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JUN 11 2018  
PURCHASING DEPT.

**CONTRACT BETWEEN  
COUNTY OF GLOUCESTER  
AND  
PHYSIO-CONTROL, INC.**

**THIS CONTRACT** is made effective the 2<sup>ND</sup> day of May, 2018, by and between the **COUNTY OF GLOUCESTER**, a body politic and corporate, with offices in Woodbury, New Jersey, hereinafter referred to as "**County**", and **PHYSIO-CONTROL, INC.**, with offices at 11811 Willows Road NE, Redmond, Washington 98052, hereinafter referred to as "**Vendor**".

**RECITALS**

**WHEREAS**, the County of Gloucester has a need to for onsite preventative maintenance on the AED Batteries; and

**WHEREAS**, this service related to this contract is an expansion and ultimately the support and maintenance of proprietary hardware and software which is integrally related to existing security systems previously installed in the County and is an exception to the Local Public Contracts Law and described and provided in N.J.S.A. 40A:11-5(1)(dd); and

**WHEREAS**, the contract has been awarded consistent with the fair and open provisions of the Gloucester County Administrative Code and with N.J.S.A. 19:44A-20.4 et seq., which exempt this contract from competition because vendor has certified that it has not previously made and will not make a disqualifying contribution during the term of the contract; and

**WHEREAS**, Vendor represents that it is qualified to perform said services and desires to so perform pursuant to the terms and provisions of this Contract.

**NOW, THEREFORE**, in consideration of the mutual promises, agreements and other considerations made by and between the parties, the County and Vendor do hereby agree as follows:

**TERMS OF AGREEMENT**

1. **TERM.** The contract shall be for a period of two years, from April 16, 2018 to April 15, 2020.
2. **COMPENSATION.** Vendor shall be compensated pursuant to Attachment A, attached hereto, in the total contract amount of \$28,591.20.

The Treasurer of Gloucester County has certified the availability of funds in the amount of \$14,295.60, pursuant to CAF #18-03233, which amount shall be charged against budget line item #8-01-25-250-002-20370. Balance will be encumbered upon adoption of the 2019 Gloucester County Budget. Continuation of the contract beyond the first three months of 2019 is

conditioned upon the approval of the 2019 Gloucester County Budget and any required State of New Jersey approvals; and

Vendor shall be paid in accordance with this Contract document upon date of an invoice and a properly executed voucher. After approval by County, the payment voucher shall be placed in line for prompt payment.

Each invoice shall contain an itemized, detailed description of all work performed during the billing period. Failure to provide sufficient specificity shall be cause for rejection of the invoice until the necessary details are provided.

It is also agreed and understood that the acceptance of the final payment by Vendor shall be considered a release in full of claims against the County arising out of, or by reason, the work done and materials furnished under this Contract.

**3. DUTIES OF PARTIES.** The specific duties of the Vendor shall be as set forth in Attachment A, *Service Plan Quote, Quote Number 00121482*, dated April 10, 2018, which is attached hereto and made a part of this Contract.

Vendor agrees that it has or will comply with, and where applicable shall continue throughout the period of this Contract to comply with, all of the requirements of the vendor's proposal.

**4. FURTHER OBLIGATIONS OF THE PARTIES.** During the performance of this Contract, the Vendor agrees as follows:

The Vendor or Subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the vendor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity 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. The Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The Vendor or Subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry,

marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The Vendor or Subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the Vendor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Vendor or Subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The Vendor or Subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

**5. LICENSING AND PERMITTING.** If the Vendor or any of its agents is required to maintain a license, or to maintain in force and effect any permits issued by any governmental or quasi-governmental entity in order to perform the services which are the subject of this Contract, then prior to the effective date of this Contract, and as a condition precedent to its taking effect, Vendor shall provide to County a copy of its current license and permits required to operate in the State of New Jersey, which license and permits shall be in good standing and shall not be subject to any current action to revoke or suspend, and shall remain so throughout the term of this Contract.

Vendor shall notify County immediately in the event of suspension, revocation or any change in status (or in the event of the initiation of any action to accomplish such suspension, revocation and/or change in status) of license or certification held by Vendor or its agents.

**6. TERMINATION.** This Contract may be terminated as follows:

A. If Vendor is required to be licensed in order to perform the services which are the subject of this Contract, then this Contract may be terminated by County in the event that the appropriate governmental entity with jurisdiction has instituted an action to have the Vendor's license suspended, or in the event that such entity has revoked or suspended said license. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

B. Notwithstanding the above, the Vendor or subcontractor, where applicable, shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Vendor.

C. Termination shall not operate to affect the validity of the indemnification provisions of this Contract, nor to prevent the County from pursuing any other relief or damages to which it may be entitled, either at law or in equity.

7. **NO ASSIGNMENT OR SUBCONTRACT.** This Contract may not be assigned nor subcontracted by the Vendor, except as otherwise agreed in writing by both parties. Any attempted assignment or subcontract without such written consent shall be void with respect to the County and no obligation on the County's part to the assignee shall arise, unless the County shall elect to accept and to consent to such assignment or subcontract.

8. **POLITICAL CONTRIBUTION DISCLOSURE AND PROHIBITION.** This contract has been awarded to Vendor based on the merits and abilities of Vendor to provide the goods or services described in this Contract. This contract was awarded through a non-competitive process pursuant to N.J.S.A. 19:44A-20.4 et seq. The signer of this Contract does hereby certify that Vendor, its subsidiaries, assigns or principals controlling in excess of 10% of the Vendor will not make a reportable contribution during the term of the contract to any political party committee in Gloucester County if a member of that political party is serving in an elective public office of Gloucester County when the contract is awarded, or to any candidate committee of any person serving in an elective public office of Gloucester County when the contract is awarded.

9. **INSURANCE.** Vendor shall, if applicable to the services to be provided, maintain general liability, automobile liability, business operations, builder's insurance, and Workers' Compensation insurance in amounts, for the coverages, and with carriers deemed satisfactory by County, and which shall be in compliance with any applicable requirements of the State of New Jersey. Vendor shall, simultaneously with the execution of this Contract, deliver certifications of said insurance to County.

If Vendor is a member of a profession that is subject to suit for professional malpractice, then Vendor shall maintain and continue in full force and effect an insurance policy for professional liability/malpractice with limits of liability acceptable to the County. Vendor shall, simultaneously with the execution of this Contract, and as a condition precedent to its taking effect, provide to County a copy of a certificate of insurance, verifying that said insurance is and will be in effect during the term of this Contract. The County shall review the certificate for sufficiency and compliance with this paragraph, and approval of said certificate and policy shall be necessary prior to this Contract taking effect. Vendor also hereby agrees to continue said policy in force and effect for the period of the applicable statute of limitations following the termination of this Contract and shall provide the County with copies of certificates of insurance as the certificates may be renewed during that period of time.

10. **PREVENTION OF PERFORMANCE BY COUNTY.** In the event that either party is prevented from performing this Contract by circumstances beyond its control, then any obligations owing such party to the other party shall be suspended without liability for the period during which the party is so prevented.

11. **NON-WAIVER.** The failure by either party to enforce any particular provision of this Contract, or to act upon a breach of this Contract, the other party shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

12. **PARTIAL INVALIDITY.** In the event that any provision of this Contract shall be or become invalid under any law or applicable regulation, such invalidity shall not affect the validity or enforceability of any other provision of this Contract.

13. **CHANGES.** This Contract may be modified by change orders, consistent with applicable laws, rules and regulations. The County, without invalidating this Contract, may order changes consisting of additions, deletions, and/or modifications, and the contract sum shall be adjusted accordingly. This Contract and the contract terms may be changed only by change order. The cost or credit to the County from change in this Contract shall be determined by mutual agreement before executing the change involved.

14. **NOTICES.** Notices required by this Contract shall be effective upon mailing of notice by regular and certified mail to the addresses set forth above, or by personal service, or if such notice cannot be delivered or personally served, then by any procedure for notice pursuant to the Rules of Court of the State of New Jersey.

15. **COMPLIANCE WITH APPLICABLE LAW.** Vendor shall at all times during the course of the effective period of this Contract comply with and be subject to all applicable laws, rules and regulations of the State of New Jersey and of any other entity having jurisdiction pertaining to the performance of Vendor's services.

16. **INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge that Vendor is an independent contractor and is not an agent of the County.

17. **CONFIDENTIALITY.** Vendor agrees not to divulge or release any information, reports, or recommendations developed or obtained in connection with the performance of this Contract, during the term of this Contract, except to authorized County personnel or upon prior approval of the County.

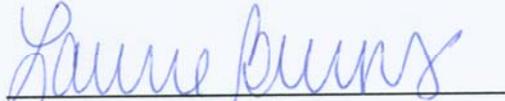
18. **BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.

19. **CONTRACT PARTS.** Attached hereto and incorporated herein are various appendices, schedules and attachments (collectively, "the attachments") which provide details of the vendor's obligations concerning reporting requirements, record keeping and the like. Also incorporated herein are any other specifications issued by the County in connection with this contract. If there is a conflict between any of the attachments and the specifications the specifications will control. If there is a conflict between any of the attachments or the specifications and the Contract, then this Contract will control.

**THIS CONTRACT** is effective as of the 2<sup>nd</sup> day of May, 2018.

IN WITNESS WHEREOF, the County has caused this instrument to be signed by its Director, attested by its Clerk, and its corporate seal affixed hereunto, pursuant to a Resolution of the said party of the first part passed for that purpose, and Vendor has caused this instrument to be signed by its properly authorized representative and its corporate seal affixed the day and year first above written.

ATTEST:



LAURIE J. BURNS,  
CLERK OF THE BOARD

COUNTY OF GLOUCESTER

  
ROBERT M. DAMMING, DIRECTOR

ATTEST:

  
Submita Chern  
Bid & Proposal Specialist

PHYSIO-CONTROL, INC.

  
By: Marcie Stuetzel  
Title: Service Contracts Supervisor



**ATTACHMENT A**



Physio Control, Inc.  
 11811 Willows Road NE  
 P.O. Box 97006  
 Redmond, WA 98073-9706 U.S.A  
 www.physio-control.com  
 tel (800) 442.1142  
 fax (800) 772.3340

Quote Number 00121482  
 Create Date 4/10/2018 1:40 PM  
 Quote Expiration Date 07/10/2018  
 Quote Consultant Phil Howard  
 (888) 627-9698 ext 78235  
 phil.howard@stryker.com  
 EAEE66

### Service Plan Quote

| Account: 20286201  | Service Plan Detail   |
|--|---|
| GLOUCESTER CTY EMS<br>Attn: Andy Lovell<br>1200 N DELSEA DRIVE<br>CLAYTON, NJ 08312<br>(856) 307-7120<br>alovell@co.gloucester.nj.us | Type: Renewal<br>Service Plan Start Date: 04/16/2018<br>Service Plan End Date: 04/15/2020<br>Reference Plan: PI17S775<br>Billing Frequency: Annual<br>Terms: All quotes subject to credit approval and the following terms and conditions<br>Net Terms: NET 30<br>Promotion:<br>Coverage Details-Brochure: <a href="http://www.physio-control.com/ServicePlans/">www.physio-control.com/ServicePlans/</a> |

**Notes**  
 Service plan customers receive 15% discount on Accessories and Disposables.  
 38-ea. LP1000 - s/n: 35895418, 35895419, 35895421, 35895422, 35895424, 35895425, 35895426, 35895429, 35895432, 35895433, 37454920, 37454922, 37454923, 39789426, 39789427, 40415759, 40861347, 41382473, 41382474, 43543886, 43543943, 44239770, 44368425, 46004825, 46232601, 46232606, 46232608, 46232610, 46232611, 46232613, 46232614, 46232615, 46232617, 46232618, 46232620, 46232622, 46232623, 46232624

| Product       | Start Date | End Date   | Qty | Term List Price | Disc % | Annual Net Price Per Unit | Term Net Price Per Unit | Extended Term Net Price |
|---------------|------------|------------|-----|-----------------|--------|---------------------------|-------------------------|-------------------------|
| LP1000-OSPM-2 | 04/16/2018 | 04/15/2020 | 38  | 792.00          | 5.00   | 376.20                    | 752.40                  | 28,591.20               |

\* Denotes Proration  
 Product Descriptions provided below signature line.

|                               |                      |
|-------------------------------|----------------------|
| Subtotal                      | USD 28,591.20        |
| Estimated Tax                 | USD 0.00             |
| Estimated Shipping & Handling | USD 0.00             |
| <b>Grand Total</b>            | <b>USD 28,591.20</b> |
| <b>Pricing Summary Totals</b> |                      |
| List Price Total              | USD 30,096.00        |
| Total Discount                | USD -1,504.80        |
| Estimated Tax + S&H           | USD 0.00             |

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

GRAND TOTAL FOR THIS QUOTE  
 USD 28,591.20

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

- OR -

Required information if no Purchase Order is provided

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

**Optional information:**

Special Ship to Address \_\_\_\_\_

Comments \_\_\_\_\_

For Multiple End Users, please attach a supporting document with End User name, physical location, product type and quantity  
 To update any customer information, please complete form at [www.physio-control.com/account/](http://www.physio-control.com/account/)

Reference Number PH/20286201/163662/00121482

| Product       | Product Description  |
|---------------|--|
| LP1000-OSPM-2 | LIFEPAK 1000 Service - 2 YEAR.<br>On-site Preventative Maintenance. Annual Payments. On-Site Preventive Maintenance Coverage for LIFEPAK® 1000<br>Includes:<br>-Services performed at customer's location by a Physio-Control Technical Specialist<br>-Annual Preventive Maintenance and inspections including quality assurance documentation<br>-Discounts on accessories and disposables<br>-Updates to the latest software version<br>-Preconfigured loaner device provided if needed<br>-Battery Replacement Service<br>-Replacement of adult electrodes at scheduled time of service due to expiration or failure. |

| Service Plan Summary  |
|---|
| List of covered equipment by location will be provided upon Customer's signature of this quote. |

### **General Terms for all Products, Services and Subscriptions.**

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

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

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

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

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

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

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

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

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

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

**Regulatory Requirement for Access to Information.** In the event 42 USC § 1395x(v)(1)(I) is applicable, Physio shall make available to the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy

of these terms, such books, documents and records as are necessary to certify the nature and extent of the costs of the products and services provided by Physio.

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

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

### **Additional Terms for Purchase and Sale of Service Plans.**

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

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

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

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

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

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

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

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

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