

2/4/15

**CONTRACT BETWEEN
COUNTY OF GLOUCESTER
AND
STRYKER MEDICAL,
A DIVISION OF STRYKER CORPORATION**

THIS CONTRACT is made effective the 1st day of January, 2015, by and between the **COUNTY OF GLOUCESTER**, a body politic and corporate, with offices in Woodbury, New Jersey, hereinafter referred to as "**County**", and **STRYKER MEDICAL, A DIVISION OF STRYKER CORPORATION**, with offices at 3800 East Centre Avenue, Portage, Michigan 49009, hereinafter referred to as "**Vendor**".

RECITALS

WHEREAS, the County of Gloucester has determined that there is a need to contract for the maintenance of all Gloucester County EMS stretchers and stair chairs which includes one (1) preventative maintenance check, all parts excluding mattresses, all labor and travel, factory authorized service technician, Stryker factory parts and two (2) hour call response; 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 the period of one year, from January 1, 2015 to December 31, 2015.

2. **COMPENSATION**. Vendor shall be compensated pursuant to Attachment A, attached hereto, in the total contract amount of \$19,830.00.

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, *ProCare Proposal*, dated November 24, 2014 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. If, through any cause, the Vendor or subcontractor, where applicable, shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Vendor shall violate any of the covenants, agreements, or stipulations of this Contract, the County shall thereupon have the right to terminate this Contract by giving written notice to the Vendor of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Vendor under this Contract, shall be forthwith delivered to the County.

C. The County may terminate this Contract for public convenience at any time by a notice in writing from the County to the Contractor. If the Contract is terminated by the County as provided herein, the Contractor will be paid for the services rendered to the time of termination.

D. 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.

E. 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. **INDEMNIFICATION.** The Vendor or subcontractor, where applicable, shall be responsible for, shall keep, save and hold the County of Gloucester harmless from, and shall indemnify and shall defend the County of Gloucester against any claim, loss, liability, expense (specifically including but not limited to costs, counsel fees and/or experts' fees), or damage resulting from all personal injury, including death, to employees or recipients of the Vendor's services or to any other persons, or from any damage to any property of third parties sustained in connection with this contract which results from any negligent acts or omissions of any of its officers, directors, employees, agents, servants or independent contractors. The Vendor's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

9. **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.

10. **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.

11. **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.

12. **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.

13. **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.

14. **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.

15. **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.

16. **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.

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

18. **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.

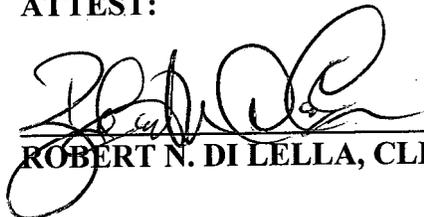
19. **BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.

20. **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 1st day of January, 2015.

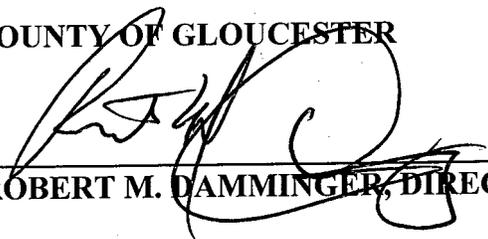
IN WITNESS WHEREOF, the County has caused this instrument to be signed by its Director, attested by its Clerk, and its corporate seal affixed hereunto, pursuant to a Resolution of the said party of the first part passed for that purpose, and Vendor has caused this instrument to be signed by its properly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

ATTEST:



ROBERT N. DI LELLA, CLERK

COUNTY OF GLOUCESTER



ROBERT M. DAMMING, DIRECTOR

ATTEST:

STRYKER MEDICAL, A DIVISION OF
STRYKER CORPORATION



By:
Title: *Stryker Territory Manager*

ATTACHMENT A



Sales Rep Name: Patrick Julian
 ProCare Service Rep: Turner Mills

3800 E. Centre Ave
 Portage, MI 49009

Date: 11/24/2014

PROCARE PROPOSAL SUBMITTED TO:

Account Number: 1185303
 Account Name: Gloucester County EMS
 Account Address: 6500 N Delsea Drive
 City, State Zip: Clayton, NJ , 08312

Name: Captain Andy Lovell
 Title: Captain
 Phone: 856.307.7120
 Email: alovell@co.gloucester.nj.us

PROCARE COVERAGE

Item No.	Model Number	Model Description	ProCare Program	Qty	Yrs	Annual Price	Total
1	6080	MX Pro	EMS Protect	3	1	\$1,188.00	\$1,188.00
2	6082	MX-PRO	EMS Protect	21	1	\$8,316.00	\$8,316.00
3	6083	MX-PRO Bariatric Transport	EMS Protect	1	1	\$396.00	\$396.00
4	6092	EZ Pro	EMS Protect	5	1	\$1,980.00	\$1,980.00
5	6252	Stair-Pro	EMS Protect	32	1	\$6,080.00	\$6,080.00
6	6500	Power-PRO XT	EMS Protect	2	1	\$1,870.00	\$1,870.00

PROGRAM INCLUDES:

Maintenance Inspection-Past Useful Life

This service contract may include products which are beyond their warranty period and tested expected service life. Any such product will be inspected to determine if the product meets the operations and maintenance manual guidelines for that particular product as of the date of inspection. Despite any such inspection, Stryker makes no claims or assurances as to future performance, including no express or implied warranty, for any product which was inspected outside of its warranty period or beyond its tested expected service life.

EMS Protect:

Includes parts, labor, travel, 1 annual PM inspection, unscheduled service and product equipment checklists. Replacement parts do not include mattresses, batteries, and other disposable or expendable parts.

	ProCare Total	\$19,830.00
	FINAL TOTAL	\$19,830.00

Start Date: 1/1/2015
 End Date: 12/31/2015

 Stryker Signature Date Customer Signature Date

Purchase Order Number (MUST INCLUDE HARD COPY)

COMMENTS:

Please fax signed Proposal and Purchase Order to Tom Tackabury at 269-321-3501.

SERIAL NUMBER SHEET

Item No.	Model	Serial Number
1	6080	010739329
2	6080	010339034
3	6080	010439703
4	6082	020739226
5	6082	060339854
6	6082	060339855
7	6082	060339856
8	6082	080440258
9	6082	080440259
10	6082	080440260
11	6082	080440261
12	6082	090239310
13	6082	120539905
14	6082	120641456
15	6082	120641089
16	6082	130941296
17	6082	130941297
18	6082	130941298
19	6082	130941299
20	6082	140839577
21	6082	140839577
22	6082	140839578
23	6082	140839578
24	6082	140839579
25	6083	110641121
26	6092	030839406
27	6092	031039457
28	6092	031039458
29	6092	060140154
30	6092	060140155
31	6252	030239718
32	6252	030239719
33	6252	030339742
34	6252	040540489
35	6252	040639093
36	6252	030939768
37	6252	030939770
38	6252	031040415
39	6252	031139532
40	6252	031139539
41	6252	050139443
42	6252	050140135
43	6252	050640174
44	6252	050840458
45	6252	050840459
46	6252	050840460
47	6252	060139680
48	6252	080340390

49	6252	080340391
50	6252	080540193
51	6252	080940505
52	6252	080940506
53	6252	080940507
54	6252	080940508
55	6252	110639499
56	6252	120539987
57	6252	120541429
58	6252	120640273
59	6252	130839587
60	6252	130839588
61	6252	130839589
62	6252	130839590
63	6500	070640708
64	6500	070640709

SERVICE AGREEMENT

This document sets forth the entire Product Service Plan Agreement ("Agreement") between Stryker Medical, a division of Stryker Corporation, hereinafter referred to as Stryker, and Gloucester County EMS, hereinafter referred to as Customer. This is the entire Agreement and no other oral modifications are valid. This Agreement will remain in effect unless canceled or modified by either party according to the following terms and conditions.

1. COVERAGE AND TERM

The product service plan coverage, term, start date, and price of the Service Plan appear on the Service Agreement attached and the Service Plan Covers the equipment set forth on Exhibit A (collectively, the "Equipment").

2. EQUIPMENT SCHEDULE CHANGES

During the term of the Agreement and upon each party's written consent, additional Equipment may be included in the Exhibit A. All additions are subject to the terms and conditions contained herein. Stryker shall adjust the charges and modify the schedule to reflect the additions.

3. INSPECTION SCHEDULING

Service inspections will be scheduled in advance at a mutually agreed upon time for such period of time as is reasonably necessary to complete the service. Equipment not made available at the specified time will be serviced at the next scheduled service inspection unless specific arrangements are made with Stryker. Such arrangements will include travel and other special charges at Stryker's then current rates.

4. INSPECTION ACTIVITY

On each scheduled service inspection, Stryker's Service Representative will inspect each available item of Equipment as required in accordance with Stryker's then current Maintenance procedures for said Equipment. If there is any discrepancy or questions on the number of inspections, price, or Equipment, Stryker may amend this Agreement.

5. SERVICE INVOICING

Invoices will be sent on the agreed payment method. All prices are exclusive of state and local use, sales or similar taxes. In states assessing upfront sales and use tax, your payments will be adjusted to include all applicable sales and use tax amortized over the Service Plan term using a rate that preserves for Stryker, its affiliates and/or assigns, the intended economic yield for the transaction described in this Agreement. All invoices issued under this Agreement are to be paid within thirty (30) days of the date of the invoice. Failure to comply with Net 30 Day terms will constitute breach of contract and future service will only be made on a prepaid or COD basis, or until the previous obligation is satisfied, or both. Stryker reserves the right, with no liability to Stryker, to cancel any contract on the basis of payment default for any previous product or service provided by Stryker Sales Corporation or any of its affiliates.

6. PRICE CHANGES

The Service prices specified herein are those in effect as of the date of acceptance of this Agreement and will continue in effect throughout the term of the Service Plan.

7. INITIAL INSPECTION

This Agreement shall be applicable only to such Equipment as listed in Exhibit A, which has been determined by a Stryker's Representative to be in good operating condition upon his/her initial inspection thereof.

8. OPERATION MAINTENANCE

Stryker's service 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's appropriate user personnel should be entirely familiar with the instructions and contents of those manuals, labels and inserts and implement them accordingly.

9. SERVICE PLAN WARRANTY AND LIMITATIONS

During the term of the Service Plan, 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 Service Plan 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. There are no express or implied warranties by Stryker other than the warranties hereinabove described with respect to the Service Plan or the Equipment covered thereunder, including without limitation, warranty of merchantability or fitness for a particular purpose. Notwithstanding any other provision of this Agreement, the Service Plan does not include repairs or other services made necessary by or related to, the following: (1) Abnormal wear or damage caused by misuse or by failure to perform normal and routine maintenance as set out in the Stryker Maintenance Manual or Operating Instructions. (2) Accidents (3) Catastrophe (4) Acts of God (5) Any malfunction resulting from faulty maintenance, improper repair, damage and/or alteration by non-Stryker authorized personnel (6) Equipment on which any original serial numbers or other identification marks have been removed or destroyed; or (7) Equipment that has been repaired with any unauthorized or non-Stryker components. In addition, in order to ensure safe operation of Stryker Equipment, only Stryker accessories should be used. Stryker reserves the right to invalidate the Service Plan and complimentary loaner programs if Equipment is used with accessories not manufactured by Stryker.

10. WAIVER EXCLUSIONS

No failure to exercise, and no delay by Stryker in exercising any right, power or privilege hereunder shall operate as a waiver thereof. No waiver of any breach of any provision by Stryker shall be deemed to be a waiver by Stryker of any preceding or succeeding breach of the same or any other provision. No extension of time by Stryker for performance of any obligations or other acts hereunder or under any other Agreement shall be deemed to be an extension of time for performances of any other obligations or any other acts by Stryker.

11. LIMITATION OF LIABILITY

Stryker's liability on any claim whether in contract or otherwise, for any loss or damage arising out of, connected with or resulting from the repair of any product furnished hereunder shall in no event exceed the price paid for said repair which gives rise to the claim. In no event shall Stryker be liable for incidental, consequential or special damages. Notwithstanding the foregoing, nothing herein shall be deemed to disclaim Stryker's liability to third parties resulting from the sole negligence of Stryker as determined by a court of law.

12. TERMINATION

The Agreement may be canceled by either party by giving a thirty (30) days prior written notice of any such cancellation to the other party. If this Agreement is canceled during or before the expiration date of the Agreement, Customer will owe for the months covered up to the cancellation date of the Agreement and for any parts, labor, and travel charges, required to maintain Equipment, exceeding that already paid during the Agreement.

13. FORCE MAJEURE

Neither Party to this Agreement will be liable for any delay or failure of performance that is the result of any happening or event that could not reasonably have been avoided or that is otherwise beyond its control, provided that the Party hindered or delayed immediately notifies the other Party describing the circumstances causing delay. Such happenings or events will include, but not be limited to, terrorism, acts of war, riots, civil disorder, rebellions, fire, flood, earthquake, explosion, action of the elements, acts of God, inability to obtain or shortage of material, equipment or transportation, governmental orders, restrictions, priorities or rationing, accidents and strikes, lockouts or other labor trouble or shortage.

14. INDEMNIFICATION

Stryker shall indemnify and hold Customer harmless from any loss, damage, cost or expense that Customer may incur by reason of or arising out of (1) any injury (including death) to any person arising from Stryker's providing services pursuant to this Agreement, not caused by the gross negligence or willful misconduct or omission of Customer, or (2) any property damage caused by the gross negligence or willful misconduct or omissions by Stryker or Stryker's employees agents, or contractors. The foregoing indemnification will not apply to any liability arising from (i) an injury due to the negligence of any person other than Stryker's employee or agent, (ii) the failure of any person other than Stryker's employee or agent to follow any instructions outlined in the labeling, manual, and/or instructions for use of a product(s), or (iii) the use of any product or part not purchased from Stryker or product or part that has been modified, altered or repaired by any person other than Stryker's employee or agent. Except as specifically provided herein, Stryker is not responsible for any losses or injuries arising from the selection, manufacture, installation, operation, condition, possession, or use of a Product. Customer agrees to hold Stryker harmless from and indemnify Stryker for any claims or losses or injuries arising from (i), (ii), or (iii) above arising as a result of Customer's or its employees', representatives' or agents' actions.

15. INSURANCE REQUIREMENTS

Stryker shall maintain from insurers (with an A.M. Best rating of not less than A-) the following insurance coverages during the term of this Agreement: (i) commercial general liability coverage with minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate applying to bodily injury, personal injury, and property damage; (ii) automobile insurance with combined single limits of \$1,000,000 for owned, hired, and non-owned vehicles; (iii) worker's compensation insurance as required by applicable law. Stryker's general liability insurance policy shall include Customer as an additional insured. Certificates of insurance shall be provided by Stryker prior to commencement of the services at any premises owned or operated by Customer. To the extent permitted by applicable laws and regulations, Stryker shall be permitted to meet the above requirements through a program of self insurance. If we elect to self-insure, such self-insurance shall also be administered pursuant to a reasonable self-insurance program crafted by Stryker and reasonably accepted by Customer.

16. WARRANTY OF NON-EXCLUSION

Each party represents and warrants that as of the Effective Date, neither it nor any of its employees, are or have been excluded terminated, suspended, or debarred from a federal or state health care program or from participation in any federal or state procurement or non-procurement programs. Each party further represents that no final adverse action by the federal or state government has occurred or is pending or threatened against the party, its affiliates, or, to its knowledge, against any employee, Stryker, or agent engaged to provide items or services under this Agreement. Each party also represents that if during the term of this Agreement it, or any of its employees becomes so excluded, terminated, suspended, or debarred from a federal or state health care program or from participation in any federal or state procurement or non-procurement programs, such will promptly notify the other party. Each party retains the right to terminate or modify this Agreement in the event of the other party's exclusion from a federal or state health care program.

17. COMPLIANCE

To the extent required by law the following provision applies: Customer and Stryker agree to comply with the Omnibus Reconciliation Act of 1980 (P.L. 96-499) and its implementing regulations (42 CFR, Part 420). To the extent applicable to the activities of Stryker hereunder, Stryker further specifically agrees that until the expiration of four (4) years after furnishing services and/or products pursuant to this Agreement, Stryker shall make available, upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General, or any of their duly authorized representatives, this Agreement and the books, documents and records of Stryker that are necessary to verify the nature and extent of the costs charged to Customer hereunder. Stryker further agrees that if Stryker carries out any of the duties of this Agreement through a subcontract with a value or cost of ten thousand dollars (\$10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives the subcontract, and books and documents and records of such organization that are necessary to verify the nature and extent of such costs.

18. HIPAA

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, shall 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 shall not be released, disclosed, or published to any party other than as required or permitted under applicable laws. Stryker is not a "business associate" of Customer, as the term "business associate" is defined by HIPAA (the Health Insurance Portability and Accountability Act of 1996 and 45 C.F.R. parts 142 and 160-164, as amended). To the extent Stryker in the future becomes a business associate of Customer, the parties agree to negotiate to amend the Agreement as necessary to comply with HIPAA, and if an agreement cannot be reached the Agreement will immediately terminate.

19. ASSIGNMENT

Neither party may assign or transfer their rights and/or benefits under this Agreement without the prior written consent of the other party, except that Stryker shall have the right to assign this Agreement or any rights under or interests in this Agreement to any parent, subsidiary or affiliate of Stryker. All of the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of, and be enforceable by successors and assigns of the parties to this Agreement.

20. SEVERABILITY OF PROVISIONS

The invalidity, in whole or in part, of any of the foregoing paragraphs, where determined to be illegal, invalid, or unenforceable by a court or authority of competent jurisdiction, will not affect or impair the enforceability of the remainder of the Agreement.

21. GOVERNING LAW

This Agreement shall be construed and interpreted in accordance with the laws of the State of Michigan.