this Contract.
- (b) Each party represents that it is unaware of any financial or economic interest of any public officer or employee of the City relating to this Contract. Notwithstanding any other provision of this Contract, if such interest becomes known, the City may immediately terminate this Contract for default or convenience, based on the culpability of the parties.

**E-29 Public Records [CAO-5/2/12]**

The City is a public agency as defined by state law. As such, it is subject to the Nevada Public Records Law (Chapter 239 of the Nevada Revised Statutes). The City's Records are public records, which are subject to inspection and copying by any person (unless declared by law to be confidential). This Contract and all supporting documents are deemed to be public records.

**E-30 Use By Other Government Entities [CAO-01/20/16]**

A governing body or its authorized representative and the State of Nevada may join or use the contracts of local governments located within or outside this State with the authorization of the contracting vendor. In the event the Company allows another governmental entity to join the Contract, it is expressly understood that the City shall in no way be liable for the obligations of the joining governmental entity.

**E-31 Certification – No Israel Boycott [CAO-4/2020]**

*(Applicable to contracts with an estimated annual amount over \$100,000)*

By signing this Contract, the Company certifies that it is not engaged in, and agrees for the duration of the Contract not to engage in, a boycott of the State of Israel per NRS 332.065.

“Boycott of Israel” means refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with Israel; or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. It does not include an action which is based on a bona fide business or economic reason; is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

“Company” means any domestic or foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited-liability partnership, limited-liability company, or other domestic or foreign entity or business association, including, without limitation, any wholly owned subsidiary, majority owned subsidiary, parent company or affiliate of such an entity or business association, that exists for the purpose of making a profit.

A violation of this Section by Company shall be considered an incurable Event of Default of this Contract, thereby allowing the City to immediately terminate this Contract upon giving Legal Notice to Company.

**E-32 Counterpart Signatures [CAO-08/11/2022]**

This Contract may be executed in counterparts. All such counterparts will constitute the same contract and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

The parties agree that this Contract may be signed electronically via the City’s designated electronic signature platform, and that the electronic signatures appearing herein shall be considered the same as handwritten signatures for the purposes of validity, admissibility, and enforceability.

**E-33 Miscellaneous [CAO-4/2020]**

- (a) In the event of a dispute under this Contract which results in litigation or other formal dispute resolution proceedings, the prevailing party shall be entitled to reimbursement of its or their actual reasonable attorney’s fees and costs in connection with such proceeding.
- (b) Time is of the essence of the Contract and each of its provisions.

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IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized representatives.

CITY OF LAS VEGAS

STRYKER SALES, LLC acting through its Medical

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

DocuSigned by:  
*Jennifer N. Collins* 4/8/2024 | 9:39 AM PDT  
\_\_\_\_\_  
Signature Date

Jennifer N. Collins  
\_\_\_\_\_  
Printed Name

Manager, Strategic Pricing & Contracts  
\_\_\_\_\_  
Title

ATTEST:

\_\_\_\_\_  
LuAnn D. Holmes, MMC Date  
City Clerk

APPROVED AS TO FORM:

DocuSigned by:  
*Carmen Gilbert* 4/4/2024 | 4:33 PM PDT  
\_\_\_\_\_  
8862965F49B8449...  
Deputy City Attorney Date

Carmen Gilbert  
\_\_\_\_\_  
Printed Name



## 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 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 (30 days after the date of Stryker’s invoice. Any amount not paid on time will 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 C.O.D. 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 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 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 Destination, freight, insurance and handling prepaid Stryker. 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 in Appendix 2 hereto will apply.
8. **Trade-in Equipment.** Any trade-in discount 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 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. INTENTIONALLY REMOVED.
- 10.3. Products returned by Customer for credit, replacement and/or repair will be 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](http://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, which term commences at the conclusion of the original warranty period. Specific service plan details are available through your local Stryker sales representative. Stryker's service plan 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 Agreement. Stryker may use and make publicly available, Stryker Data to the extent and in the manner permitted under applicable law. Stryker owns 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 aid 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 for third party liability ("Claims") that Customer is adjudicated to have directly as a result of: (i) a defect in workmanship or materials of the Products that are manufactured by Stryker; or (ii) 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) 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; (d) abnormal wear and tear or damage caused by misuse or by Customer's failure to perform normal and routine maintenance as set out in the maintenance manual and/or operating instructions provided with Products, or as demonstrated by an authorized Stryker representative; or (e) Product that has been modified, altered, or repaired by any person other than an employee or agent of Stryker. .

- 12.2. Stryker's indemnification obligations under this Section 12 are conditioned on Customer promptly providing Stryker with (i) timely written notice of any Claim for which indemnification is sought; (ii) reasonable assistance and all available non-proprietary information reasonably required in the defense or settlement of any Claim; and (iii) sole control over the defense against any Claim and the settlement of any Claim; provided, however, that 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 insurance obligations in accordance with Section D-6 of the Contract.
- 13.2. Customer is a self-insured municipality within the State of Nevada, covering claims alleging negligence by or liability of Customer that might arise out of purchases of Products by Customer hereunder. When requested by Stryker in writing, Customer will provide evidence of such coverage.

- 14. Liability by Stryker.** 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) SHALL INCLUDE: A) LOSSES RESULTING FROM STRYKER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR B) THIRD PARTY CLAIMS COVERED BY THE STRYKER'S INDEMNIFICATION OBLIGATION HEREIN; OR C) CLAIMS COVERED UNDER STRYKER'S INSURANCE, TO THE EXTENT OF THE INSURANCE REQUIREMENTS HEREIN; OR F) DAMAGES ARISING OUT OF LIABILITY WHICH CANNOT BE LAWFULLY EXCLUDED OR LIMITED. 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. FOR PURPOSES OF CLARIFICATION, THIS SECTION IS FOR CAPITAL PRODUCTS ONLY AND DOES NOT AFFECT OR SUPERSEDE PROCARE SPECIFIC TERMS AND CONDITIONS SET FORTH IN APPENDIX 3 HERETO.

- 15. Confidentiality.** Stryker and Customer: (i) will hold in strictest confidence any confidential or proprietary information, such as trade secrets, software source code, secret specifications, and so forth; and; (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. STRYKER UNDERSTANDS THAT CUSTOMER IS SUBJECT TO NEVADA REVISED STATUTES (NRS) CHAPTER 239, MORE COMMONLY KNOWN AS THE NEVADA PUBLIC RECORDS LAW, AND CUSTOMER MAY PUBLICLY DISCLOSE VERBALLY OR IN WRITING ANY INFORMATION DEEMED TO BE PUBLIC INFORMATION HEREIN, OR ASSOCIATED HERewith, OR CONCERNING ANY PURCHASE BY CUSTOMER OF ANY GOODS OR SERVICES HEREUNDER.

- 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 Agreement and these Standard Terms of Sale are in lieu of and replace any and all terms and conditions set forth in any documents issued by Customer. 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 and the Agreement 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 the Agreement and 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 are governed by and construed in accordance with the laws of the State of Nevada as applicable to contracts made and to be performed in that state, without regard to conflicts of laws principles. Venue for any legal action will be the Eighth Judicial District Court, Clark County, Nevada.

- 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.

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## APPENDIX 1 - CONSIGNMENT AND LOANED INSTRUMENTATION TERMS

**1. Consignment.**

11. Stryker will place at a Customer's designated premises on a consignment basis, such quantities and types of Product as Customer and Stryker may mutually agree upon (collectively, 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.
12. All Consigned Inventory is the property of Stryker until withdrawn by Customer; however, Customer accepts all risk of loss and full responsibility for 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.
13. 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 days from the withdrawal from consignment of any Consigned Inventory, Customer must issue to Stryker a hard copy of a purchase order for such withdrawn items. In the event Customer fails to issue a purchase order to Stryker, Customer will be in default and forfeit any agreed upon discounts and Stryker, at its option, may place Customer on credit hold and remove Consigned Inventory from Customer's premises.
14. Stryker may audit (including a physical inventory) this consignment arrangement 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 consignment inventory levels to reflect the amount as determined by the audit. Customer and Stryker agree to meet within 15 days after an audit of the inventory has been taken by Stryker to resolve whether a surplus or a shortfall exists.
15. Should Consigned Inventory reach sterilization expiration, Stryker will, at its sole option, either replace the Consigned Inventory or reduce inventory levels equivalent to the amount, by item number, of expired Consigned Inventory. Notwithstanding any language to the contrary, in the event that sterilization expiration should occur while Consigned Inventory is in Customer's possession, full responsibility for ensuring the expired inventory is not used in a patient procedure remains with Customer. Stryker will be responsible for updating the Consigned Inventory as needed.
16. 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.
17. Upon notice or expiration or termination of a consignment arrangement, Customer will, within 10 days, deliver as directed by Stryker all Consigned Inventory then in the possession or control of such Customer.

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

- 2.1. The quantity of Instrumentation will be as mutually agreed to by Customer and Stryker.
- 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. Upon expiration or termination of an Instrumentation loan arrangement, Instrumentation will be removed from Customer and returned to Stryker at Stryker's expense.
- 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.

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## APPENDIX 2 – STRYKER COMMUNICATIONS EQUIPMENT PURCHASE AND INSTALLATION SERVICES TERMS

The terms of this Appendix 2 will apply to Customer's purchase of 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 50% of the equipment purchase price will be due upon Stryker's acceptance of Customer's purchase order ("**Deposit**").
- 1.1.2. **Additional Payments:** Additional payments for equipment will be invoiced upon Stryker's shipment of the equipment and are payable by Customer in accordance with Stryker's 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 as they are performed, or upon shipment of equipment to Customer, whichever is later. Such invoices are payable by Customer in accordance with Stryker's 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's 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 and Customer ("**Shipment Date**"); provided, however, that the Anticipated Installation Date may not be changed less than eight weeks prior to the scheduled Anticipated Installation Date. Stryker 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's 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 - 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 of the place or places to which Stryker 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 will invoice Customer for the equipment upon shipment and Customer agrees to pay such invoice in accordance with Stryker's Standard Terms of Sale.
- 1.3. **Engineering Services:** Stryker 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 weeks prior to the scheduled Installation Date may result in shipping delays and additional expenses for expedited shipping.

### 2. Installation Services.

- 2.1. **Payment Terms:** Charges for Installation Services (as defined in Section 2.3 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 will invoice Customer separately for the Installation Services provided in each phase. Such invoices are payable by Customer in accordance with Stryker's Standard Terms of Sale.
- 2.2. **Customer Acceptance:** Acceptance of Installation Services will occur on the earlier of the following: (i) Stryker's receipt of a "Customer Acceptance Form" signed by Customer; (b) clinical utilization of Stryker Communications equipment by Customer; or (iii) 60 days after the completion of installation of Stryker Communications equipment ("**Customer Acceptance**").
- 2.3. **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 quote should include whether installation pricing includes regular working hours, nights, weekends, multiple trips (e.g. phased project installations), and/or union support. If not explicitly noted, Installation Services may not be sufficient and additional charges may apply. 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 2.5; (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 weeks' notice prior to the Anticipated Installation Date, Stryker may, at its discretion, invoice Customer an additional \$1,500 per day per installation technician.

## 2.4. **Stryker Responsibilities**

- 2.4.1. **Pre-Installation Meeting Responsibilities:** Stryker will facilitate an equipment pre-installation planning meeting to be held at Customer's site before construction begins. At, or before this meeting, Stryker 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 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 will schedule and lead the discussion and review of the Pre-Installation Guide and designation of exact responsibilities of all contractors. Stryker will schedule and lead the discussion of mounting plate(s) placement, pre-install design specifications and routing requirements of all applicable services.
- 2.4.2. **Layout/Placement Drawings:** Stryker will provide final equipment layout/placement drawings ("**Drawings**") for review within five business days of acceptance of purchase order and Deposit payment. The Drawings will include product placement and configuration of services. Within six weeks after acceptance of Customer's purchase order and no less than 14 weeks before the scheduled Ship date, Customer must deliver to Stryker 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 will not schedule production until the signed Drawings are received by Stryker; and Stryker is not responsible for any direct or indirect costs related to resulting delays.
- 2.4.3. **Inspection and Evaluation Responsibilities:** Stryker will review superstructure requirement (e.g. weights and moments) with Customer's contractors and Project Manager. When requested, Stryker 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 will review equipment installation procedures and process with Customer. Stryker will track construction schedules and make certain both Parties are adhering to originally agreed upon timelines. Stryker will provide Customer with specifications necessary to order applicable network services (obtaining and payment for these services are the Customer's responsibility).
- 2.4.4. **Installation Responsibilities:** Stryker 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).

## 2.5. **Customer Responsibilities**

- 2.5.1. **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).
- 2.5.2. **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 the Install and Ship Confirmation Form at least eight weeks prior to Installation Date.
- 2.5.3. **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 10 business days of completed Installation Services.
- 2.5.4. Stryker and Customer jointly agree to organize an inspection and valuation meeting to be held at least 30 days before Installation date. Customer is responsible for ensuring all appropriate personnel are in attendance.

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## APPENDIX 3 - PROCARE<sup>SM</sup> SERVICES – TERMS AND CONDITIONS

The terms of this Appendix 3 will apply to Customer's purchase of Services under a Stryker Service Plan (as defined Section 1 below). In the event of a conflict or inconsistency between the Standard Terms of Sale and this Appendix 3, relative to a Service Plan, this Appendix 3 will govern.

- 1. Service Plan Coverage.** Stryker will perform the repair and maintenance services (collectively, the “**Services**”) more particularly described in each service plan (the “**Service Plan**”) if entered into by and between Stryker and Customer. The Services will cover the capital equipment (if applicable) identified in the Service Plan (collectively, the “**Equipment**”).
- 2. Service Plan Terms and Conditions.** In addition to each Service Plan's coverage terms and conditions, the Services will be subject to the PROCARE<sup>SM</sup> Services Terms and Conditions set forth below.
- 3. Term and Termination.**
  31. Term. The Term of each Service Plan (the “**Term**”) will continue so long as Services are being provided under a Service Plan. Notwithstanding the foregoing, **after** the fourth of four (4) annual renewal periods, thereafter Stryker may change the amounts due as noticed thirty (30) days prior to any subsequent renewal.
  32. Termination for Cause. Either Party may terminate a Service Plan upon written notice to the other Party in the event the other Party breaches the Service Plan and fails to cure the breach within thirty (30) days after receipt of written notice thereof. In the event of such termination, Customer will be entitled to receive from Stryker a refund of all amounts prepaid by Customer under a Service Plan for Services that have not yet been provided by Stryker at the time of such termination, and Stryker will be entitled to receive from Customer payment for all Services that have been provided by Stryker prior to such termination.
  33. Termination for Convenience. Either Party may terminate this Agreement at any time upon sixty (60) days prior written notice to the other. If Customer has made advance payments, Stryker will provide prorated refund to the Customer for the remaining balance of the term, and any Equipment in Stryker's possession will be promptly returned to Customer.
  34. Survival of Certain Provisions. The provisions of Term and Termination, Confidentiality, Non Solicitation and Non Hire, Limitations of Liability, Changes, and Assignment will survive the expiration or termination of this Agreement and will be binding to the respective successors, assigns, subsidiaries or affiliates of the Parties.
- 4. Product Maintenance.** The Service Plan is ancillary to and not a complete substitute for the requirements of Customer 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.
- 5. Warranty; Limitations of Warranty and Liability.** During the Term, Stryker warrants, with the exception of software maintenance services which, if applicable, will be as specified in the Service Plan, the following:
  51. Stryker has the experience, capability and resources to perform under the Service Plan, and Stryker further represents and warrants that the Services will be performed in a workmanlike manner and with professional diligence and skill;
  52. 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;
  53. 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;
  54. 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.
  55. Stryker will maintain the Equipment in good working condition. Equipment and Equipment components repaired or replaced under this Service Plan continue to be warranted as described herein during the Term. When Equipment or component is replaced, the item provided in replacement will be the customer's property and the replaced item will be Stryker's property. If a refund is provided by Stryker, the Equipment for which the refund is provided must be returned to Stryker and will become Stryker's property.
  56. 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.

**Limitations and Exclusions from Service Plan.** 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 ProCare employees will not provide surgical or medical advice, will not practice surgery or medicine, will not be involved in any manner which may be construed as

practicing surgery or medicine, will not come in 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 this Agreement. Customer consents to the presence of Stryker employees in its operating rooms, where applicable, in order for Stryker to provide Services under this Agreement and represents that it will obtain all necessary consents from patients for such presence during surgery.

Notwithstanding any other provision set forth herein, the Service Plan does not cover the following, as determined by Stryker in its sole discretion: (i) 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; (ii) accidents, catastrophe, fire, flood or act(s) of God; (iii) damage resulting from faulty maintenance, improper storage, repair, handling or use, damage and/or alteration by non-Stryker authorized personnel; (iv) service necessary due to the failure of the Customer or anyone under its control to comply with written instructions or recommendations; (v) equipment on which any original serial numbers or other identification marks have been removed or destroyed; (vi) 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; (vii) service Stryker cannot perform because the Equipment has been discontinued or its parts have been discontinued or made obsolete; (viii) service to the Equipment if the Equipment or the Equipment site is contaminated with blood or other potentially infectious substances; or (ix) equipment that has been repaired with any unauthorized or non-Stryker components. In addition, in order to ensure safe operation of the Equipment, only Stryker accessories should be used. Stryker reserves the right to invalidate a Service Plan and any complimentary loaner programs thereunder if Equipment is used with accessories not manufactured by Stryker. If, at any time, upon inspection of the Equipment in service, Stryker deems any single unit of Equipment to be unserviceable, a record and report of such will be made, and provided to the Customer in writing on the date of service.

## 6. Indemnification.

61. Stryker will indemnify and defend Customer against any third party liability and/or damages (“**Claims**”) that Customer may incur directly as a result of bodily injury (including death) or property damage arising solely from the gross negligence, willful misconduct or omissions 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; (iv) abnormal wear and tear or damage caused by misuse or by Customer’s failure to perform normal and routine maintenance as set out in the maintenance manual and/or operating instructions provided with the Equipment, or as demonstrated by an authorized Stryker representative; or (v) 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 (v) above due to the negligent acts or omissions of Customer or its officers, employees, representatives or agents.
62. Stryker’s indemnification obligations under this Section 7 are conditioned on Customer promptly providing Stryker with (i) timely written notice of any Claim for which indemnification is sought; (ii) reasonable assistance and all available non-proprietary information reasonably required in the defense or settlement of any Claim; and (iii) sole control over the defense against any Claim and the settlement of any Claim; provided, however, that 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).

## 7. Confidentiality.

71. Customer must remove or secure any “Protected Health Information” (“**PHI**”) as defined in the Health Insurance Portability and Accountability Act of 1996 from Equipment prior to Stryker performing Services. Although Stryker will make reasonably commercial efforts to secure any PHI encountered, Stryker is not responsible for the security thereof.
72. All medical information and/or data concerning specific patients (including, but not limited to, the identity of the patients), derived from or obtained during the course of the Agreement, will be treated by both Parties as confidential so as to comply with all applicable state and federal laws and regulations regarding confidentiality of patient records, and will not be released, disclosed, or published to any party other than as required or permitted under applicable laws.

## 8. Non-Solicitation and Non-Hire.

Customer agrees that, during the Term and for a period of one (1) year following the termination or expiration of a Service Plan, it will not solicit any employees of Stryker to terminate their employment with Stryker, unless Stryker consents in writing. Nothing herein will prohibit Customer from hiring employees of Stryker who respond to a general employment solicitation such as a newspaper advertisement.

## 9. Background Check.

Stryker warrants that all of its employees who will be on a Customer’s premises to perform Services will have undergone a background check as part of Stryker’s hiring practice and/or as required by Customer’s vendor credentialing program. The background check consists of the following:

- Criminal background check
- National sex offender registry check
- Education verification
- Employment history



- SSN verification
- Driving record
- Government sanction/watch lists

During the Term, a Customer may request a conference with Stryker at any reasonable time regarding the performance, behavior or expectations of any Stryker service personnel who are assigned to Customer's facility. Any Stryker service personnel who willingly and knowingly violates 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.

- 10. Changes.** At any time during the Term, and upon each Party's written consent, additional Services or Equipment may be added or deleted from a plan. Such changes will be governed by the terms and conditions of the Service Plan. Stryker may modify the applicable Service Plan to reflect adjustments to charges attributable to plan changes.
- 11. 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.
- 12. Independent Contractor.** The Parties are independent contractors with respect to one another. However, to the extent Stryker, Stryker personnel or subcontractors come to Customer's property, to the extent applicable, they will follow Customer's written and posted work place policies.

\*\*\*\*\*



LIFEPAK ALS Monitor

Quote Number:10767793

Version:1

Prepared For:CITY OF LAS VEGAS  
Attn: FIRE AND RESCUE LOGISTICS

GPO:CUSTOMER CONTRACT

Quote Date:01/25/2024

Expiration Date:05/09/2024

Contract Start:06/01/2025

Contract End:05/31/2030

Remit to:Stryker Medical

P.O. Box 93308

Chicago, IL 60673-3308

Rep:Corey Halm

Email:corey.halm@stryker.com

Phone Number:(702) 426-0464

Mobile:(702) 426-0464

Delivery Address		Sold To - Shipping		Bill To Account	
Name:	LAS VEGAS FIRE AND RESCUE LOGISTICS	Name:	LAS VEGAS FIRE AND RESCUE LOGISTICS	Name:	CITY OF LAS VEGAS
Account #:	20073868	Account #:	20073868	Account #:	20036681
Address:	831 N MOJAVE RD	Address:	831 N MOJAVE RD	Address:	
	LAS VEGAS		LAS VEGAS		
	Nevada 89101-2407		Nevada 89101-2407		

Equipment Products:

#	Product	Description	U/M	Qty	Sell Price	Total
1.0	99577-001957	LIFEPAK 15 V4 Monitor/Defib - Manual & AED, Trending, Noninvasive Pacing, SpO2, SpCO, NIBP, 12-Lead ECG, EtCO2, BT. Incl at N/C: 2 pr QC Electrodes (11996-000091) & 1 Test Load (21330-001365) per device, 1 Svc Manual CD (26500-003612) per order	PCE	75	\$40,500.00	\$3,037,500.00
Equipment Total:						\$3,037,500.00

Trade In Credit:

Product	Description	Qty	Credit Ea.	Total Credit
---------	-------------	-----	------------	--------------

ProCare Products:

#	Product	Description	Months	Qty	Sell Price	Total
2.1	LIFEPAK-FLD-PROCARE	Lifepak 15 for LIFEPAK 15 V4 Monitor/Defib - Manual & AED, Trending, Noninvasive Pacing, SpO2, SpCO, NIBP, 12-Lead ECG, EtCO2, BT. Incl at N/C: 2 pr QC Electrodes (11996-000091) & 1 Test Load (21330-001365) per device, 1 Svc Manual CD (26500-003612) per order	12	75	\$1,700.00	\$127,500.00
The Lifepak products listed herein include a one (1) year manufacturer warranty, as further described in Exhibit E of the Purchase Contract. ProCare Prevent coverage is for a duration of one (1) year commencing upon expiration of the one (1) year manufacturer warranty. Thereafter, the City may, at its option, renew the ProCare Products herein, in whole or in part, at the "Sell Price" listed above, for up to four (4) additional annual periods.						
√ Parts, Labor, Travel √ Preventative Maintenance √ Batteries Service "ProCare Prevent" comprehensive service package						
ProCare Total:						\$127,500.00



**LIFEPAK ALS Monitor**

Quote Number: 10767793

Remit to: **Stryker Medical**

Version: 1

Prepared For: LAS VEGAS FIRE AND RESCUE LOGISTICS

Attn:

Rep: Corey Halm

Email: corey.halm@stryker.com

Phone Number: (702) 426-0464

Mobile: (702) 426-0464

GPO: CUSTOMER CONTRACT

Quote Date: 01/25/2024

Expiration Date: 02/29/2024

Contract Start: 06/01/2025

Contract End: 05/31/2030

**Price Totals:**

Estimated Sales Tax (0.000%): \$0.00

Freight/Shipping: \$0.00

Grand Total: \$3,165,000.00

**Comments:**

Stryker will offer an \$8,000 one-for-one trade-in credit for existing LIFEPAK monitors.

Monitor price does not include modems

F.O.B Destination

Prices: In effect for 30 days

Terms: Net 30 Days

**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](https://techweb.stryker.com/Terms_Conditions/index.html).

**stryker**

# ProCare<sup>®</sup> Services



Trusted. Reliable. Proactive.



# We go beyond peak performance

Imagine having someone dedicated to managing your equipment, who truly understands the intricacies of EMS and can anticipate your needs before an issue even arises. We'll make sure your lifesaving and back-saving equipment is ready when you need it. With Stryker's ProCare Services, you can count on trusted experts dedicated to caring for your equipment, so you can focus on what truly matters—saving lives.

"The service representative caught a problem we didn't know we had. He fixed it the same day, and we didn't have to take it out of service."

**– ProCare customer in central Minnesota**



# Repairs by the numbers



## Enhance equipment life

Of those surveyed, **85** percent of EMS customers reported the life of their equipment has been extended because of ProCare Services.<sup>1,2</sup>



## Equipment experts

ProCare technicians receive over **200** hours of equipment training, and have an average tenure of 12 years with Stryker.



## Proactive approach

In 2019, ProCare Services did preventive maintenance inspections on over **83,450** pieces of EMS equipment.



## Increased efficiency

**86** percent of EMS customers surveyed reported they are able to operate more efficiently because of ProCare Services.<sup>1</sup>



# Our proactive approach

With ProCare Services, we offer you operational and financial peace of mind through two comprehensive service package offerings, ProCare Protect and ProCare Prevent. Choose the service package that best meets your needs.

	Protect	Prevent
OEM parts	●	●
Labor and travel expenses	●	●
Battery servicing and replacement*	●	●
Trained service specialists	●	●
2-hour call back time*	●	●
24-72 hour repair turnaround*,**	●	●
Loaner device during PM or repair*	●	●
Software updates*	●	●
Discounts on upgrades, accessories, disposables*	●	●
Documentation for governing bodies		●
Annual PM inspection service		●
Single-click service request through Smart Equipment Management™ (SEM™) dashboard***		●

## Don't see what you're looking for?

ProCare Services offers customizable packages to help fit your facility's needs. Some options include, but are not limited to:

- PM-only agreements
- Co-op plans
- Onsite services
- Labor and travel plans

With ProCare, you choose where your device is serviced. You can ship it to us, or we will come onsite to your facility.\*

\*Feature is available based on product specification and customization of package.

\*\*Based on the provisions of the service agreement and the location of the product.

\*\*\*Only available with the Power-PRO 2 connected ambulance cot.





## Trusted partner

Our technicians have the proprietary knowledge, tools and components to care for your equipment and keep it performing – helping you achieve the full serviceable life of your equipment.



## Reliable and responsive

ProCare's true value is in the time you'll save and hassles you can avoid when an issue arises. We're there for you every step of the way. From diagnosing a problem and ordering parts to making and documenting repairs, we'll get your equipment up and running as quickly as possible.



## Results that matter

Our goal is to ensure your equipment performs when you need it most. Annual preventive maintenance and priority repairs reduce equipment downtime, helping make budget management more predictable.



**We're right here**  
right when you need us

## Contact us

for all your ProCare Service needs, including:

- Dispatch your local service technician
- Order OEM parts
- Technical support for your equipment
- Get access to equipment manuals

### References

1. Gallup, Stryker ProCare Customer Engagement Study, 05/2014
2. Stryker verifies its equipment to the expected service life stated within the product's instructions for use.

**Contact your local sales representative or visit [stryker.com](http://stryker.com)**

## Emergency Care

This document is intended solely for the use of healthcare professionals. A healthcare professional must always rely on his or her own professional clinical judgment when deciding whether to use a particular product when treating a particular patient. Stryker does not dispense medical advice and recommends that healthcare professionals be trained in the use of any particular product before using it.

The information presented is intended to demonstrate Stryker's product offerings. A healthcare professional must always refer to operating instructions for complete directions for use indications, contraindications, warnings, cautions, and potential adverse events, before using any of Stryker's products. Products may not be available in all markets because product availability is subject to the regulatory and/or medical practices in individual markets. Please contact your representative if you have questions about the availability of Stryker's products in your area. Specifications subject to change without notice.

Stryker or its affiliated entities own, use, or have applied for the following trademarks or service marks: LIFEPAK, LUCAS, ProCare, Power-LOAD, Power-PRO, SEM, Smart Equipment Management, 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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### Manufactured by:

3800 E. Centre Avenue  
Portage, MI 49002 USA  
P +1 269 329 2100  
Toll free 800 327 0770  
[stryker.com](http://stryker.com)




### Distributed in Canada by:

Stryker Canada  
2 Medicorum Place  
Waterdown, Ontario  
L8B 1W2  
Canada  
Toll free 800 668 8323

# ProCare® Service plans

## tailored to your needs

Every day, you count on your medical equipment to perform at its best. Our team provides preventive maintenance and tailored service support to help enhance the reliability and maximize the life of your equipment. ProCare isn't just a service program – it's a partnership you can count on to give you one less thing to worry about, and one more reason to feel confident you're doing all you can for your clinicians, staff, and patients.

	 <b>Preventive maintenance</b>	 <b>Protect plan</b>	 <b>Prevent plan</b>
Annual preventive maintenance inspection service	●		●
Documentation for regulating bodies	●		●
Stryker-trained service specialist	●	●	●
Labor and travel expenses	●	●	●
Stryker OEM parts		●	●
24-72 hour repair turnaround*		●	●
2-hour call back time		●	●
Unlimited service calls		●	●

### Don't see what you're looking for?

We offer customizable packages to help fit your facility's needs. Some options include, but are not limited to:

- Co-op plans
- Onsite Services
- Labor and travel plans

**Contact your Stryker sales representative or ProCare technician for a contract quote and to learn more about our comprehensive service plans!**

Stryker or its affiliated entities own, use, or have applied for the following trademarks or service marks: 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.

## STRYKER CORPORATION

## SOFTWARE AND HOSTING TERMS AND CONDITIONS ("SOFTWARE AND HOSTING TERMS")

CUSTOMER AGREES THAT BY PLACING AN ORDER FOR STRYKER SOFTWARE OR HOSTING SERVICES THAT CUSTOMER AGREES TO BE BOUND BY THESE SOFTWARE AND HOSTING TERMS. PLEASE READ THESE SOFTWARE AND HOSTING TERMS CAREFULLY BEFORE INSTALLING, ACTIVATING OR OTHERWISE ACCESSING OR USING ANY STRYKER SOFTWARE OR HOSTING SERVICES, OR ANY SOFTWARE OR SERVICES ACCESSIBLE BY USING ANY STRYKER SOFTWARE OR HOSTING SERVICES. IF YOU ARE PLACING AN ORDER ON BEHALF OF CUSTOMER, YOU REPRESENT AND WARRANT TO STRYKER THAT YOU ARE DULY AUTHORIZED TO AGREE TO THESE SOFTWARE AND HOSTING TERMS ON BEHALF OF CUSTOMER. IF CUSTOMER DOES NOT AGREE TO THESE SOFTWARE TERMS, CUSTOMER MAY NOT INSTALL, ACTIVATE OR OTHERWISE ACCESS OR USE STRYKER SOFTWARE OR HOSTING SERVICES, OR ANY SOFTWARE OR SERVICES ACCESSIBLE BY USING THE STRYKER SOFTWARE OR HOSTING SERVICES.

## 1. DEFINITIONS

**Agreement** means the Ordering Document that references or is otherwise subject to these Software and Hosting Terms, together with these Software and Hosting Terms and the applicable Product Addendum.

**Customer Hosted Software** means Stryker Software, other than Embedded Software or Stryker Hosted Software, that Customer hosts on Customer's own equipment or that is separately installed on Equipment in accordance with this Agreement.

**Embedded Software** means Stryker Software that is embedded in or that runs on Equipment and is provided as part of a device and not separately installed, including any documentation, explanatory written materials and files, content, and code.

**Equipment** means instruments, tablets or other computing devices, printers, peripherals and spare parts that are provided to Customer by Stryker under a separate Ordering Document.

**Hosting Services** means data hosting and storage services that Stryker makes available, directly or through its third party hosting provider to Customer, as described in the Product Addendum and set forth in the applicable Ordering Document, and any Updates thereto.

**Ordering Document** means a final quote and/or order for products and/or services as agreed to between Stryker and Customer.

**Other Components** mean applications and software, including open source software, and services that are licensed or provided by entities or individuals other than Stryker, as may be detailed in the Product Addendum or the Product Documentation.

**Party** means Stryker or Customer individually, and **Parties** mean Stryker and Customer collectively.

**Permitted Facility** means the specific facility at the specific address set forth in the Ordering Document or Product Addendum, as applicable.

**Product** means, for the purposes of the Software and Hosting Terms, Stryker Software or Hosting Services.

**Product Addendum** means the then-current additional terms and conditions applicable to a specific Product as referenced in the Ordering Document or otherwise provided by Stryker.

**Product Documentation** means the then-current operational materials and documentation provided by Stryker relating to a Product.

**Service Term** means the subscription, support or hosting services period set forth in the Product Addendum or the Ordering Document, unless terminated earlier or extended in accordance with the terms of this Agreement.

**Stryker** means the Stryker company or division referred to in the Ordering Document.

**Stryker-Hosted Software** means Stryker Software that is not Embedded Software that is hosted by Stryker or its hosting provider and made available to Customer as a service via a Customer-provided internet connection.

**Stryker Software** means firmware, software, web-based or mobile applications or data compilations, and any services that are accessible through the foregoing, that are proprietary to Stryker, as described in the Product Addendum and set forth in the applicable Ordering Document, and any Updates thereto. Stryker Software does not include any open source or third-party licensed software, which are subject to the terms and conditions set out in the relevant open source or third-party license as set forth herein.

**Update** means corrections, updates, upgrades or enhancements to Stryker Software or Hosting Services, as applicable, as made available to Customer by Stryker for use by Customer under this Agreement.

**User** means any employee, contractor or representative of Customer that Customer has authorized to access and/or use a Product. Any installation, activation, access or use by or on behalf of Customer, or that occurs when the Product is in Customer's or a User's possession or control, is considered to have been performed by Customer. Users may only use and access the Products at and for the Permitted Facilities.

## 2. USE RIGHTS

Subject to the terms of this Agreement, Stryker grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable and revocable right to allow Users to use Stryker Software and Hosting Services for internal business purposes as set forth in the Product Documentation. Stryker Software is licensed in read-access, object code form only. Product Documentation only may be used in connection with the specific Product with which it relates, and for no other purpose. In addition, unless otherwise set forth in the Product Addendum (for the avoidance of doubt, more than one category may apply to a Product):

- (a) For Stryker-Hosted Software and Hosting Services, Customer may only connect to the Stryker Software using authorized websites, mobile applications and/or software ("**Authorized Connections**") as set forth in the Product Documentation and for use for the Permitted Facilities. The license for device-based or user-based software will be specified in the Product Addendum, if applicable.
- (b) For Customer-Hosted Software, Customer may make one copy of the Stryker Software to operate on one computer or device, and one copy for backup or archival purposes and NOT for use in production on one computer or device, as set forth in the Product Documentation, and for each copy at a single location at a Permitted Facility in the United States.

Customer must register, set up, and at all times keep accurate and complete, an authorized account with passwords, authentication keys, or security credentials that enable Users access to the



Products ("**Login Credentials**"). Customer and User's must maintain the confidentiality and security of all Login Credentials, and Customer responsible for any consequences that may result from the improper disclosure or use of any such Login Credentials. If Customer or any User believes an account has been compromised, including any unauthorized access to or use or disclosure of any Login Credentials, Customer must notify Stryker immediately. As part of any registration or set up process, Stryker may request registration-related information, including a User's name and e-mail address. By providing this information, Customer consents, and is responsible for obtaining all User consent, to its collection and use by Stryker. Customer is responsible for all acts and omissions of Users, and for ensuring the compliance by all Users with all terms of this Agreement.

If Customer is aware of any violation by a User, Customer immediately must notify Stryker and suspend that User's access to the Products. Customer is responsible and liable for all acts and omissions by Users or by any other individual or entity to whom Customer or any User provides or allows access, or that accesses the Products through the Login Credentials. Stryker reserves the right to refuse service, terminate accounts, remove or edit content, or cancel logins in its sole and absolute discretion. The Products do not include network equipment or internet connection. Customer is responsible for obtaining equipment, software, supplies and connections sufficient to access and use the Products, and Customer is solely responsible for payment of any third-party fees associated therewith, including internet service-provider charges. Use of the Products may be limited or restricted depending on the capabilities, bandwidth or technical limitations of User's connection and service. The provision, quality and security of such connectivity are the responsibility of Customer and the party providing such service to Customer, not Stryker. If a Product has remote access capabilities, Customer hereby agrees to make systems available for remote support and consents to Stryker or Stryker's agents connecting through the internet for remote diagnostic, update, upgrade, and repair purposes.

The Products and the Product Documentation, including all Updates and modifications, enhancements, changes and additions thereto, are the proprietary and confidential property of Stryker or its licensors. Stryker hereby owns (and Customer hereby assigns and will cause all Users to assign to Stryker) all title, copyright, and other worldwide intellectual property rights in the Products and Product Documentation, including all Updates and all modifications, enhancements, changes and additions thereto, and all copies thereof. This Agreement does not grant Customer or any User any rights to trademarks or service marks of Stryker, nor any rights or licenses under any of Stryker's patents. Customer must not remove, alter, or obscure any proprietary notices contained on or within the Products or the Product Documentation and will reproduce such notices on any back-up copy of the Products or Product Documentation. This is not a sale, and Stryker hereby reserves all rights to the Products and Product Documentation, except for the rights expressly granted herein. No other right or authorization is granted, by implication, reliance or otherwise. Without limiting the foregoing, no right is granted or implied, and Customer is not authorized, to use any Product in combination with any product or method not specifically permitted by Stryker.

### 3. RESTRICTIONS

Customer may not, and will not allow any third party to, do any of the following: (a) access or attempt to access any other Stryker systems, programs, services or data that are not made available for Customer's use; (b) unless expressly permitted in the Production Documentation, copy, reproduce, alter, merge, modify, adapt, create derivatives of, translate, republish, upload, post, transmit, resell or

distribute in any way the Products or any Product Documentation; (c) decompile, reverse engineer, disassemble, or otherwise reduce Stryker Software to a human perceivable form or to derive the underlying ideas, algorithms, structure or organization from any Product, except to the extent permitted by applicable Law; (d) permit any third party to benefit from the use or functionality of any Product via a rental, lease, timesharing, service bureau, or other arrangement; (e) sublicense, sell or transfer any of the rights granted to Customer unless approved in writing by Stryker; (f) breach, avoid, bypass, remove, deactivate or otherwise circumvent any software protection mechanisms in any Product, including any mechanism used to restrict or control the functionality of Stryker Software, or enable features or functionalities that are otherwise disabled or not purchased by Customer; (g) perform or attempt to perform any actions that would interfere with the proper working of a Product; or (h) use a Product in or for any manner or purpose that infringes, misappropriates, or otherwise violates any right of any third party or that violates any applicable Law. Customer will, and will ensure that Users will, at all times use Stryker Software in compliance with this Agreement and the Product Documentation. Customer will be liable to Stryker for any and all claims, damages, losses, costs, expenses and other liability of whatever nature that Stryker suffers or incurs by reason of any such unintended use.

For Stryker-Hosted Software, the Hosting Services or any Stryker Software that is connected to a Stryker system hosted by Stryker, Customer will not, and will ensure that Users do not:

- (a) perform, attempt to perform, or assist others in performing any of the following while accessing or using a Product: (i) use, display, mirror, or frame the Product or any individual element within the Product, including the design of any page; (ii) try to gain unauthorized access to, test the vulnerability of, or disrupt any Product, any other service, device, data, account, or network, including Stryker systems or systems of Stryker providers; or (iii) access any Product through the use of any mechanism other than through the use of an Authorized Connection.
- (b) (i) upload any content that contains software viruses or is designed to interrupt, destroy, or limit the functionality of any software, equipment or services, or that contains other harmful, disruptive, or destructive files or content; (ii) use or attempt to use another User's account without authorization, or impersonate any person or entity; or (iii) use any Product in any manner that, in Stryker's sole discretion, is objectionable or restricts or inhibits any other person or entity from using or enjoying a Product, or which may expose Stryker or any third party to any harm or liability of any type.

If a Product is considered a medical device by the U.S. Food and Drug Administration ("**FDA**"), additional terms may be applicable as set forth in the Product Addendum. Unless a Product Addendum expressly sets forth otherwise, no data generated, hosted or stored by or through a Product or Stryker is or should be considered an electronic medical record. Customer is responsible for printing or storing any data as may be necessary or appropriate to include in any medical record maintained by Customer.

Use, duplication or disclosure by the U.S. Government is subject to restrictions set forth in subparagraph (b) of FAR 52.227-19, Commercial Computer Software License. A Product may contain applications and software, including open source software, and services that are licensed or provided by entities or individuals other than Stryker as detailed in the Product Addendum or the Product Documentation ("**Other Components**"). Other Components are subject to the terms and conditions of the applicable license agreement that accompanies or applies to such Other Components.



Customer will use the Other Components solely in conjunction with a Product and Customer will have no broader use rights with respect to the Other Components than it has to the Product.

#### 4. UPDATES; OTHER SERVICES

From time to time, Stryker may provide Updates, including for purposes of error correction and improvement of functions. Updates may delete or change the nature of features or other aspects of a Product. Customer acknowledges and agrees that Updates are made at Stryker's sole discretion and that Stryker may condition continued use of a Product upon Customer's complete installation, use or acceptance of an Update. Any Updates will be deemed to be, and will constitute part of, a Product. Customer agrees and consents to install and use any Update if required by Stryker. The Product may require the purchase of an annual maintenance subscription for ongoing training, support, and upgrades, which will be governed by separate terms and conditions.

If Stryker makes a material change to a Product, Stryker will use reasonable efforts to notify Customer prior to the effective date of that change. If any changes are made to a Product by or on behalf of Customer or a User, permitted or otherwise, Customer will promptly notify Stryker thereof and all intellectual property and other rights in such additions or changes will be exclusively owned by Stryker. Customer will timely execute any documents reasonably requested by Stryker to vest in Stryker all rights in and to those changes.

#### 5. USER RESPONSIBILITIES

Customer acknowledges that Customer and Users, acting through licensed medical doctors or other licensed health care professionals who are employed by or otherwise associated with Customer, will be the provider of medical and other health services to patients relating to the review, analysis, and interpretation of any medical data or any related health care services provided to patients based on such review, analysis, and interpretation in connection with any Product or services provided as part of or through any Product. Customer acknowledges and agrees that Stryker is not a provider or supplier of any health-care services and that Stryker will not be deemed to be furnishing any patient health-care services by virtue of providing any Product or in connection with this Agreement. Except as expressly set forth in this Agreement, Customer agrees to reimburse Stryker for and hold Stryker harmless from, any consequences, directly or indirectly, related to any misuse or interpretation of any Product or any other information provided or omitted in connection therewith.

Customer must comply with, and is solely responsible for complying with, all applicable laws, regulatory requirements and rules ("**Laws**") relating to the use of a Product, including Laws in the jurisdiction(s) where a Product is used or accessed. Customer acknowledges Customer's obligation to inform Users of warnings, instructions, notices and other materials regarding proper use of a Product.

Customer retains all rights to the content Customer or a User upload, store, share, send, or display to or via a Product ("**Customer's Content**") subject to the provisions in this Agreement. Customer is solely responsible for ensuring that each Product and its security are appropriate for Customer's intended use. Customer is responsible for taking and maintaining appropriate steps to protect the confidentiality, integrity, and security of Customer's Content. Those steps include (a) controlling access Customer provides to Users, (b) making appropriate configurations, (c) ensuring the security of Customer's Content while it is in transit, (d) using encryption technology to protect Customer's Content, and (e) backing up Customer's Content. Customer is responsible for providing any necessary notices to Users and obtaining any legally required consents from Users regarding their use of the Products.

*Stryker Software and Hosting Terms*

Customer represents and warrants that Customer has the rights to provide Customer's Content to Stryker and to direct and authorize Stryker to use and disclose Customer's Content as contemplated in this Agreement. For Hosting Services, Customer hereby consents to Stryker's hosting and processing of Customer's Content and other related information, including at locations of Stryker and its third-party infrastructure and cloud providers.

Customer agrees to assist Stryker in any implementation process. Customer agrees to have all equipment, connections and facilities prepared and ready for implementation in accordance with the mutually agreed upon schedule. Customer will be responsible for taking all necessary actions prior to Stryker performing the installation/services to remove and/or remediate any hazardous conditions or materials. Further, Customer will maintain an environment that complies with the Product Documentation and will use all Products in accordance with this Agreement and the Product Documentation. Customer is responsible for all hardware, operating systems, network setup, network maintenance and setup required in the support of a Product. Customer may be required to grant Stryker certain limited access rights to Customer's systems or resources in order that Stryker may render services. Customer is responsible for ensuring that Customer's personnel have sufficient training to attain and maintain competence in the operation of a Product.

Should Customer return a Product, sell or otherwise transfer a Product, or if this Agreement or a Service Term is terminated, if requested by Stryker, Customer will uninstall or cease use of Stryker Software (other than Embedded Software) and delete (directly or hereby allows Stryker to delete) any and all accounts Customer may have established for the Product or that are accessible through the Product. If Customer resells or transfer any Product to other hospitals, clinics, wholesalers, dealers or any other third parties, Customer will notify Stryker in advance. Unless Stryker and the successor owner or transferee enter into a separate agreement for the use of or access to a Product (including the use of any Stryker Software or Hosting Services), all representations and warranties with respect to such Product are null and void and Stryker will have no further obligations or liability with respect to the Product or any component thereof.

During the Service Term, and for four years thereafter, both Parties will comply with all applicable requirements of 42 CFR Section 420.302, including: (a) retaining required documents, and (b) giving the U.S. Comptroller General, HHS, and their duly authorized representatives access to its contract, books, documents, and records related to the sale under this Agreement and those of any organizations related to the Parties.

Customer is responsible for (a) Customer's or User's access to or use of a Product, (b) Customer's Content, (c) Customer's breach or alleged breach of this Agreement, (d) Customer's or any User's violation of any Law or the rights of a third party, (e) the actions of any person or entity gaining access under Login Credentials assigned to Customer or a User, (f) the actions of any person or entity using Login Credentials assigned to a User, or (g) Customer's or a User's negligent or willful misconduct.

Customer agrees that Stryker or its agents or representatives may but is not required to audit Customer's use of a Product for compliance with these Software and Hosting Terms at any time. In the event that such audit reveals any use other than in full compliance with the terms of this Agreement, Customer will reimburse Stryker for all reasonable expenses related to such audit in addition to any other liabilities incurred as a result of such non-compliance. Stryker has the right to investigate violations of this Agreement and any conduct that affects any Product and, in response, may take any action Stryker may deem appropriate.

## 6. INFRINGEMENT

Stryker will defend Customer against any action by a third party against Customer to the extent based on a claim that Stryker Software infringes a United States patent, copyright or trade secret of such third party during the Service Term applicable to such Stryker Software ("**Infringement Claim**"), and Stryker will indemnify and hold Customer harmless from and against all settlements to which Stryker has agreed and all final, non-appealable judgments awarded against Customer to the extent arising out of any Infringement Claim, provided that, in each case: Customer promptly notifies Stryker in writing of the existence of any Infringement Claim; Customer is able to, at Stryker's option, control the defense and settlement of such Infringement Claim; and Customer fully cooperates in the defense of any Infringement Claim. These obligations will not apply to the extent that the alleged infringement or violation arises from: use of non-Stryker furnished equipment, software, or other resources with Products; Customer's failure to follow Stryker's installation, operation, repair or maintenance instructions; Customer's failure to permit Stryker timely access, remote or otherwise, to Products; failure to implement any Updates, including revisions, modifications, updates, patches, "bug fixes" or new versions of or to Stryker Software, provided by Stryker; Products with their serial numbers altered, defaced or deleted; Products that have been altered, serviced or modified by a party other than Stryker; Products that have been subjected to abnormal physical or electrical stress, misuse, negligence or accident by Customer or a third party or any other cause outside of Stryker's control; or Products and/or Stryker Software not purchased new (collectively "**Exceptions**"). If Stryker Software becomes, or in Stryker's opinion is likely to become, the subject of an Infringement Claim barring Customer's use of the Stryker Software, Stryker may, at its option, either: remedy or replace the infringing components of the Stryker Software or terminate Customer's access to and use of the infringing components of Stryker Software with no further obligation to User. THIS CLAUSE STATES STRYKER'S ENTIRE LIABILITY WITH RESPECT TO ANY LIABILITY FOR ANY THIRD-PARTY CLAIMS OF INFRINGEMENT, MISAPPROPRIATION, OR VIOLATION OF INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

## 7. WARRANTY

Stryker warrants to Customer that the Stryker Software will perform substantially as described in the Product Documentation when first delivered or made available for access or use by Customer. If Customer notifies Stryker of defects within five days after Customer's first access or use, and those defects are verified by Stryker, as Customer's sole and exclusive remedy, Stryker will remedy or replace the defective Stryker Software or, at its option, terminate this Agreement with respect to Stryker Software that was defective. Customer's remedy for breach of this limited warranty will be limited to the foregoing replacement or refund and will not encompass any other damages. No dealer, distributor, agent or employee of Stryker is authorized to make any modification or addition to the warranty and remedies stated herein. Additional terms regarding Product warranties and maintenance may be set forth in the Product Addendum. Notwithstanding these limited warranty provisions, all of Stryker's obligations with respect to such warranties will be contingent on Customer's use of a Product in accordance with this Agreement and in accordance with Stryker's instructions as provided in the Product Documentation, as such instructions may be updated from time to time. Stryker will have no warranty or indemnity obligations if the failure or infringement is caused to or by an Exception.

**EXCEPT AS SPECIFICALLY STATED IN THESE SOFTWARE AND HOSTING TERMS, STRYKER EXPRESSLY DISCLAIMS ALL EXPRESS OR IMPLIED**

**WARRANTIES ARISING OUT OF OR RELATING TO THESE SOFTWARE AND HOSTING TERMS, A PRODUCT OR ANY CONTENT PROCESSED THROUGH OR GENERATED BY A PRODUCT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. STRYKER MAKES NO WARRANTY THAT A PRODUCT WILL MEET CUSTOMER'S REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED OR ERROR-FREE BASIS. CUSTOMER ACKNOWLEDGES THAT, UNLESS OTHERWISE EXPRESSLY SET FORTH IN THE PRODUCT ADDENDUM, ACCESS TO AND USE OF THE SERVICES IS NOT THE EXCLUSIVE METHOD OF TRANSMISSION, STORAGE, OR RETENTION OF ANY APPLICABLE INFORMATION OR DATA.**

## 8. LIMITATION OF LIABILITY

IN NO EVENT WILL STRYKER BE LIABLE TO CUSTOMER, ANY USER, ANY HEALTHCARE PROFESSIONAL, OR ANY EMPLOYEE, CONTRACTOR, AGENT, OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING IN CONNECTION WITH THIS AGREEMENT OR A PRODUCT (WHETHER IN WARRANTY, CONTRACT, OR TORT, INCLUDING NEGLIGENCE, AND REGARDLESS WHETHER STRYKER HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE), INCLUDING LOST REVENUE OR PROFITS, LOSS OR CORRUPTION OF DATA OR GOODWILL, SERVICE UNAVAILABILITY, INTERRUPTION, STOPPAGE, OR DELAY, COMPUTER DAMAGE, MEDICAL EXPENSES, SYSTEM FAILURE, OR THE COST OF SUBSTITUTE SERVICES; OR ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY CUSTOMER OR A USER AS A RESULT OF THE SUSPENSION OR TERMINATION OF THIS AGREEMENT FOR ANY REASON, OR THE RELEASE OR THE DECISION NOT TO RELEASE UPDATES. IN NO EVENT WILL STRYKER'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING ANY USE OF OR INABILITY TO USE A PRODUCT, EXCEED THE TOTAL AMOUNT OF FEES (EXCLUDING AMOUNTS FOR THIRD PARTY SOFTWARE, INSTALLATION, WARRANTY AND MAINTENANCE SERVICES AND TAXES) CUSTOMER PAID STRYKER UNDER THE PURCHASE ORDER FOR THE PRODUCT GIVING RISE TO THE LIABILITY FOR A PERIOD NOT TO EXCEED SIX MONTHS FROM CUSTOMER'S FIRST CLAIM. THIS LIMITATION OF LIABILITY APPLIES EXCEPT AS PROHIBITED BY APPLICABLE LAW. EACH PARTY RECOGNIZES AND AGREES THE DISCLAIMERS, LIABILITY, AND REMEDY LIMITATIONS IN THESE SOFTWARE AND HOSTING TERMS ARE MATERIAL BARGAINED-FOR AGREEMENTS, AND HAVE BEEN TAKEN INTO ACCOUNT, REFLECTED IN THE CONSIDERATION GIVEN BY EACH PARTY, AND FACTORED INTO EACH PARTY'S DECISION TO ENTER INTO THESE SOFTWARE AND HOSTING TERMS. STRYKER DISCLAIMS ALL LIABILITY AND IS NOT RESPONSIBLE FOR THE BREACH OF ANY THIRD-PARTY TERMS OR AGREEMENT THAT CUSTOMER MAY HAVE ENTERED INTO OR ACCEPTED BY THE USE OR ACCESS OF A PRODUCT.

## 9. CONFIDENTIALITY; DATA USAGE AND PROTECTION

In connection with this Agreement, each Party may have access to information that is confidential to the other ("**Confidential Information**"). The Parties each agree to disclose only information that is required for the performance of obligations under this Agreement. Confidential Information will be limited to the terms and pricing under this Agreement, Products and Product Documentation and other information clearly identified as confidential at the time of disclosure. A Party's Confidential Information does not include information that: (a) is or becomes a part of the public domain through no act or omission of the other Party; (b) was in the other Party's lawful possession prior to the disclosure and had not been obtained by the other Party either directly or indirectly from the disclosing Party; (c) is lawfully disclosed to the other Party by a third party without restriction on the disclosure; or (d) is independently developed by the other Party.

The Parties each agree to use commercially reasonable efforts not to disclose each other's Confidential Information to any third party (other than as permitted herein) for a period of three years from the date of the disclosing Party's disclosure of the Confidential Information to the receiving Party, except for Confidential Information relating to a Product (including Product Documentation) which may not be disclosed by Customer at any time during or after the Service Term other than as expressly permitted under this Agreement. Stryker may disclose Confidential Information only to those employees or agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less protective than under this Agreement. Nothing will prevent either Party from disclosing the Confidential Information to a governmental entity as required by Law.

Stryker will employ reasonable and appropriate safeguards and procedures to protect the security of Stryker Software. Customer will secure and protect the Stryker Software and each copy thereof, from unauthorized copying or disclosure.

Customer may provide Stryker with personal data as defined by relevant data protection Laws relating to Customer's personnel or other individuals involved in the use of the Products, including PHI as defined below (together, "**Personal Information**"). Customer will comply with all data protection Laws. Customer consents to the processing of this Personal Information by Stryker, its affiliates and their respective suppliers, and will, to the extent legally required, provide appropriate notice to each individual or obtain requisite consent to such processing of his or her Personal Information for the following specific purposes: (a) performing under this Agreement; (b) providing information about Stryker products and services; (c) transferring Personal Information permitted under this Agreement and the Product Documentation; and (d) satisfying legal or regulatory requirements. Customer is solely responsible for responding to User or patient inquiries or issues.

Where Stryker may process Personal Information stored in Equipment or Stryker Software when performing the Hosting Services, the following provisions will apply, subject to the other provisions in this Agreement:

- (a) Stryker will process such Personal Information only for the purposes of providing the Hosting Services or performing its obligations under this Agreement (such processing is approved by Customer and will be deemed in accordance with Customer instructions) and is prohibited from retaining, using, or disclosing any Personal Information for any other purpose.
- (b) Customer will endeavor to limit the disclosure of Personal Information to Stryker to that which is reasonably necessary to perform the Hosting Services or performing its obligations under this Agreement.
- (c) Customer will keep Personal Information confidential and will implement reasonable administrative, physical, and technical measures to protect it against accidental unlawful or unauthorized destruction, loss, alteration, disclosure or access.

To the extent Stryker creates, receives, maintains, transmits or otherwise has access to any protected health information ("**PHI**") on behalf of US Covered Entities, as defined in HIPAA (defined below) in the course of performing under this Agreement, Stryker will only use and disclose such PHI as permitted by the Health Insurance Portability and Accountability Act of 1996, Pub. Law 104-191, as amended by the Health Information Technology for Economic and Clinical Health Act, and the pertinent regulations promulgated thereunder (collectively, "**HIPAA**"). If required by HIPAA, the Parties will execute the standard form of Business Associate Agreement made available by Stryker. Without in any way limiting the foregoing, to the extent applicable to data processed in California

under California law, the Parties agree that Stryker is a "Service Provider" under the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100, et seq. (the "**CCPA**") and that nothing about this Agreement or the Products, or the services providing in connection with the Products, involves a "selling" or a "sale" of Personal Information under the CCPA or other applicable Laws.

To the extent data is processed in Europe, Stryker is a "Processor" under the European General Data Protection Regulation and may transfer Personal Information relating to Customer and User's patients, personnel or other individuals involved in the use of Products or related services that is subject to the laws of one or more countries in the European Union or Switzerland (together, the "**EU**") to recipients located in countries outside of the EU and to the extent Customer is the data controller of such data, Customer will (a) provide appropriate notice to the relevant individuals, (b) obtain any requisite consent, (c) provide individuals with applicable choices with respect to the use, disclosure or other processing of their Personal Information, and (d) provide individuals with the opportunity to exercise their right to access their Personal Information. If required, the Parties will execute the EU approved-standard contractual clauses, transfer or similar agreement made available by Stryker as may be required to support the lawful transfer of Personal Information.

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 Agreement. 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, sublicensable, 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.

Customer is responsible for Customer's Content. Customer represents and warrants that Customer owns Customer's Content or that Customer has all rights necessary to use and allow use of Customer's Content as described in this Agreement. If Stryker believes a problem may be attributable to Customer's Content or to Customer's use of a Product, Customer must cooperate with Stryker to identify the source of, and to resolve, the problem. If Customer becomes aware that any of Customer's Content violates this Agreement or Law, Customer must immediately remove such parts of Customer's Content from a Product or any services provided under this Agreement.

If Customer or a User submits comments, ideas, or feedback to Stryker, Customer agrees that Stryker can use, disclose, reproduce, distribute, and exploit them without any restriction or compensation to Customer or any User. Stryker does not waive any rights to use similar or related ideas or feedback previously known to or developed by Stryker or obtained from sources other than Customer.



Prior to returning any equipment to Stryker, Customer will decontaminate it and ensure that all Personal Information, including PHI stored in such equipment is deleted. Customer acknowledges that, in any case, all data and settings stored in the returned equipment may be deleted by Stryker.

If Stryker is required by subpoena, court order or any other legal or regulatory requirement to disclose any of Customer's Content, Stryker will provide Customer with notice and a copy of the demand as soon as practicable, unless Stryker is prohibited from doing so pursuant to applicable Law. If Customer requests, Stryker will, at Customer's expense, take reasonable steps to contest any required disclosure.

## **10. EXPORT CONTROL; GOVERNMENT REQUIREMENTS**

The Laws of the United States and any other relevant jurisdictions may apply to the Products. Customer agrees that such Laws, if applicable, govern Customer's use of the Products (including technical data), and Customer agrees to comply with all Laws (including "deemed export" and "deemed re-export" regulations). Customer agrees that no data, information, Product and/or materials resulting from the use of any Product will be exported, directly or indirectly, in violation of these Laws, or will be used for any purpose prohibited by these Laws.

Each of the documentation and the software components that constitute a Product is a "commercial item" as that term is defined in FAR 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212 ("Computer Software"). If acquired by or on behalf of a civilian agency, the U.S. Government acquires the software and any associated software documentation and/or technical data subject to the terms herein as specified in FAR 12.212 ("Computer Software") and 12.211 ("Technical Data"). If acquired by or on behalf of any agency within the Department of Defense, the U.S. Government acquires the software, software documentation and technical data subject to the terms herein as specified in DFARS 227.7202-3. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in computer software or technical data under these terms and conditions.

## **11. TERM; TERMINATION; SUSPENSION**

For subscription, support or hosting services, the provision of such services is limited to the applicable Service Term. Stryker may, at its option, immediately suspend Customer's use of any Stryker Software if: (a) Customer is in breach of this Agreement (including the Software and Hosting Terms or a Product Addendum); (b) Stryker believes that Customer's use of a Product poses a security risk; or (c) Stryker suspects fraud or abuse. Stryker will give Customer notice before suspending Customer's use if permitted by Law or unless Stryker reasonably determines that providing notice presents a risk of harm, in which case Stryker will notify Customer as soon as feasible or permitted. Stryker will promptly reinstate Customer's access once Stryker has determined that the issue causing the suspension has been resolved. Customer will remain responsible for all fees incurred before and during any suspension.

If either Party breaches a material term of this Agreement and fails to correct the breach within thirty days (except for failure by Customer to pay amounts under this Agreement, in which case the cure period will be ten days) of written specification of the breach, then the breaching Party is in default and the non-breaching Party may terminate this Agreement. If Stryker terminates this Agreement as specified in the preceding sentence, Customer must pay within ten days all amounts, which have accrued prior to such termination, as well as all sums remaining unpaid for Products ordered and/or received under this Agreement plus related taxes and expenses.

*Stryker Software and Hosting Terms*

Except for nonpayment of fees, the non-breaching Party may agree in its sole discretion to extend the thirty-day period for so long as the breaching Party continues reasonable efforts to cure the breach. Customer agrees that if Customer is in default under this Agreement, Customer may not use those Products which Customer ordered. Upon termination or expiration of this Agreement or a Service Term, all of Customer's rights to use Stryker Software (other than Embedded Software) and the Hosting Services expire, and Customer will immediately cease use and return to Stryker any copies of any use Stryker Software (other than Embedded Software) any accompanying documentation. For Embedded Software, upon termination or expiration of this Agreement, or upon termination or expiration the Services Term applicable to the support or subscription of such Embedded Software (i.e., the applicable Embedded Software must be under a current support or subscription agreement with Stryker), then Customer must uninstall the Stryker Software if possible, and any continued use of the Embedded Software is as-is with no representations or warranties of any kind and with Supplier being under no obligation, and having no liability, to Customer, any Users or any party relating to any such use.

Upon the termination or expiration of any Hosting Services, Stryker will make Customer's Content (as it existed at the end of the date of termination or expiration) available for retrieval by Customer for up to thirty days (or such different period set out in the Product Addendum). At the end of such retrieval period, and except as required by Law or as otherwise set forth in this Agreement, Stryker will delete or otherwise render unrecoverable Customer's Content that remains in the environments hosted by Stryker for Customer. If Stryker hosts or stores Customer's Content beyond the Service Term, Customer will pay to Stryker, and will be responsible to Stryker for, Stryker's hosting and storage fees.

Any terms that should survive termination by their nature will so survive, including limitations of liability and ownership rights of Stryker. Termination by any means will not affect the provisions of this Agreement relating to the payment of amounts due or the survival provision of this Agreement, regardless of the reason for termination.

## **12. GENERAL TERMS**

Customer agrees that this Agreement and the information which is incorporated into this Agreement or Product Documentation by written reference (including reference to information contained in a URL or referenced policy), together with the applicable Ordering Document, are the complete agreement for the Products ordered by Customer and supersede all prior or contemporaneous agreements or representations, written or oral, regarding such Products. It is expressly agreed that the terms of this Agreement will supersede the terms in any purchase order, procurement internet portal or any other similar non-Stryker document and no terms included in any such purchase order, portal or other non-Stryker document will apply to the Products ordered. Stryker may refer to Customer as a customer of the ordered Products in sales presentations, marketing vehicles and activities.

Except for the obligation to pay fees when due, neither Party will be liable to the other Party in respect of any hindrance, delay, or failure to perform that results from any event or cause that is beyond the reasonable control of the Party obligated to perform, including 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 Stryker's inability to obtain goods from their usual sources. If for any reason a court or competent jurisdiction finds any provision of this Agreement invalid or unenforceable, the provision will be enforced to the maximum extent permissible, and the other provisions of this Agreement will

remain in full force and effect. Stryker's failure to enforce any right or provision of this Agreement will not be considered a waiver of such right or provision. Except as expressly set forth in this Agreement, the exercise by Stryker of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

Stryker is an independent contractor, and nothing in this Agreement is intended to create a partnership or joint venture between the Parties. Customer has no power to bind or obligate Stryker in any manner. Except with respect to persons and entities that Customer agrees to indemnify as set forth above, nothing express or implied in this Agreement is intended to confer, or will confer, upon any person or entity other than Customer and Customer's permitted assigns any rights, remedies, obligations, or liabilities whatsoever. Customer may not assign, delegate, or transfer this Agreement (in whole or in part), by operation of Law or otherwise, without Stryker's prior written consent. Stryker may assign, delegate, or transfer this Agreement to any of its affiliated entities. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties and their successors and permitted assigns.

Stryker reserves the right to amend any of the terms of this Agreement by posting notice on a Stryker designated web site, by email notification to an email address provided by Customer, by

providing notice as part of the process in which Customer obtains updates, or by any other legally recognizable form of notice. If Customer does not agree to the amendment, Customer should promptly contact Stryker for instructions. Customer's continued use of a Product after the effective date of any such notice will be deemed Customer's agreement to be bound by such amendments. Except as otherwise set forth in this paragraph, no amendments may be made to this Agreement except in writing signed by both Parties, and any notice required under this Agreement must be provided to the other Party in writing.

Except to the extent preempted by federal Law, the Laws of Michigan, other than its conflict-of-Laws principles, govern this Agreement and any claims and disputes (whether contract, tort, or otherwise) arising out of or relating to this Agreement or the Products. The Uniform Computer Information Transactions Act does not apply to this Agreement or any Products. EXCEPT TO THE EXTENT PROHIBITED BY LAW, STRYKER AND CUSTOMER EXPRESSLY WAIVE TRIAL BY JURY WITH RESPECT TO ANY MATTERS OR DISPUTES ARISING UNDER OR RELATING TO THIS AGREEMENT. Any claim or cause of action arising under this Agreement must be commenced within one year after the claim or cause of action arises.





# Limited warranty

## Emergency care products

Subject to the limitations and exclusions set forth below, Stryker Medical, a division of Stryker Sales, LLC ("Stryker"), warrants the following products which are purchased from Stryker or authorized resellers for use in the United States of America to be free from manufacturing and material defects under normal service and use for the time periods indicated below. Limited warranty time limits begin on the date of delivery to the first purchaser.\*

15 years	
<ul style="list-style-type: none"> <li>Evacuation chair</li> </ul>	
8 years	
<ul style="list-style-type: none"> <li>LIFEPAK® CR2 defibrillator</li> </ul>	<ul style="list-style-type: none"> <li>HeartSine® samaritan® PAD automated external defibrillator</li> </ul>
7 years	
<ul style="list-style-type: none"> <li>Welds on Stair-PRO® stair chair, Power-PRO™ 2 powered ambulance cot, Power-PRO XT powered ambulance cot, Power-LOAD® powered cot fastener system, Performance-PRO™ XT manual ambulance cot, Performance-LOAD® manual cot fastener system</li> </ul>	
5 years	
<ul style="list-style-type: none"> <li>LIFEPAK 15 monitor/defibrillator, used in clinic and hospital settings exclusively (with no use in mobile applications)</li> </ul>	<ul style="list-style-type: none"> <li>LIFEPAK 20e defibrillator/monitor</li> <li>LIFEPAK 1000 defibrillator</li> </ul>
3 years	
<ul style="list-style-type: none"> <li>McGRATH™ MAC video laryngoscope</li> </ul>	<ul style="list-style-type: none"> <li>Power-PRO XT power train (includes motor pump assembly and hydraulic cylinder assembly)</li> </ul>
2 years	
<ul style="list-style-type: none"> <li>Stair-PRO (parts only)</li> <li>Power-LOAD (parts only)</li> <li>Performance-PRO XT (parts only)</li> <li>Performance-LOAD</li> <li>Power-PRO 2</li> <li>Power-PRO XT</li> <li>Power-PRO IT</li> </ul>	<ul style="list-style-type: none"> <li>SMRT™ power charger (Power-PRO XT)</li> <li>CodeManagement Module®</li> <li>LIFEPAK CR2 Trainer</li> <li>LIFEPAK 1000 Trainer</li> <li>HeartSine samaritan Trainer</li> <li>HeartSine Gateway</li> <li>Xpedition™ powered stair chair</li> </ul>
1 year	
<ul style="list-style-type: none"> <li>Stair-PRO (parts and labor)</li> <li>Power-LOAD (parts and labor)</li> <li>Performance-PRO XT (parts and labor)</li> <li>MX-PRO® R3 x-frame ambulance cot</li> <li>MX-PRO bariatric transport cot</li> <li>Expendable components for Power-PRO 2, Power-PRO XT and Performance-PRO XT (i.e. mattresses, nylon restraints, IV poles, storage nets, storage pouches, oxygen straps and other soft goods)</li> <li>SMRT power paks</li> <li>LIFEPAK 15</li> <li>LIFEPAK Certified Pre-Owned defibrillators</li> </ul>	<ul style="list-style-type: none"> <li>LUCAS® chest compression system (including the LUCAS device with upper part and back plate), carrying case, battery, stabilization strap and patient straps</li> <li>LIFEPAK 500T AED Training System</li> <li>LIFEPAK CR-T AED Training System</li> <li>LIFEPAK 20e internal battery system</li> <li>Battery charging systems and power adapters</li> <li>Batteries and battery paks, excluding CHARGE-PAK™ battery charger</li> <li>MASIMO® SET® Rainbow® reusable sensors</li> <li>TrueCPR® coaching device</li> </ul>

\* First purchaser means the first purchaser or lessee of the products listed above directly from Stryker, through a Stryker corporate affiliate, or from an authorized Stryker reseller, and includes the invoiced purchaser's corporate affiliates, and their respective employees, officers and directors.

180 days	
<ul style="list-style-type: none"> <li>MASIMO cables and SET SpO<sub>2</sub> sensors</li> </ul>	
90 days	
<ul style="list-style-type: none"> <li>CHARGE-PAK charging unit</li> <li>LIFEPAK advanced cardiac life support training devices</li> <li>Sterilizable internal paddles (one-piece design)</li> </ul>	<ul style="list-style-type: none"> <li>Installed repair parts</li> <li>All other product accessories and disposables</li> </ul>
60 days	
<ul style="list-style-type: none"> <li>XPR™ restraints</li> </ul>	
30 days	
<ul style="list-style-type: none"> <li>Internal paddles and paddle handles (two-piece design)</li> </ul>	

The sole and exclusive remedy for any products that become defective during this period shall be repaired or replaced, such determination being at Stryker's sole discretion. All warranties hereunder are made subject to the proper use by Customer in the application for which such Products were intended. The warranty provided hereunder does not cover any Products (i) that have been misused, subject to abuse or accident; used in contradiction with applicable operating instructions, or used outside of the product's intended environment or setting; (ii) that have been assembled, maintained, modified, refurbished or repaired by anyone other than Stryker or its authorized representatives, in any way which, in the judgment of Stryker, affects its stability and reliability (iii) that have been subjected to unusual stress or have not been properly maintained or (iv) on which any original serial numbers or other identification marks have been removed or destroyed.

Stryker, in its sole discretion, will determine whether warranty service on the product will be performed in the field or through ship-in repair. For field repair, this warranty service will be provided by Stryker at the purchaser's facility or an authorized Stryker facility during normal business hours. For ship-in repair, all products and/or assemblies requiring warranty service should be returned to a location designated by Stryker, freight prepaid, and must be accompanied by a written, detailed explanation of the claimed failure. Products repaired or replaced under this warranty retain the remainder of the warranty period of the repaired or replaced Product. Repaired or replaced unit(s) will be returned to purchaser within 15 calendar days, freight prepaid by Stryker.

~~In any event, Stryker's liability shall be limited to the replacement value of any damaged or defective part. THE EXPRESS WARRANTY SET FORTH IN THIS SECTION IS THE ONLY WARRANTY APPLICABLE TO THE PRODUCTS SOLD SUBJECT TO THIS AGREEMENT AND IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTY BY STRYKER EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHETHER ARISING FROM STATUTE, COMMON LAW, CUSTOMER OR OTHERWISE. THIS LIMITED WARRANTY SHALL BE THE EXCLUSIVE REMEDY AVAILABLE TO ANY PERSON. STRYKER IS NOT LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF BUSINESS OR PROFITS) WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY.~~

Products are warranted in conformance with applicable laws. If any part or term of this Limited Warranty is held to be illegal, unenforceable or in conflict with applicable law by any court of competent jurisdiction, the validity of the remaining portions of the Limited Warranty shall not be affected, and all rights and obligations shall be construed and enforced as if this Limited Warranty did not contain the particular part or term held to be invalid. Some geographies, including certain US states, do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. This Limited Warranty gives the user specific legal rights. The user may also have other rights which vary from state to state.

#### TO OBTAIN PARTS AND SERVICE

Stryker products are supported by a nationwide network of dedicated Stryker Field Service Representatives. These representatives are factory trained, available locally, and carry a substantial spare parts inventory to minimize repair time. Simply call your local representative or call Stryker Customer Service USA at 1-800-327-0770.

#### DAMAGED MERCHANDISE

ICC Regulations require that claims for damaged merchandise must be made with the carrier within fifteen (15) days of receipt of merchandise. Do not accept damaged shipments unless such damage is noted on the delivery receipt at the time of receipt. Upon prompt notification, Stryker will file a freight claim with the appropriate carrier for damages incurred. Claim will be limited in amount to the actual replacement cost. In the event that this information is not received by Stryker within the fifteen (15) day period following the delivery of the merchandise, or the damage was not noted on the delivery receipt at the time of receipt, the customer will be responsible for payment of the original invoice in full. Claims for any short shipment must be made within thirty (30) days of invoice.

#### INTERNATIONAL WARRANTY CLAUSE

This warranty reflects U.S. domestic policy. Warranties outside the U.S. may vary by country. Please contact your local Stryker representative for additional information.

**RETURN POLICY**

Please obtain authorization before returning merchandise for credit. Your local Stryker Sales Representative or Customer Service Department (telephone number provided on invoice) can provide you with a Return Merchandise Authorization (RMA) number. Customer is advised that product returned without an RMA number, or not otherwise authorized, will not be accepted and will be returned to customer at customer's expense. Return pre-paid to the attention of the Credit Return Department, and please include the following information:

1. Return Merchandise Authorization number
2. Original invoice number
3. Customer name, address, and account number
4. A packing list itemizing each item being returned
5. Reason for product return

Credit cannot be issued for returns of discontinued, special, or modified items. A 10% restocking fee may be assessed on items returned beyond 60 days after original invoice date. No credit will be issued for products being returned beyond 90 days after the original invoice date. Products categorized as consumables or disposables, including electrodes and sterile packaged items, cannot be returned for credit.

Please package items carefully, as credit cannot be issued for items damaged in return shipment due to packaging inadequacy. All merchandise returned for credit must be in resalable condition. All merchandise must be returned in its original packaging, unopened, and undamaged, except for product that was received in a damaged condition or as otherwise authorized by Stryker, which product may be returned in its existing condition. Stryker will not accept the return of a non-defective and conforming product if customer breaks the security seal on the product. Stryker does not accept any COD returns. Return shipping costs are borne by the Customer unless Stryker specifically agrees otherwise.

Please clean and sterilize all potentially contaminated products prior to returning them to Stryker. It is unlawful to transport bio-contaminated products through interstate commerce unless they are properly packaged and labeled as such.

If a return does not comply with the terms of this return policy, Stryker reserves the right to destroy the product at the Customer's expense. Any replacement would be at the Customer's expense.

**For further information, please contact Stryker at 800.442.1142 (U.S.), or visit our website at [stryker.com](http://stryker.com)**

**Emergency Care**

Products may not be available in all markets because product availability is subject to the regulatory and/or medical practices in individual markets. Please contact your representative if you have questions about the availability of Stryker's products in your area. Stryker or its affiliated entities own, use, or have applied for the following trademarks or service marks: CHARGE-PAK, CodeManagement Module, HeartSine, LIFEPAK, LUCAS, MX-PRO, Performance-LOAD, Performance-PRO, Power-LOAD, Power-PRO, samaritan, SMRT, Stair-PRO, Stryker, TrueCPR, Xpedition. Masimo, the Radical logo, Rainbow and SET are registered trademarks of Masimo Corporation. 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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Physio-Control, Inc.  
11811 Willows Road NE  
Redmond, WA 98052 U.S.A.  
Toll free 800 442 1142  
[stryker.com](http://stryker.com)



Jolife AB  
Scheelevägen 17  
Ideon Science Park  
SE-223 70 Lund  
Sweden



Stryker  
3800 E. Centre Avenue  
Portage, MI 49002 U.S.A.  
Toll free 800 784 4336  
[stryker.com](http://stryker.com)



HeartSine Technologies Ltd.  
207 Airport Road West  
Belfast, BT3 9ED  
Northern Ireland  
United Kingdom