

0150-11136-0005

T R A N S M I T T A L

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|-------------------|--------------------|-------------------------|
| TO The Council | DATE 12/06/2024 | COUNCIL FILE NO. -- |
| FROM The Mayor | | COUNCIL DISTRICT All |

**Proposed Lease-Purchase Agreement with Zoll Medical Corporation
for Fire Department Cardiac Monitors**

Approved and transmitted for further processing. See the
City Administrative Officer report attached.



MAYOR

(Carolyn Webb de Macias for)

MWS:AC:AG:04250062c

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: November 22, 2024

CAO File No. 0150-11136-0005

Council File No. --

Council District: All

To: The Mayor
The City Council

From: Matthew W. Szabo, City Administrative Officer 

Reference: Transmittal from the Mayor's Office dated May 7, 2024

Subject: **EQUIPMENT LEASE-PURCHASE AGREEMENT WITH ZOLL MEDICAL CORPORATION FOR CARDIAC MONITOR EQUIPMENT**

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Authorize the Fire Chief, or designee, to execute an Equipment Lease-Purchase Agreement with Zoll Medical Corporation, in substantially the form provided to Council, to provide its X Series® cardiac monitors for all Los Angeles Fire Department Advanced Life Support resources, with such additions and changes therein, including but not limited to, the lease commencement date, equipment delivery date, and lease payment dates, as such authorized officer shall determine is necessary or desirable or otherwise approve as being in the best interests of the City, in consultation with the City Attorney, and to execute a software services agreement with Zoll Medical Corporation related to the use of such cardiac monitors, in substantially the form provided to Council, with such additions and changes therein as such authorized officer shall determine is necessary or desirable or otherwise approve as being in the best interests of the City, in consultation with the City Attorney; provided, that, the term of the Equipment Lease-Purchase Agreement shall not exceed seven years from its commencement date and the aggregate amount of scheduled lease payments shall not exceed \$9,435,095;
2. Authorize the Controller to transfer \$1,700,000 from Fund 100, Department 38, Operating Supplies Account No. 006020 and \$500,000 from the Target-Destination Ambulance Services Revenue Trust Fund No. 44R, Account No. 3844RA, to the Capital Finance Administration Fund 100, Department 53, and appropriate therefrom to a new account titled "Cardiac Monitors Lease Purchase," No. TBD; and,
3. Authorize the City Administrative Officer, or designee, to make technical corrections and adjustments as necessary to implement the Mayor and Council intentions.

SUMMARY

The Los Angeles Fire Department (LAFD) requests authority to execute an Equipment Lease-Purchase Agreement (Agreement) with Zoll Medical Corporation (Contractor) to provide its X Series® cardiac monitors for all LAFD Advanced Life Support (ALS) resources, for a term of seven years and a total amount of \$9,435,095. A copy of the Agreement is included in the Department's transmittal as Attachment 1 to this report.

LAFD's ALS resources utilize a full complement of equipment and medications to effectively deliver a robust level of care for each patient, and one such piece of equipment is the cardiac monitor. The cardiac monitor provides comprehensive monitoring of vital signs, and offers a more complete picture of a patient's condition. Currently, LAFD utilizes the LIFEPAK 15® cardiac monitors, which have reached their end of service life. The Contractor's X Series® cardiac monitor offers cutting-edge capabilities and innovations that can enhance the efficiency and effectiveness of emergency medical response. The X Series® cardiac monitors will replace the LIFEPAK 15® cardiac monitors currently in use.

Under Schedule 2 of the proposed Agreement, the lease term is from July 1, 2024 through June 30, 2030, and sets forth seven annual lease payments of \$1,347,871 due September 1st of each year, for a total of \$9,435,095. Since the Department will execute the proposed Agreement with the Contractor after these dates, it is recommended that the Department be authorized to make changes to the lease commencement date, equipment delivery date, and payment dates as necessary, desirable, or otherwise approved as being in the best interests of the City, in consultation with the City Attorney. Schedule 2 also provides a breakdown of the items being leased by the Contractor, which includes 253 X Series® cardiac monitors and accessories such as batteries, charging adapters, carry cases, and electrodes. Section 3 of the proposed Agreement states that all equipment will be delivered and accepted at least 30 days prior to the first lease payment due date set forth in Schedule 2.

Section 2(d) of the Agreement states that the City will covenant to take actions as may be necessary to include all lease payments due in its annual budgets, and to make the necessary annual appropriations for all lease payments. Section 2(h) mentions that the first lease payment includes the cost of the Contractor providing a software-as-a-service offerings accompanying the cardiac monitors, to be governed by a software services agreement, a copy of which is included as Attachment 2 to this report. Section 7 of the Agreement states that the Contractor is the sole owner of the cardiac monitors until LAFD has paid all lease payments due under the Agreement, at which time ownership of the cardiac monitors will automatically transfer to LAFD.

Funding is available in the Department's 2024-25 Adopted Budget, in its Operating Supplies Account. In the 2023-24 Year-End Financial Status Report, the Department re-appropriated \$1.7 million in its Operating Supplies Account for this Agreement. Funding in the amount of \$500,000 will be annually provided from the Target-Destination Ambulance Services Revenue Trust Fund No. 44R. (Fund 44R). Funding for the remaining annual payments will be requested in subsequent years through the annual budget process.

This Office recommends that funding for the annual lease payment be appropriated in the Capital Finance Administration Fund (CFA Fund) (Fund 100, Dept. 53). The CFA Fund is a special purpose fund where annual lease payments for long-term lease obligations – primarily issued through the Municipal Improvement Corporation of Los Angeles (MICLA) – are appropriated. Funding should reside in the CFA Fund given that the proposed lease-purchase agreement represents a financial obligation and the City is covenanting to annually appropriate lease payments in the budget. Including lease payments in the CFA Fund will also ensure that payments are processed on a timely basis, which will prevent possible events of default, as outlined in Section 16 of the Agreement. In order to process the first lease payment due in the current fiscal year, the available funds should be transferred and appropriated from the Department’s Operating Supplies Account and Fund 44R to the CFA Fund.

To the best of our knowledge, the Contractor has complied with the City’s contracting requirements, policies, and procedures. Section 13 of the proposed Agreement states that the City shall maintain fire and extended coverage insurance with respect to the cardiac monitors against loss or damage at all times during the lease term. To satisfy this, the City has provided the Contractor a letter of self-insurance stating that the City self-administers, defends, settles, and pays third-party claims for bodily injury, personal injury, death, property damage and workers’ compensation.

In accordance with Administrative Code Section 10.5, the proposed Agreement requires Council approval because the total amount of the proposed Agreement exceeds the 2024-25 contract exemption limit of \$193,901, and the term of the proposed Agreement exceeds five years.

FISCAL IMPACT STATEMENT

The anticipated cost of the annual lease payments is \$1,347,871. Funding of \$1.7 million is available in the Department’s 2024-25 Adopted Budget, Operating Supplies Account. In addition, the Department will leverage \$500,000 annually from the Target-Destination Ambulance Services Revenue Trust Fund No. 44R (Fund 44R) to fund the annual lease payments. Currently, the funding from these two sources is sufficient for the first two annual lease payments. With continued funding from Fund 44R, the General Fund impact of proposed agreement is \$5,935,095. Funding for the remaining annual payments will be requested during the budget process in subsequent fiscal years.

FINANCIAL POLICIES STATEMENT

The recommendations in this report are consistent with the City’s Financial Policies in that the proposed services will be funded within budgeted funds.

DEBT IMPACT STATEMENT

The lease payments to be made by the City pursuant to the Lease Purchase Agreement are a General Fund obligation. The lease payments will be annually budgeted in the Capital Finance Administration Fund (CFA Fund) (Fund 100, Department 53). The total lease obligation is \$9,435,095, with annual lease payments of \$1,347,871 in each of seven years, through 2030-31. The lease payments will be partially paid with special funds from the Target-Destination Ambulance

Services Revenue Trust Fund No. 44R totaling \$500,000 annually in each of seven years, through 2030-31. As such, the total General Fund obligation is \$5,935,095.

MWS:AC:AG:04250062c

Attachment

LOS ANGELES FIRE COMMISSION

Attachment 1

BOARD OF
FIRE COMMISSIONERS

GENETHIA HUDLEY-HAYES
PRESIDENT

SHARON DELUGACH
VICE PRESIDENT

CORINNE TAPIA BABCOCK
JIMMY H. HARA, M.D.
JIMMIE WOODS-GRAY

LETICIA GOMEZ
COMMISSION EXECUTIVE ASSISTANT II



KAREN BASS
Mayor

TYLER IZEN
INDEPENDENT ASSESSOR

EXECUTIVE OFFICE
200 NORTH MAIN STREET, SUITE 1840
LOS ANGELES, CA 90012

(213) 978-3838 PHONE
(213) 978-3814 FAX

May 7, 2024

Honorable Karen Bass
Mayor, City of Los Angeles
Room 303, City Hall
Attn: Legislative Coordinator

[BFC 24-046] – ZOLL X-SERIES CARDIAC MONITOR LEASE AGREEMENT

At its meeting of May 7, 2024, the Board of Fire Commissioners approved the report and its recommendations. The report is hereby transmitted to the Mayor for consideration and approval.

Should you need additional information, please contact the Board of Fire Commissioners' office at 213-978-3838.

Sincerely,

Leticia Gómez
Commission Executive Assistant II

Attachments

cc: Board of Fire Commissioners
Fire Chief Kristin M. Crowley (via email)

May 7, 2024

LOS ANGELES FIRE DEPARTMENT



KRISTIN M. CROWLEY
FIRE CHIEF

APPROVED: 5/7/24
BOARD OF FIRE COMMISSIONERS
BY: *[Signature]*
COMMISSION EXECUTIVE ASSISTANT

April 25, 2024

BOARD OF FIRE COMMISSIONERS
FILE NO. 24-046

TO: Board of Fire Commissioners

FROM: *KC* Kristin M. Crowley, Fire Chief

SUBJECT: ZOLL X-SERIES CARDIAC MONITOR LEASE AGREEMENT

FOR INFORMATION ONLY: Approved Approved w/Corrections Withdrawn
 Denied Received & Filed Other

SUMMARY

In 2023, the Los Angeles Fire Department (LAFD) responded to 417,191 emergency medical service (EMS) incidents. Of these calls for service, 232,023 incidents required advanced life support (ALS). The ALS resources utilize a full complement of equipment and medications to effectively deliver a robust level of care. One such piece of equipment is the cardiac monitor.

The cardiac monitor, a crucial piece of equipment, provides comprehensive monitoring of vital signs, including ECG, SpO2, NIBP, and capnography. With its cardiac rhythm analysis and defibrillation capabilities, this technology offers a more complete picture of the patient's condition. This aids in accurate diagnosis and treatment, as standardized by the LA County Department of Health Services. Equipping all ALS resources with this technology is a testament to LAFD's commitment to leveraging technological innovations, which directly translates to improved patient outcomes and response effectiveness.

The Los Angeles Fire Department (LAFD) has finalized negotiations with ZOLL Medical to provide the "X Series" cardiac monitors for all LAFD Advanced Life Support (ALS) resources. This decision is a significant step forward and underscores the department's commitment to remaining a premier all-risk emergency service provider. The proposed equipment lease is for seven (7) years, commencing on September 1, 2024, and terminating on September 1, 2030. The total compensation for this agreement is \$9,435,094.54.

RECOMMENDATIONS

That the Board:

1. Approve the recommendation that the LAFD enter into a seven (7) year Equipment Lease-Purchase Agreement with ZOLL Medical to provide 253 "X Series" Advanced Monitor/Defibrillators and ancillary equipment listed in Schedule A of this agreement.
2. Request the Commission Executive Assistant to transmit this report to the Mayor's Office in accordance with Executive Directive No. 3 and to the City Council in accordance with the Los Angeles Administrative Code, Ordinance 15514, Article 12, Section 5.111.4, for consideration and approval.

DISCUSSION

The ZOLL "X Series" cardiac monitor is a state-of-the-art medical device that enhances patient care during critical-level emergency medical incidents. It offers a range of features designed to improve patient care during critical situations. It incorporates cutting-edge capabilities and innovations that can enhance the efficiency and effectiveness of emergency medical response. These devices will supplant the antiquated LIFEPAK 15 cardiac monitors currently in use which have reached their end of service life. Compared to the LIFEPAK 15, the ZOLL X Series incorporates cutting-edge capabilities and innovations that can enhance the efficiency and effectiveness of emergency medical response.

This equipment lease-purchase agreement underscores the LAFD's unwavering commitment to the community's health and safety. By outfitting all ALS resources with the ZOLL "X Series" cardiac monitors, the department aims to advance care across the city, ensuring that every patient, regardless of their location, receives the highest level of care during a medical emergency.

The decision to partner with ZOLL results from a rigorous and strategic evaluation process. This meticulous process ensured that the most suitable equipment was selected to further our mission. It's a decision that instills confidence among Angelenos about the department's commitment to excellence. Factors such as device reliability, functionality, longevity, and vendor support significantly influenced the decision to select ZOLL as the preferred supplier for the new cardiac monitors.

FISCAL IMPACT

Funding for this agreement will be paid using the Department's operating supplies account leveraged with the Target-Destination Ambulance Service Revenue Trust Fund. Under the terms of this agreement, seven (7) consecutive annual payments of \$1,347,870.65, for a total of \$9,435,094.54, will be financed. The Lease Payment Schedule is outlined in Schedule B of the agreement.

CONCLUSION

Overall, this initiative represents a strategic investment by the City of Los Angeles. It significantly enhances the LAFD's ability to provide high-level cardiac monitoring and is poised to improve patient care during critical-level emergency medical incidents. Its advanced features and seamless integration capabilities make it an innovative technology supporting the LAFD in executing its mission.

Board Report prepared by Corey Rodriguez, Captain I, Emergency Medical Services Bureau.

Attachments

EQUIPMENT LEASE-PURCHASE AGREEMENT

Execution Version

Lease Number:

Dated:

LESSEE:

CITY OF LOS ANGELES
200 North Spring Street
Los Angeles, CA 90012

LESSOR:

ZOLL Medical Corporation
269 Mill Rd.
Chelmsford, MA 01824

This Equipment Lease-Purchase Agreement, together with Attachments A and B-1 and B-2, and Schedules 1 and 2 attached hereto and incorporated herein by this reference (collectively, this "Equipment Lease") sets forth the terms and conditions under which Lessor hereby leases to Lessee, and Lessee hereby accepts and leases from Lessor, certain equipment as described in Schedule 1 attached hereto (the "Equipment"). Lessee hereby agrees and covenants during the Lease Term (as hereinafter defined) that, except as hereinafter expressly provided, it shall use the Equipment solely for public and municipal purposes so as to afford the public the benefit contemplated by this Equipment Lease and further agrees that it shall not abandon the Equipment.

1. Lease Term. This Equipment Lease will become effective and the term of this Equipment Lease (the "Lease Term") will commence on the date set forth on Schedule 2 attached hereto (the "Commencement Date"), and will terminate on the final scheduled Lease Payment (as hereinafter defined) due date set forth on Schedule 2, unless such date and the corresponding term of this Equipment Lease is terminated or extended as hereinafter provided. If on the scheduled termination date, the Lease Payments payable hereunder shall have been abated at any time and for any reason, then the Lease Term shall be extended for a period equal to the period the obligation to make Lease Payments was abated pursuant to Section 12 hereof, but in no event shall the term of this Equipment Lease be extended later than the then remaining economic useful life of the Equipment, as originally represented by Lessor in Section 6 hereof or as later certified by Lessor to Lessee in writing. If prior to the scheduled termination date, all remaining unpaid Lease Payments are prepaid in accordance with Section 18, the Lease Term of this Equipment Lease shall thereupon terminate.

Upon the termination of the Lease Term, provided that all Lease Payments due hereunder have been duly paid, any and all of Lessor's right, title and interest in all of the Equipment shall automatically transfer to and be vested in the Lessee. Lessor and Lessee shall execute and file such documents as may be reasonably necessary to evidence such termination and transfer free and clear of any liens created by Lessor.

2. Lease Payments; Covenant to Budget and Appropriate. (a) Subject to Sections 12 and 18 of this Equipment Lease, Lessee agrees to pay to Lessor, as rental for the beneficial use and enjoyment of the Equipment during each Rental Period (as hereinafter defined), the Lease Payments (herein so called) in the amounts and on the due dates specified on Schedule 2 attached hereto. As used herein, "Rental Period" means each twelve-month period during the Lease Term

and, in the case of the first Rental Period, the period commencing on the Commencement Date and ending on the day immediately preceding the first Lease Payment due date set forth on Schedule 2 attached hereto; thereafter, commencing on each Lease Payment due date set forth on Schedule 2 and ending on the day immediately preceding the next succeeding Lease Payment due date set forth on Schedule 2. Lessee acknowledges that its obligation to pay Lease Payments accrues as of the Commencement Date. The Lease Payments will be payable without notice or demand at the office of Lessor (or such other place as Lessor may from time to time designate in writing), and will commence on the first Lease Payment due date set forth on Schedule 2 (the "Lease Payment Commencement Date") and thereafter on each of the Lease Payment due dates set forth in Schedule 2. Lessee agrees to pay the Lease Payments from Legally Available Funds (as hereinafter defined), and represents that any such Lease Payments shall constitute fair consideration for the beneficial use and enjoyment of all Equipment delivered and accepted and made available for Lessee's beneficial use and enjoyment for each respective Rental Period. Each Lease Payment for the Equipment shall be payable in any Rental Period only to the extent Lessee has the beneficial use and enjoyment of the Equipment during such Rental Period. Any Lease Payment received later than one hundred twenty (120) days from the Lease Payment due date set forth in Schedule 2 will bear interest at a rate of 1% per annum from such Lease Payment due date until paid, limited, however, to the maximum amount allowed by law.

(b) So long as Lessee has the right to the beneficial use and enjoyment of the Equipment, and subject to Section 12 of this Equipment Lease, the obligations of Lessee to make Lease Payments for the Equipment or pay any other amounts due hereunder, and to perform and observe covenants and agreements contained therein, shall be absolute and unconditional under any and all circumstances subject to the terms and conditions of this Equipment Lease and without notice or demand by Lessor, notwithstanding any dispute between or among Lessee and Lessor (whether as the vendor, the manufacturer, seller or supplier of the Equipment) or any other person.

(c) Lessee's obligation to make Lease Payments or pay any other amounts due hereunder, subject to the terms and conditions of this Equipment Lease, shall constitute a current obligation payable exclusively from any funds that the governing body of Lessee duly appropriates or are otherwise legally available for the purpose of making such payments (the "Legally Available Funds"), and shall not be construed to be an indebtedness within the meaning of any applicable constitutional or statutory debt limitation or requirement. Lessee has not pledged its full faith and credit or its taxing power to make any Lease Payments or pay any other amounts due hereunder.

(d) Lessee hereby covenants to take such action as may be necessary to include all Lease Payments due hereunder in its annual budgets and to make the necessary annual appropriations for all such Lease Payments. In so providing for the payment of Lease Payments in its annual budgets, Lessee may take into account Legally Available Funds (including the net proceeds of insurance) that are properly available to make such Lease Payments. The obligations of Lessee to make Lease Payments do not constitute obligations for which Lessee is obligated to levy or pledge any form of taxation or for which Lessee has levied or pledged any form of taxation. The obligation of Lessee to make Lease Payments does not constitute an indebtedness of Lessee, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

(e) Lessee shall not assert any right of set-off, defense, counterclaim, or recoupment for any reason whatsoever with respect to this Equipment Lease, except that Lessee may assert any right of set-off available to it as specifically provided in Section 264 of the City of Los Angeles Charter. To the extent permitted by applicable law, Lessee hereby waives any and all rights that it may now have or that at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Equipment Lease or any of the items of Equipment except in accordance with the express terms hereof.

(f) Such payments of Lease Payments and other amounts payable hereunder during the Lease Term shall constitute the total rental for each Rental Period during the Lease Term and shall be paid by Lessee in each Rental Period for and in consideration of the right of beneficial use and enjoyment of the Equipment during each such Rental Period for which said rental is to be paid. The parties hereto have agreed and determined that such Lease Payments payable for each Rental Period do not exceed the fair rental value of the Equipment for each such Rental Period. In making such determination, consideration has been given to costs of manufacturing, acquisition, installation and financing of the Equipment, the market value of the Equipment, other obligations of the parties hereunder, the uses and purposes which may be served by the Equipment and the benefits therefrom which will accrue to Lessee and the general public.

(g) If Lessee pays or prepays all remaining Lease Payments in full, Lessee's obligations under this Equipment Lease shall thereupon cease and terminate, including but not limited to Lessee's obligation to pay Lease Payments under this Section 2 with title to the Equipment vesting with the Lessee as described under Section 1. If Lessee is required to prepay the unpaid Lease Payments in part but not in whole pursuant to Section 18(a) of this Equipment Lease as a result of any insurance award with respect to any portion of the Equipment, such prepayment shall be credit entirely towards the prepayment of the unpaid Lease Payments allocable to such Equipment on a pro rata basis.

(h) The parties acknowledge and agree that the first Lease Payment includes the cost of certain software-as-a-service offerings ("Software Services") during the Lease Term. The Software Services will be provided upon execution of and will be governed by the terms of a Software Services Agreement to be negotiated by the parties (the "Software Services Agreement"). There will be no additional costs associated with the Software Services Agreement beyond the Lease Payments described herein. In the event of a conflict in terms between this Equipment Lease and the Software Services Agreement (including, without limitation, any conflict in the provisions related to liability and indemnification), the Software Services Agreement shall govern with respect to, and only with respect to, the Software Services. In connection with fulfilling its obligations under the Software Services Agreement, Lessor will abide by the terms of the Business Associate Agreement to be negotiated by the parties.

3. Delivery and Acceptance. All of the Equipment is available for delivery to Lessee as of the Commencement Date and Lessor will hold the Equipment on behalf of and for the convenience of Lessee until such delivery times as Lessee requests, with all of the Equipment delivered to Lessee at its facilities no later than August 1, 2024 so that Lessee will have sufficient time to accept all of the Equipment no later than 14 days after receipt of the Equipment. As of the Commencement Date, the Equipment shall be deemed to be available for Lessee's beneficial use

and enjoyment under this Equipment Lease. All of the Equipment must be delivered and accepted at least 30 days prior to the first Lease Payment due date set forth on Schedule 2 attached hereto.

4. Warranty; Disclaimers and Lessee Waivers. The terms of Lessor's standard product warranty are attached hereto as Attachment B-1. In addition, Lessee is purchasing an extended warranty ("Extended Warranty") from the Lessor. The terms of such Extended Warranty are set forth in Attachment B-2 to this Equipment Lease. Attachments B-1 and B-2 are incorporated herein by reference. Except as provided in Lessor's standard product warranty and Extended Warranty, LESSEE LEASES THE EQUIPMENT FROM LESSOR "AS IS, WHERE IS". IT IS SPECIFICALLY UNDERSTOOD AND AGREED THAT (A) LESSOR MAKES ABSOLUTELY NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, ANY REPRESENTATION OR WARRANTY WITH RESPECT TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, QUALITY, OPERATION, OR CONDITION OF ANY EQUIPMENT (OR ANY PART THEREOF), THE MERCHANTABILITY OR FITNESS OF EQUIPMENT FOR A PARTICULAR PURPOSE, OR INTELLECTUAL PROPERTY RIGHTS WITH RESPECT TO THE EQUIPMENT (INCLUDING, ANY PATENT, COPYRIGHT AND TRADEMARK RIGHTS, OF ANY THIRD PARTY, WHETHER RELATING TO INFRINGEMENT OR OTHERWISE); (B) LESSOR SHALL NOT BE LIABLE FOR ANY FAILURE OF ANY EQUIPMENT OR ANY DELAY IN THE DELIVERY OR INSTALLATION THEREOF; AND (C) LESSEE HAS SELECTED ALL EQUIPMENT WITHOUT LESSOR'S ASSISTANCE. IT IS FURTHER AGREED THAT LESSOR SHALL HAVE NO LIABILITY TO LESSEE, ITS CUSTOMERS, EMPLOYEES, DIRECTORS, AGENTS OR ASSIGNS OR ANY THIRD PARTIES FOR ANY DAMAGES AT LAW OR IN EQUITY (INCLUDING, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES BASED ON STRICT OR ABSOLUTE TORT LIABILITY OR LESSOR'S NEGLIGENCE) ARISING OUT OF THIS EQUIPMENT LEASE OR CONCERNING ANY EQUIPMENT. TO THE EXTENT PERMITTED BY APPLICABLE LAW, LESSEE WAIVES ALL RIGHTS AND REMEDIES AGAINST LESSOR CONFERRED UPON LESSEE BY ARTICLE 2A OF THE UCC, INCLUDING SECTIONS 508 THROUGH 522 THEREOF.

5. Lessee's Representations and Warranties. Lessee represents, warrants and covenants on the Commencement Date that: (a) the execution, delivery and performance by Lessee of this Equipment Lease has been duly authorized by all necessary action on the part of Lessee; (b) this Equipment Lease constitutes a legal, valid and binding obligation of Lessee enforceable in accordance with its terms; (c) Lessee will be the only entity to possess, and Lessee's employees will be the only persons to use and operate, the Equipment during the Lease Term; (d) Lessee will do or cause to be done all things necessary to preserve and keep this Equipment Lease in full force and effect, and (e) the Equipment will be used for one or more authorized governmental or proprietary functions essential to Lessee's proper, efficient and economic operation.

6. Lessor's Representations and Warranties; Useful Life of Equipment. Lessor represents, warrants and covenants on the Commencement Date that: (a) the Lessor is the sole owner of the Equipment free and clear of any pledge, lien, charge, encumbrance or claim on or with respect to the Equipment; (b) the execution, delivery and performance by Lessor of this Equipment Lease has been duly authorized by all necessary action on the part of Lessor; (c) this

Equipment Lease constitutes a legal, valid and binding obligation of Lessor enforceable in accordance with its terms; and (d) the economic useful life of the Equipment is not less than seven (7) years.

7. Title to Equipment; Security Interest.

(a) Lessor is the sole owner of the Equipment and has sole title thereto until such time as Lessee has paid all Lease Payments due hereunder, in which event any and all of Lessor's right, title and interest in all of the Equipment shall automatically transfer to and be vested in the Lessee as provided in Section 1 hereof. Until the occurrence of the foregoing, Lessee shall be the owner of the leasehold interest in the Equipment pursuant to this Equipment Lease.

(b) In order to secure all of its obligations hereunder, Lessee hereby (x) grants to Lessor a first priority security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions, and substitutions thereto, and on any proceeds therefrom; (y) agrees that Lessor may file such financing statements as necessary to evidence or perfect such security interest; and (z) agrees to execute and deliver all financing statements, certificates of title and other instruments reasonably requested by Lessor to evidence such security interest.

8. Use; Repairs; Enjoyment. Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinances, insurance policies and regulations relating thereto, and will pay all costs, claims, damages, fees and charges arising out of the possession, use or maintenance of the Equipment. Lessee, at its expense, will keep the Equipment in good repair and furnish all parts, mechanisms and devices required therefor. Lessor is providing to Lessee the Extended Warranty with respect to the Equipment, and Lessee intends to satisfy its obligations under this Section 8 with such Extended Warranty. During the Lease Term, Lessor shall not interfere with Lessee's enjoyment of the Equipment, and Lessee shall during such Lease Term peaceably and quietly have and hold and enjoy the Equipment, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Equipment Lease. Notwithstanding the foregoing, Lessor shall have the right to inspect the Equipment as provided in Section 10 below.

9. Alterations. Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without damage to the Equipment.

10. Inspection. To the extent necessary to fulfill Lessee's governmental purposes, the Equipment may be used throughout the United States of America, but in all cases, Lessee shall maintain a method of tracking and inventorying the Equipment. Lessor will be entitled to inspect the Equipment during normal business hours upon reasonable prior written notice to Lessee.

11. Liens and Taxes. Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances, except those created hereunder. Lessor shall report and pay all license and registration fees and all taxes, fees, levies, imposts, duties, assessments, charges and withholdings of any similar nature, however designated (including, any value added, transfer, sales, use, gross receipts, business, occupation, excise, personal property, real property, stamp or other taxes)

("Taxes") now or hereafter imposed or assessed by governmental body, agency or taxing authority upon the purchase, ownership, delivery, installation, leasing, rental, use or sale of the Equipment, the Lease Payment or other charges payable hereunder, or otherwise upon or in connection with this Equipment Lease, whether assessed on Lessor or Lessee, other than any such Taxes required by law to be reported and paid by Lessee. Lessee shall within 120 days of invoice reimburse Lessor for all such Taxes paid by Lessor on Lessee's behalf, excluding (a) Taxes on or measured by the overall gross or net income of Lessor, (b) as to this Equipment Lease or the related Equipment, Taxes attributable to the period after the return of such Equipment to Lessor, and (c) Taxes imposed as a result of a sale or other transfer by Lessor of any portion of its interest in this Equipment Lease or in any Equipment.

12. Rent Abatement; Damage and Destruction and Use of Proceeds of Insurance.

(a) Lease Payments shall be abated during any period in which by reason of loss, damage, destruction or otherwise there is substantial interference with the use and possession by Lessee of the Equipment, so that the remaining Lease Payments and any other amounts payable hereunder then due for the use of the Equipment that was not affected are not greater than the fair rental for use of the unaffected Equipment. Lessee and Lessor shall calculate the rental abatement amount on an annual basis taking into account the entire twelve-month period of the Rental Period within which the damage or destruction occurs. If at any time it shall be necessary to calculate rental abatement, for purposes of calculation for any twelve-month period of a Rental Period, the total amount of Lease Payment payable within such twelve-month period shall be divided by 365 days (except for the Rental Period including February 29, 2024 and February 29, 2028, in which case the divisor shall be 366 days). The maximum amount of daily rental abatement for such twelve-month period shall not exceed the result of such calculation. Such abatement shall continue for the period commencing with such interruption of use and ending with the substantial completion of the work of repair or replacement. In the event of any such interruption of use, this Equipment Lease shall continue in full force and effect and the Lease Payments shall not be subject to abatement under this Section 12 to the extent that other amounts are made available to pay Lease Payments which would otherwise be abated under this Section 12, it being hereby declared that such amounts constitute special funds for the payment of the Lease Payments.

(b) If any item of Equipment is damaged in a manner which substantially interferes with its use, such Equipment shall be promptly repaired or replaced at Lessee's expense (including by the Extended Warranty), unless (i) such damage, together with other components of the Equipment lost, damaged or destroyed, would not result in the abatement of any portion of the Lease Payments because, for example, the fair rental value of the remaining useable Equipment is sufficient to support the Lease Payments unabated, or (ii) Lessee elects to apply the proceeds of insurance and other legally available funds to the prepayment of the unpaid Lease Payments pertaining to the item of Equipment lost, damaged or destroyed such that the Lease Payments to be made on the undamaged Equipment will not exceed the fair market value for each Rental Period over the remaining term of this Equipment Lease.

(c) All risk of loss, damage, theft or destruction to each item of Equipment shall be borne by Lessee. Lessee is mitigating such risk of loss, damage, theft or destruction by obtaining the Extended Warranty and maintaining the insurance required by Section 13 of this Equipment Lease. Lessee shall use the proceeds of any insurance to accomplish one of the

following purposes in the event of the loss or destruction of or unrepaired damage to any portion of the Equipment which would otherwise result in abatement of all or a portion of the Lease Payments: (i) to acquire replacement Equipment or repair diligently (at Lessee's cost) Equipment having an economic useful life not less than the remaining Lease Term of the Equipment so lost, destroyed or damaged to be and become subject to this Equipment Lease at a cost such that the fair market rental value of the Equipment leased pursuant to this Equipment Lease (including such replacement Equipment) for each remaining Rental Period is not less than the Lease Payments for each Rental Period over the remaining term of this Equipment Lease; (ii) to apply an amount sufficient, under Section 18(a) of this Equipment Lease, to purchase the portion of the Equipment so destroyed or irreparably damaged, said amount to be used as a special fund for prepayment of the unpaid Lease Payments pertaining to the Equipment destroyed or irreparably damaged; or (iii) to apply such funds to the prepayment of the unpaid Lease Payments pursuant to Section 18(a) of this Equipment Lease so that the Lease Payments to be made on the remaining Equipment will not exceed the fair market rental value for each Rental Period over the remaining term of this Equipment Lease.

(d) To the extent that an event of loss, destruction or unrepaired damage results in an abatement of Lease Payments pending the acquisition of replacement Equipment pursuant to Section 12(c)(i) above, Lessee may substitute replacement Equipment for the Equipment so lost, destroyed or damaged to be and become subject to this Equipment Lease, such replacement Equipment having a fair rental value such that the fair rental value of the Equipment leased pursuant to this Equipment Lease (including such replacement Equipment) for each remaining Rental Period is not less than the Lease Payments and any other amounts payable hereunder for each Rental Period over the remaining term of this Equipment Lease. Lessee may also make such a substitution of Equipment as an alternative to taking the actions described in Section 12(c)(i) and (ii) above.

13. Insurance. (a) Lessee will, at its expense, maintain at all times during the Lease Term, fire and extended coverage insurance with respect to the Equipment against loss or damage to any part of the Equipment by collision, fire, loss and theft, with extended coverage and vandalism and malicious mischief insurance, in such amounts, covering such risks, and with such insurers as shall be reasonably satisfactory to Lessor. Lessor acknowledges and agrees that Lessee's insurance obligations pursuant to this Section 13(a) may be satisfied by the Lessee's risk retention program. All insurance covering loss of or damage to the Equipment shall be carried in an amount no less than the lesser of the amount of (i) the then applicable Balance Payment set forth in Schedule 2 attached hereto ("Balance Payment") and (ii) 100% of the replacement cost of the Equipment. The initial amount of insurance required shall be the Balance Payment as of the Commencement Date as set forth in Schedule 2 attached hereto. Each insurance policy, if any, will name Lessee as an insured and Lessor as an additional insured and/or loss payee, and will contain a clause requiring the insurer to give Lessor prior written notice of any alteration in the terms of such policy or the cancellation thereof as permitted under the terms of such policy. The net proceeds of any such insurance policy will be payable to Lessee and Lessor as their interests may appear. Upon acceptance of the Equipment and upon each policy renewal date, as applicable, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event that Lessee is insuring against any or all such risks by a risk retention program, Lessee will furnish Lessor with a letter or certificate to such effect. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make

available to Lessor all information and documentation relating thereto. Notwithstanding anything in this Equipment Lease, Lessor acknowledges and agrees that Lessee's plans and expectations are to satisfy the insurance obligations herein with Lessee's risk retention program.

14. [Reserved.]

15. Assignment. (a) Without Lessor's prior written consent, Lessee will not (a) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Equipment Lease, the Equipment or any interest in this Equipment Lease or the Equipment; or (b) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees.

(b) Upon prior written notice to Lessee and written confirmation from the Assignee (as defined below) reasonably satisfactory to Lessee that such Assignee will be able to fulfill the Lessor's obligations under this Equipment Lease and otherwise meets the requirements set forth below, Lessor may assign its rights, title and interest in and to this Equipment Lease, the Equipment and any documents executed with respect thereto, and/or grant or assign a security interest therein, in whole (but not in part), to any entity at any time without Lessee's consent, so long as any such Assignee is an "accredited investor" (as defined in Regulation D promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended) or any "qualified institutional buyer" (as defined in Rule 144A promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended) and so long as such assignment does not violate any City ordinance. Lessee agrees to notify Lessor whether or not the written confirmation from the Assignee described in the preceding sentence is reasonably satisfactory to Lessee within five (5) business days of receipt of such written confirmation. Notwithstanding the foregoing, Lessor may not assign its rights, title and interest in and to this Equipment Lease, the Equipment and any documents executed with respect thereto, and/or grant or assign a security interest therein, to a bank or trust company as paying or escrow agent for holders of certificates of participation in this Equipment Lease. Any such Assignee shall have all of the rights of Lessor under this Equipment Lease. Subject to the foregoing, this Equipment Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

No assignment or reassignment of any Lessor's right, title or interest in this Equipment Lease or the Equipment shall be effective unless and until Lessee shall have received a notice of assignment, disclosing the name and address of such Assignee and written confirmation from the Assignee reasonably satisfactory to Lessee that such Assignee will be able to fulfill the Lessor's obligations under this Equipment Lease and otherwise meets the requirements set forth above.

16. Event of Default. As used herein, the term "Event of Default" means the occurrence of any one or more of the following events: (a) Lessee fails to make any Lease Payment (or any other payment) as it becomes due in accordance with the terms hereof, and any such failure continues for one hundred twenty (120) days after the due date thereof; (b) Lessee fails to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder, and such failure is not cured within one hundred twenty (120) days after written notice thereof by Lessor; (c) the discovery by Lessor that any statement, representation, or warranty made by Lessee in this Equipment Lease or in any writing ever delivered by Lessee pursuant hereto or in connection herewith was false, misleading or erroneous in any material respect when made;

(d) proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted against or by Lessee, or a receiver or similar officer shall be appointed for Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within thirty (30) days after the institution or occurrence thereof; or (e) an attachment, levy or execution is threatened or levied upon or against the Equipment.

17. Remedies. Whenever any Event of Default shall have occurred and be continuing, Lessor may exercise any and all remedies available pursuant to law or granted pursuant to this Equipment Lease; provided, however, that notwithstanding anything herein to the contrary, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by Lessee is expressly made a condition and upon the breach thereof Lessor may, at its option, require Lessee to promptly return all Equipment to Lessor (and Lessee agrees that it shall so return the Equipment), and also, at its option, with or without such repossession, may terminate this Equipment Lease, provided that no acts of the parties hereto may terminate Lessee's obligation to make the Lease Payments except only in the manner herein expressly provided. In the event of such default and notwithstanding any repossession by Lessor or termination of this Equipment Lease, Lessee shall, as herein expressly provided, continue to remain liable for the payment of the Lease Payments and/or damages for breach of this Equipment Lease and the performance of all conditions herein contained and, in the event such rent and/or damages shall be payable to Lessor at the time and in the manner as herein provided, to wit:

(a) if Lessor does not elect to terminate this Equipment Lease in the manner hereinafter provided for in subparagraph (b) below, Lessee agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse Lessor for any deficiency arising out of the re-leasing of the Equipment or, in the event Lessor is unable to re-lease the Equipment, then for the full amount of all Lease Payments to the end of the Lease Term of this Equipment Lease, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding any suit brought by Lessor for the purpose of obtaining possession of the Equipment or exercise of any other remedy by Lessor; Lessee hereby irrevocably appoints Lessor as the agent and attorney-in-fact of Lessee to obtain possession and re-lease the Equipment in the event of default by Lessor in the performance of any covenants herein contained to be performed by Lessee, for the account of and at the expense of Lessee, and Lessee hereby agrees to pay all proper and reasonable costs and expenses associated with the recovery, repair, storage and re-leasing of the Equipment, including reasonable attorney's fees and expenses; Lessee hereby waives any and all claims for damages caused or which may be caused by Lessor in entering any premises where the Equipment may be held and taking possession of the Equipment as herein provided and all claims for damages that may result from the destruction of or injury to the Equipment; Lessee agrees that the terms of this Equipment Lease constitute full and sufficient notice of the right of Lessor to re-lease the Equipment without effecting a surrender of this Equipment Lease, and further agrees that no act of Lessor in effecting such re-leasing shall constitute a surrender or termination of this Equipment Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by Lessor the right to terminate this Equipment Lease shall vest in Lessor to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) below; Lessee further waives the right to any rental obtained by Lessor in excess

of the Lease Payments and hereby conveys and releases such excess to Lessor as compensation to Lessor for its service in re-leasing the Equipment; and

(b) in an event of default hereunder, Lessor, at its option may terminate this Equipment Lease and re-lease, sell or otherwise dispose of all or any portion of the Equipment; in the event of the termination of this Equipment Lease by Lessor at its option and in the manner hereinafter provided on account of default by Lessor (and notwithstanding the re-leasing, sale or other disposition of the Equipment), Lessee nevertheless agrees to pay to Lessor all proper and reasonable costs and expenses associated with the recovery, repair, storage, re-leasing, sale or other disposition of any Equipment, including reasonable attorney's fees and expenses payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments; any surplus received by Lessor from such re-leasing, sale or other disposition shall be the absolute property of Lessor and Lessee shall have no right thereto, nor shall Lessee be entitled to apply any surplus as a credit in the event of a subsequent deficiency in the rentals or other proceeds received by Lessor from the Equipment; neither notice to pay rent or to deliver up possession of the Equipment given pursuant to law nor any proceeding taken by Lessor shall of itself operate to terminate this Equipment Lease, and shall be or become effective by operation of law, or otherwise, unless and until Lessor shall have given written notice to Lessee of the election on the part of Lessor to terminate this Equipment Lease; Lessee covenants and agrees that no surrender of the Equipment or of the remainder of the Lease Term of this Equipment Lease or any termination of this Equipment Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by Lessor by such written notice.

None of the above remedies is exclusive, but each is cumulative and in addition to any other remedy available to Lessor given under this Equipment Lease or now or hereafter existing at law or in equity. Lessor's exercise of one or more remedies shall not preclude its exercise of any other remedy. No delay or failure on the part of Lessor to exercise any remedy under this Equipment Lease shall operate as a waiver thereof, nor as an acquiescence in any default, nor shall any single or partial exercise of any remedy preclude any other exercise thereof or the exercise of any other remedy.

18. Prepayment.

(a) Lessee shall be obligated to prepay the unpaid Lease Payments allocable to any portion of the Equipment, in whole or in part, on any Lease Payment due date, from and to the extent of any proceeds of insurance with respect to such item of Equipment, at a prepayment price equal to the amount of the unpaid Lease Payments so prepaid. Lessee and Lessor hereby agree that such insurance proceeds, to the extent remaining after payment of any delinquent Lease Payments and not used to repair or replace the lost, damaged or taken Equipment, shall be credited towards Lessee's obligations under this Section 18(a).

(b) Upon thirty (30) days prior written notice from Lessee to Lessor, and provided that no Event of Default has occurred and is continuing, or no event which with notice or lapse of time, or both, could become an Event of Default then exists, Lessee will have the right to prepay the unpaid Lease Payments in whole (but not in part) on any Lease Payment due date set forth in Schedule 2 attached hereto at a prepayment price equal to (i) the Lease Payment due on such Lease Payment due date, plus (ii) the Balance Payment amount set forth opposite such Lease

Payment due date. Upon satisfaction by Lessee of such prepayment conditions, Lessor will transfer any and all of its right, title and interest in all of the Equipment to Lessee as provided under Section 1.

19. Substitution of Equipment. Lessee shall, at any time, with the prior written consent of Lessor (not to be unreasonably withheld or delayed), have the right to substitute or release all or a portion of the Equipment (in such case the substitute Equipment shall mean the former equipment less any portion released pursuant to this Section 19) for other property of a fair rental value such that the fair rental value of the Equipment for each remaining Rental Period after such substitution or release equals or exceeds the Lease Payments and any other amounts payable hereunder for each Rental Period over the remaining term of this Equipment Lease, of a comparable essential nature to Lessee, and having a remaining economic useful life not less than the economic useful life of the portion of Equipment substituted for, but only by providing Lessor with a written certificate describing both the new Equipment and the Equipment for which it is to be substituted, and stating that such portion of Equipment is of a fair rental value such that fair rental value of the Equipment for each remaining Rental Period after such substitution or release equals or exceeds the Lease Payments and any other amounts payable hereunder for each Rental Period over the remaining term of this Equipment Lease, of a comparable essential nature to Lessee, and having a remaining economic useful life not less than the economic useful life of the Equipment for which it is being substituted, and an executed amendment to this Equipment Lease for the new Equipment. All costs and expenses incurred in connection with such substitution including without limitation the cost of acquiring such Equipment, shall be borne by Lessee unless Lessor elects to bear the cost of acquiring the replacement Equipment. In the event of such substitution or release, the Equipment substituted for the original Equipment shall become fully subject to the terms hereof. Notwithstanding any substitution or release of Equipment pursuant to this Section 19, there shall be no reduction in the Lease Payments due from Lessee hereunder and there shall be no reduction in the aggregate fair rental value of the Equipment as a result of such substitution or release.

20. Notices. All notices to be given under this Equipment Lease shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth below or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five days subsequent to such mailing.

If to Lessor, to:

ZOLL Medical Corporation
269 Mill Road
Chelmsford, MA 01824-4105
Attention: Division General Counsel, Resuscitation

If to Lessee, to:

City of Los Angeles
Kristin Crowley, Fire Chief

Los Angeles Fire Department
200 N. Main St., 18th Floor
Los Angeles, CA 90012

With a copy to:

Peter Hsiao, Assistant Chief or
Acting Bureau Commander
Emergency Medical Services Bureau
Los Angeles Fire Department
200 N. Main St., Room 1880
Los Angeles, CA 90012

21. Section Headings. All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Equipment Lease.

22. Governing Law. This Equipment Lease shall be construed in accordance with, and governed by the laws of, the State of California.

23. Delivery of Related Documents. Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Equipment Lease.

24. Entire Agreement; Waiver. This Equipment Lease, together with each attachment and schedule attached hereto and each Delivery and Acceptance Certificate, and other documents or instruments executed by Lessee and Lessor in connection herewith, are incorporated herein by reference and made a part hereof. This Equipment Lease constitutes the entire agreement between the parties with respect to the lease of the Equipment, and shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of the Equipment Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Equipment Lease.

The waiver by Lessor of any breach by Lessee of any term, covenant or condition of this Equipment Lease shall not operate as a waiver of any subsequent breach hereof or thereof.

25. Execution In Counterparts. This Equipment Lease may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by City) and sent by e-mail shall be deemed original signatures.

26. Standard Provisions for City Contracts. Certain standard provisions for City contracts are attached hereto as Attachment A and are hereby incorporated by reference into this Equipment Lease, and Lessor and each Assignee agree to be subject to all of such provisions. Anything herein to the contrary notwithstanding, to the extent of any conflict between

Attachment A attached hereto and the other provisions of this Equipment Lease, the other provisions of this Equipment Lease shall be controlling.

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IN WITNESS WHEREOF, the parties have executed this Equipment Lease-Purchase Agreement as of the _____ day of _____, 2024.

LESSOR:

ZOLL MEDICAL CORPORATION

By: _____

Name:

Title:

LESSEE:

CITY OF LOS ANGELES
LOS ANGELES FIRE DEPARTMENT

By signing below, the signatory attests that they have no personal, financial, beneficial, or familial interest in this contract.

By: _____

Kristin Crowley, Fire Chief

ATTEST:

HOLLY L. WOLCOTT, CITY CLERK

By: _____

Deputy City Clerk

Approved as to Form:

HYDEE FELDSTEIN SOTO, CITY ATTORNEY

By: _____,

Sam Petty
Deputy City Attorney

ATTACHMENT A CITY'S STANDARD PROVISIONS

Lessor agrees to be subject to the following provisions unless otherwise exempt from any of such provisions or unless any of such provisions are not applicable. References herein to "Contractor" shall mean the "Lessor" (including any Assignee) under the Equipment Lease, and references herein to "Contract" or "contract" shall mean the Equipment Lease unless the context provides otherwise. Anything herein to the contrary notwithstanding, to the extent of any conflict between the provisions of this Attachment A and the other provisions of the Equipment Lease, the other provisions of the Equipment Lease shall be controlling. Lessee's right to terminate the Equipment Lease pursuant to the provisions of this Attachment A may only be exercised on a Lease Payment due date set forth in Schedule 2 attached to the Equipment Lease and Lessee's concurrent prepayment of the unpaid Lease Payments on such Lease Payment due date pursuant to Section 18(b) of the Equipment Lease by paying to Lessor the prepayment price set forth in Section 18(b) of the Equipment Lease.

The parties acknowledge and agree that ZOLL does not intend to use any subcontractors to provide services to the City hereunder; ZOLL uses its own technicians to provide the warranty services. Further, ZOLL also does not consider this Agreement to be a service agreement, as such term is used in the Lessor's local ordinances.

Section 1. Independent Contractor. Contractor is an independent contractor and not an agent or employee of Lessee. Contractor shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of Lessee.

Section 2. Current Los Angeles City Business Tax Registration Certificate Required. For the duration of the Contract, Contractor shall maintain valid Business Tax Registration Certificate(s) as required by Lessee's Business Tax Ordinance, Section 21.00 et seq. of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

Section 3. Indemnification. Except for the active negligence or willful misconduct of Lessee, or any of its boards, officers, agents, employees, assigns and successors in interest, Contractor shall defend, indemnify and hold harmless Lessee and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (subject to the provisions set forth in the other paragraphs of this Section 3) and cost of litigation (including all actual litigation costs incurred by Lessee, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including Contractor's employees and agents, or damage or destruction of any property of either party hereto or of third parties, to the extent directly arising in any manner by reason of a defect in the Equipment, or the negligent acts and omissions of Contractor.. The rights and remedies of Lessee provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract. This provision will survive expiration or termination of the Contract.

The foregoing indemnification is contingent upon the Lessee providing the Contractor with (i) prompt notice of any indemnifiable loss or claim, (ii) the option to assume the defense of any indemnified claim, and (iii) the right to approve or reject the settlement of any indemnified claim. If the Contractor assumes the defense, the Contractor shall not be liable for attorneys' fees thereafter incurred by the indemnified party. The Contractor shall not settle any claim or action on behalf of Lessee without the Lessee's prior written consent, not to be unreasonably withheld. Notwithstanding anything in this Section 3 or this Equipment Lease to the contrary, Los Angeles City Charter Sections 272 and 273 govern for purposes of the defense or settlement, or both, of claims against the City and take precedence over any language in this Agreement to the contrary.

In no event shall ZOLL be liable to the Lessee for any consequential, incidental, indirect, special or punitive damage, loss or expenses (including but not limited to such damages for business interruption, lost business, lost profits, or lost savings), even if the Contractor has been advised of their possible existence.

Section 4. Mandatory Provisions Pertaining to Non-Discrimination in Employment. Unless otherwise exempt, the Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in the Los Angeles Administrative Code ("LAAC") Section 10.8 et seq., as amended from time to time.

A. Contractor shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and Lessee. In performing the Contract, Contractor shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.

B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of the Contract by reference.

C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of the Contract by reference and will be known as the "Equal Employment Practices" provisions of the Contract.

D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of the Contract by reference and will be known as the "Affirmative Action Program" provisions of the Contract.

subcontract entered into by Contractor for work to be performed under the Contract must include an identical provision.

Section 5. Child Support Assignment Orders. Contractor shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, Contractor shall fully comply with all applicable State and Federal employment reporting requirements. Failure of CONTRACTOR to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings

Assignment or Notices of Assignment, or the failure of any principal owner(s) of Contractor to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the Contractor under the Contract. Failure of Contractor or principal owner to cure the default within 90 days of the notice of default will subject the Contract to termination for breach. Any subcontract entered into by Contractor for work to be performed under the Contract must include an identical provision.

Section 6. Living Wage Ordinance. Contractor shall comply with the Living Wage Ordinance, LAAC Section 10.37 et seq., as amended from time to time. Contractor further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by Contractor for work to be performed under the Contract must include an identical provision.

Section 7. Service Contractor Worker Retention Ordinance. Contractor shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 et seq., as amended from time to time. Any subcontract entered into by Contractor for work to be performed under the Contract must include an identical provision.

Section 8. Access and Accommodations.

Contractor represents and certifies that:

A. Contractor shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 et seq., the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 et seq, the Fair Housing Act, and its implementing regulations, and California Government Code 11135;

B. Contractor shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;

C. Contractor shall provide reasonable accommodation upon request to ensure equal access to Lessee funded programs, services and activities;

D. Construction, if any, will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and

E. The buildings and facilities used to provide services under the Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

Contractor understands that Lessee is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by Contractor for work to be performed under this Contract must include an identical provision.

Section 9. Contractor Responsibility Ordinance. Contractor shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 et seq., as amended from time to time.

Section 10. Business Inclusion Program. Unless otherwise exempted prior to bid submission, Contractor shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of the Contract. Contractor shall utilize the Business Assistance Virtual Network (“BAVN”) at <https://www.labavn.org/>, to perform and document outreach to Minority, Women, and Other Business Enterprises. Contractor shall perform subcontractor outreach activities through BAVN. Contractor shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall Contractor reduce their level of effort, without prior written approval of Lessee.

Section 11. Slavery Disclosure Ordinance. Contractor shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 et seq., as amended from time to time. Any subcontract entered into by Contractor for work to be performed under the Contract must include an identical provision.

Section 12. First Source Hiring Ordinance. Contractor shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 et seq., as amended from time to time. Any subcontract entered into by Contractor for work to be performed under the Contract must include an identical provision.

Section 13. Local Business Preference Ordinance. Contractor shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 et seq., as amended from time to time. Any subcontract entered into by Contractor for work to be performed under the Contract must include an identical provision.

Section 14. Iran Contracting Act. In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with Lessee for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the “Iran Contracting Act of 2010 Compliance Affidavit.”

Section 15. Restrictions on Campaign Contributions and Fundraising in City Elections. Unless otherwise exempt, if the Contract is valued at \$100,000 or more and requires approval by an elected City office, Contractor, Contractor’s principals, and Contractor’s Subcontractors expected to receive at least \$100,000 for performance under the Contract, and the principals of those Subcontractors (the “Restricted Persons”) shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles Lessee to terminate the Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected City officials or candidates for elected City office for twelve months after the Contract is signed. Additionally, a Contractor subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any Contractor subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under the Contract:

“Notice Regarding Restrictions on Campaign Contributions and Fundraising in City Elections

You are a subcontractor on City of Los Angeles Contract # _____. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles (“City”) officials and candidates for elected City office for twelve months after the City contract is signed. You are required to provide the names and contact information of your principals to the Contractor and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960.”

Section 16. Contractor’s Use of Criminal History for Consideration of Employment Applications. Contractor shall comply with Lessee’s Contractors’ Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 et seq., as amended from time to time. Any subcontract entered into by Contractor for work to be performed under the Contract must include an identical provision.

Section 17. Confidentiality. All documents, information and materials provided to Contractor by Lessee or developed by Contractor pursuant to the Contract (collectively “Confidential Information”) are confidential. Contractor shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by Lessee or as required by law. Contractor shall immediately notify Lessee of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of the Contract.

Section 18. COVID-19. Employees of Contractor and/or persons working on its behalf, including, but not limited to, subcontractors (collectively, “Contractor Personnel”), while performing services under this Agreement and prior to interacting in person with City employees, contractors, volunteers, or members of the public (collectively, “In-Person Services”) must be fully vaccinated against the novel coronavirus 2019 (“COVID-19”). “Fully vaccinated” means that 14 or more days have passed since Contractor Personnel have received the final dose of a two-dose COVID-19 vaccine series (Moderna or Pfizer-BioNTech) or a single dose of a one-dose COVID-19 vaccine (Johnson & Johnson/Janssen) and all booster doses recommended by the Centers for Disease Control and Prevention. Prior to assigning Contractor Personnel to perform In-Person Services, Contractor shall obtain proof that such Contractor Personnel have been fully vaccinated. Contractor shall retain such proof for the document retention period set forth in this Agreement. Contractor shall grant medical or religious exemptions (“Exemptions”) to Contractor Personnel as required by law. If Contractor wishes to assign Contractor Personnel with Exemptions to perform In-Person Services, Contractor shall require such Contractor Personnel to undergo weekly COVID-19 testing, with the full cost of testing to be borne by Contractor. If Contractor Personnel test positive, they shall not be assigned to perform In-Person Services or, to the extent they have already been performing In-Person Services, shall be immediately removed from those assignments. Furthermore, Contractor shall immediately notify City if Contractor Personnel performing In-Person Services (1) have tested positive for or have been diagnosed with COVID-19, (2) have been informed by a medical professional that they are

likely to have COVID-19, or (3) meet the criteria for isolation under applicable government orders.

Section 19. Contractor Data Reporting. If Contractor is a for-profit, privately owned business, Contractor shall, within 30 days of the effective date of the Contract and on an annual basis thereafter (i.e., within 30 days of the annual anniversary of the effective date of the Contract), report the following information to City via the Regional Alliance Marketplace for Procurement (“RAMP”) or via another method specified by City: Contractor’s and any Subcontractor’s annual revenue, number of employees, location, industry, race/ethnicity and gender of majority owner (“Contractor/Subcontractor Information”). Contractor shall further request, on an annual basis, that any Subcontractor input or update its business profile, including the Contractor/Subcontractor Information, on RAMP or via another method prescribed by City.

*Note: ZOLL is a wholly owned subsidiary of Asahi Kasei, a publicly traded company located in Japan.

Section 20. Limitation of City’s Obligation to Make Payment to Contractor. Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for City to comply with its governing legal requirements, City shall have no obligation to make any payments to Contractor unless City shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. Contractor agrees that any services provided by Contractor, purchases made by Contractor or expenses incurred by Contractor in excess of the appropriation(s) shall be free and without charge to City and City shall have no obligation to pay for the services, purchases or expenses. Contractor shall have no obligation to provide any services, provide any equipment or incur any expenses in excess of the appropriated amount(s) until City appropriates additional funds for this Contract.

ATTACHMENT B-1

ZOLL Limited Product Warranty

ZOLL Medical Corporation (ZOLL) warrants to the customer that the product(s) purchased from ZOLL or its authorized dealers shall be free from defects in material and workmanship under normal use and maintenance conditions for the period of time set forth in the attached schedule. This warranty begins on the date of shipment from ZOLL's facility. During the applicable warranty period, ZOLL shall, at no cost to customer, either repair or replace (at ZOLL's sole discretion) any part of the product found to be defective in material or workmanship. If ZOLL's inspection detects no defects in material or workmanship, ZOLL's regular service charges shall apply. This warranty is not transferrable.

The foregoing warranty shall not apply if the defect, failure or other nonconformance of the product is caused by or attributable to: (i) any maintenance, repair or modification of the product by any party other than ZOLL or its authorized representatives, unless such modification is made with the prior written approval of ZOLL; (ii) use of the product with any associated or complementary equipment, accessory or software not supplied by ZOLL; (iii) any accident, negligence, misuse or accidental damage of the product; or (iv) use of the product in contradiction with applicable operating instructions or outside of the product's intended purpose, environment or setting. The foregoing warranty shall not apply to any equipment on which any original serial numbers have been removed or destroyed. The following are not covered under the warranty: (1) items subject to normal wear and burnout during use, including but not limited to, lamps, fuses, batteries, patient cables and accessories, and (2) software included as part of the equipment (including software embodied in read-only memory, known as "firmware").

ZOLL, 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 ZOLL at the customer's facility or an authorized ZOLL 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 ZOLL, freight prepaid.

Products repaired or replaced under this warranty retain the remainder of the warranty period of the repaired or replaced product.

Products cannot be returned without approval from ZOLL's Customer Service Department. An authorization number will be provided which must be printed on the returned merchandise. ZOLL reserves the right to charge shipping and restocking fees on returned items. Special, modified, or discontinued items are not subject to return.

Repair or replacement constitutes the exclusive remedy of the customer and the exclusive liability of ZOLL for any breach of any warranty related to the equipment, accessories or electrodes supplied hereunder.

THE WARRANTY SET FORTH HEREIN IS EXCLUSIVE AND ZOLL EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ZOLL 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.

GLOBAL PRODUCT LIMITED FACTORY WARRANTIES

| PRODUCT | EMS | | HOSPITAL | | MILITARY | | PUBLIC SAFETY / ALTERNATE CARE | |
|-----------------------------|-------------|---------------|-------------|---------------|-------------|---------------|--------------------------------|---------------|
| | US & Canada | International | US & Canada | International | US & Canada | International | US & Canada | International |
| MONITORS/ DEFIBRILLATORS | | | | | | | | |
| X Series® | 1 year | 1 year | 5 years | 1 year | 5 years | 5 years | 5 years | N/A |
| R Series® | 1 year | 3 years | 5 years | 3 years | 5 years | 5 years | 5 years | N/A |
| Propaq® | 1 year | 1 year | 5 years | 1 year | 5 years | 5 years | N/A | N/A |
| VENTILATORS | | | | | | | | |
| Z Vent® | 1 year | 1 year | 1 year | 1 year | N/A | N/A | 1 year | N/A |
| EMV+® | 1 year | 1 year | 1 year | 1 year | 5 years | 5 years | 1 year | N/A |
| 330 Multifunction Aspirator | 1 year | 1 year | N/A | N/A | 5 years | 5 years | N/A | N/A |
| MECHANICAL CPR | | | | | | | | |
| AutoPulse® | 1 year | 1 year | 1 year | 1 year | 1 year | 1 year | 1 year | N/A |
| ResQPUMP® | 1 year | 1 year | N/A | N/A | 1 year | 1 year | N/A | N/A |

| PRODUCT | EMS | | HOSPITAL | | MILITARY | | PUBLIC SAFETY / ALTERNATE CARE | |
|----------------------|-------------|---------------|-------------|---------------|-------------|---------------|--------------------------------|---------------|
| | US & Canada | International | US & Canada | International | US & Canada | International | US & Canada | International |
| AEDS | | | | | | | | |
| AED Plus® | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years |
| AED Pro® | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years |
| ZOLL AED 3® | 6 years | 6 years | 6 years | 6 years | 6 years | 6 years | 6 years | 6 years |
| Powerheart® G3 Pro | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years |
| Powerheart® G3 Plus | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years | 5 years |
| Powerheart® G3 Elite | N/A | 5 years | N/A | 5 years | N/A | 5 years | N/A | 5 years |
| Powerheart® G5 | 6 years | 6 years | 6 years | 6 years | 6 years | 6 years | 6 years | 6 years |
| Mobilize™ | N/A | N/A | N/A | N/A | N/A | N/A | 1 year | N/A |

ADD 2 YEARS ADDITIONAL WARRANTY FROM SHIP DATE WITH AED REGISTRATION
 Registering ZOLL AED Plus, Powerheart, and ZOLL AED 3 devices provides two additional years of (not applicable in Japan) warranty.

| PRODUCT | EMS | | HOSPITAL | | MILITARY | | PUBLIC SAFETY / ALTERNATE CARE | |
|-------------------------------|-------------|---------------|-------------|---------------|-------------|---------------|--------------------------------|---------------|
| | US & Canada | International | US & Canada | International | US & Canada | International | US & Canada | International |
| TEMPERATURE MANAGEMENT | | | | | | | | |
| Thermogard XP® | 1 year | 1 year | 1 year | 1 year | 1 year | 1 year | N/A | N/A |
| SUPERSATURATED OXYGEN THERAPY | | | | | | | | |
| TherOx® | 1 year | 1 year | 1 year | 1 year | 1 year | 1 year | N/A | N/A |

GLOBAL PRODUCT LIMITED FACTORY WARRANTIES

BATTERIES

| MONITORS/ DEFIBRILLATORS | Part Number | Description | Warranty |
|--|----------------|--|----------|
| X Series® | 8000-0580-01 | Battery, Lithium-Ion, SurePower™ II | 1 year |
| R Series® | 8019-0535-01 | SurePower™ Rechargeable Lithium-Ion Battery Pack | 1 year |
| Propaq® | 8000-0580-01 | Battery, Lithium-Ion, SurePower™ II | 1 year |
| VENTILATORS | | | |
| Z Vent® | 703-0731-01-01 | Battery Pack, 6.6 AH, 14.8V, Lithium-Ion, 12- Cell Conditioned | 90 days |
| EMV+® | 703-0731-01-01 | Battery Pack, 6.6 AH, 14.8V, Lithium-Ion, 12- Cell Conditioned | 90 days |
| MECHANICAL CPR | | | |
| AutoPulse® | 8700-0752-01 | Lithium-Ion Battery | 1 year |
| AEDs | | | |
| AED Plus® | 8000-0807-01 | Type 123 Lithium Batteries | N/A |
| AED Pro® | 8000-0860-01 | Non-Rechargeable Lithium Battery Pack | 90 days |
| | 8019-0535-01 | SurePower™ Rechargeable Lithium-Ion Battery Pack | 1 year |
| ZOLL AED 3® | 8000-000696 | Lithium Manganese Dioxide Battery Pack | 90 days |
| Powerheart® G3 Pro | 9145-301 | Intellisense® Lithium Battery | 90 days* |
| Powerheart® G3 Plus | 9146-302 | Intellisense® Lithium Battery | 90 days* |
| Powerheart® G3 Elite | 9146-702 | Intellisense® Lithium Battery | 90 days* |
| Powerheart® G5 | XBTAED001A | Intellisense® Lithium Battery | 90 days* |
| * Intellisense® Lithium Battery Replacement Program (Four years from date of installation. Conditions Apply - See Policy For Details) | | | |

| GLOBAL PRODUCT LIMITED FACTORY WARRANTIES | | |
|---|---|----------|
| CHARGERS | | |
| Part Number | Description | Warranty |
| 8200-00010-01 | SurePower™ Single Bay Charger | 1 year |
| 8050-0030-01 | SurePower™ Charger Station | 1 year |
| 8300-0500-01 | SurePower™ Charger Station w/Charger Adaptors | 1 year |
| 8700-0753-01 | AutoPulse® Battery Charger, U.S., Multi-Chemistry | 1 year |
| 8911-000290-01 | Mobilize™ Refill, Item PC, Tablet Charger | 90 days |

| GLOBAL PRODUCT LIMITED FACTORY WARRANTIES | | | |
|---|------------------------|--|--|
| ACCESSORIES | | | |
| Product | Part Number | Description | Warranty |
| X Series® R Series® Propaq® | | SPO2 Cables and Sensors | 9 months |
| X Series® | 8400-0341 | Masimo rainbow® EMS RC-4 Patient Cable | 2 years |
| R Series® | 8000-0312 8000-0367 | Mainstream - CAPNO 5 CO2 Sensor and Cable Sidestream - CAPNO 5 LoFlo CO2 Module | limited lifetime warranty* *Original purchaser only |
| Thermogard XP® Catheters Start Up kits Guidewires | | 6 months | |
| TherOx® SSO ₂ Catheters and Cartridges | | Warranty is valid through the shelf life date stated on the packaging. | |
| Electrodes | | 90 days | |
| Other Cables | | 90 days | |

Attachment B-2**EXTENDED WARRANTY****(Worry Free Warranty)****WORRY-FREE SERVICE PLAN**

The following repair services are included under the Worry-Free Service Plan (“Worry-Free”). Should Equipment be deemed unrepairable, based on Lessor’s generally accepted technical support practices, replacement of such Equipment shall be the responsibility of Lessee.

1. Field Preventive Maintenance at Lessee’s facility at least annually, including:
 - Provide documentation for regulatory agencies
 - Manage and track Lessee’s Preventive Maintenance (“PM”) schedule
 - Test all device parameters
 - Identify and/or troubleshoot potential issues and make recommendations
 - Troubleshoot device(s) and/or accessories under contract
 - Inspect battery chargers and review battery management as required
2. Telephone Support 24/7
3. General software updates
4. Free loaner equipment as determined by Lessor
5. Technical support for Equipment as described on the ZOLL website (<https://www.zoll.com/contact/technical-support>)
6. Waiver of shipping and handling fees
7. Waiver of Minimum Service Fee
8. Repair or replacement of parts within the charger that are subject to normal wear and burnout during normal use, including but not limited to, lamps, fuses, batteries, patient cables and accessories.
9. Repair or replacement, at Lessor’s sole option, at no charge to the Lessee, of the charger if it is affecting the integrity of the device.
10. SurePower chargers (parts and labor covered for normal wear and tear as determined by Lessor)
11. ECG 12-lead cable replacement upon failure, excluding physical damage, with one replacement per unit per year.
12. On-site device deployment when repaired unit is returned
13. Lithium-ion SurePower II Battery replacement (upon end of life), subject to the following:
 - Batteries must be maintained per Lessor’s recommended maintenance program
 - Batteries are replaced upon failure, one for one, throughout the term of the Schedule, should the SurePower battery or SurePower Charger display a fault.
 - Batteries must be evaluated, and the failure confirmed by Lessor Technical Support and/or an on-site field service technician.
 - Up to three batteries per device will be covered for batteries acquired from Lessor in the last 24 months. (When service plan purchased post-sale.)
 - For batteries acquired from Lessor over twenty-four (24) months prior, one battery per device will be covered.
14. Accidental damage coverage. Includes one device outer housing replacement per year per device. Catastrophic damage beyond repair will not be covered. Lessor’s regular service charges shall apply if device is in need of a second outer housing replacement within twelve (12) months of previous outer housing replacement, providing device is still under this Worry-Free plan.

ON-SITE SUPPORT OPTION

15. On-site Support, including evaluation and packing of device for return to Lessor's service depot
 - On-site Support – 48–72-hour response. Includes authorized on-site device repairs for all capital equipment included in Exhibit A, evaluation, packing of device for return to Lessor's service depot.
 - In the event of a reported device malfunction, the device should be made available to the Lessor's Field Service Engineer ("FSE") during the scheduled visit at one of the two centrally located stations.
 - A primary and back-up contact must be provided to the FSE for all communication.
 - Routine service inspections will be conducted on Lessee's site during normal working hours (8.30am – 5.30pm EST, Monday – Friday).
 - Outside of normal business hours, arrangements are available by request only. Lessor reserves the right to charge additional fees for such services, to be agreed between Lessor and Lessee.
16. The postponement of a routine service inspection shall not diminish Lessee's responsibility for the continued proper use and upkeep of the equipment, in accordance with the applicable user manuals.
17. ECG 12-lead cable replacement upon failure, excluding physical damage, one replacement per unit per year

SCHEDULE 1

EQUIPMENT

Lease Number: _____

| Part Number | Description | Qty |
|----------------|---|-----|
| 601-2231112-01 | <p>X Series Advanced Monitor/Defibrillator - 12-Lead ECG, Pacing, SpO2, SpCO, EtCO2, BVM, NIBP, CPR Expansion Pack, Remote View</p> <p>Includes: TBI Dashboard, 4 trace tri-mode display monitor/ defibrillator/ printer, advisory algorithm, advanced communications package (Wi-Fi, Bluetooth, USB cellular modem capable) USB data transfer capable and large 6.5in (16.5cm) diagonal screen. Accessories Included: MFC cable and CPR connector, A/C power cord, One (1) roll printer paper, 6.6 Ah Li-ion battery, Operators Manual, Quick Reference Guide, and One (1)-year EMS warranty.</p> <p>Parameter Details: Real CPR Help - Dashboard display of CPR Depth and Rate for Adult and Pediatric patients, Visual and audio prompts to coach CPR depth (Adult patient only), Release bar to ensure adequate release off the chest, Metronome to coach rate for Adult and Pediatric patients. See-Thru® CPR artifact filtering • Interpretative 12-Lead ECG (Full 12 ECG lead view with both dynamic and static 12-lead mode display. 12-Lead OneStep ECG cable - includes 4-Lead limb lead cable and removable precordial 6-Lead set) • ZOLL Noninvasive Pacing Technology • Real BVM Help: Dashboard provides real-time ventilation feedback on both volume and rate for intubated and non-intubated patients. AccuVent Cable included. (Accuvent disposable sensors sold separately) • Welch Allyn NIBP with Smartcuff. 10 foot Dual Lumen hose and SureBP Reusable Adult Medium Cuff • Masimo SpO2 & SpCO with Signal Extraction Technology (SET), Rainbow SET® • EtCO2 Oridion Microstream Technology. Microstream tubing set sold separately •</p> | 253 |
| 8000-001128 | Accuvent Flow Tube (Box of 10) | 253 |
| 8000-0895 | Cuff Kit with Welch Allyn Small Adult, Large Adult and Thigh Cuffs | 253 |
| 8000-0341 | rainbow® SpO2/SpCO/SpMet Reusable Patient Cable: Connects to Single Use Sensors (4 ft) | 253 |
| 8000-000371 | rainbow® DCI® SpO2/SpCO/SpMet Adult Reusable Sensor with connector (3 ft) | 253 |

| | | |
|----------------|--|-----|
| 8000-0580-01 | Six Hour Rechargeable, SurePower II Smart Battery | 506 |
| 8300-0500-01 | SurePower 4 Bay Charging System including 4 Battery Charging adapters | 112 |
| 8000-000876-01 | Paper, Thermal, w/Grid, BPA Free (Box of 6) | 253 |
| 8000-000393-01 | X Series Carry Case, Premium | 253 |
| 8900-0400 | CPR Electrodes - CPR Stat Padz - Case Case of CPR Stat Padz | 253 |
| 8900-0810-01 | Pedi-padz II Pediatric Multi-Function Electrodes Designed for use with the AED Plus. The AED recognizes when pedi?padz II are connected and automatically proceeds with a pediatric ECG and adjusts energy to pediatric levels. Twenty four (24) month shelf-life. One pair. | 750 |
| 8200-000100-01 | Single Bay Charger for the SurePower and SurePower II batteries | 115 |



ZOLL Medical Corporation

269 Mill Road
Chelmsford, MA 01824-4105
Federal ID# 04-2711626

Phone: (800) 348-9011
Fax: (978) 421-0015
Email: esales@zoll.com

City of Los Angeles
Quote No: Q-68480 Version: 1

SCHEDULE 2

LEASE PAYMENT SCHEDULE

Lease Commencement Date: July 1, 2024

First Lease Payment Due: September 1, 2024

Lease Term: See section 1

Lease Scheduled Termination Date: June 30, 2030

Aggregate Lease Payments: \$ 9,435,094.54 (see Schedule below)

Payment Terms: See schedule.

Balance Payment as of Commencement Date (i.e., amount financed): \$ 9,435,094.54

SCHEDULE

| <u>Lease Payment Number</u> | <u>Lease Payment Date</u> | <u>Lease Payment Amount</u> | <u>Balance Payment¹</u> |
|-----------------------------|---------------------------|-----------------------------|------------------------------------|
| 1 | 9/1/2024 | \$1,347,870.65 | \$8,087,223.90 |
| 2 | 9/1/2025 | \$1,347,870.65 | \$6,739,353.25 |
| 3 | 9/1/2026 | \$1,347,870.65 | \$5,391,482.60 |
| 4 | 9/1/2027 | \$1,347,870.65 | \$4,043,611.95 |
| 5 | 9/1/2028 | \$1,347,870.65 | \$2,695,741.30 |
| 6 | 9/1/2029 | \$1,347,870.65 | <u>\$1,347,870.65</u> |
| <u>7</u> | <u>9/1/2030</u> | <u>\$1,347,870.65</u> | <u>0.00</u> |
| Total | | \$9,435,094.55 | |

Please see the attached quote on the following page, which was utilized among other things to determine the lease payment amounts.

¹ Represents the Balance Payment following the payment of the Lease Payment Amount on the indicated Lease Payment Date.



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Quote No: Q-68480 Version: 2

City of Los Angeles
 200 N Main St Ste 1800
 Los Angeles, CA 90012

Quote No: Q-68480
 Version: 2

ZOLL Customer No: 5614

Doug Zabilski
 213-473-7717
 douglas.zabilski@lacity.org

FOB: Shipping Point
 Freight: Free Freight

Prepared by: Duane Anderson
 EMS Territory Manager
 duane.anderson@zoll.com
 +1 6266640471

| Item | Contract Reference | Part Number | Description | Qty | List Price | Adj. Price | Total Price |
|------|--------------------|----------------|--|-----|-------------|-------------|----------------|
| 1 | 1326270 | 601-2231112-01 | <p>X Series Advanced Monitor/Defibrillator - 12-Lead ECG, Pacing, SpO2, SpCO, EtCO2, BVM, NIBP, CPR Expansion Pack, Remote View</p> <p>Includes: TBI Dashboard, 4 trace tri-mode display monitor/ defibrillator/ printer, advisory algorithm, advanced communications package (Wi-Fi, Bluetooth, USB cellular modem capable) USB data transfer capable and large 6.5in (16.5cm) diagonal screen. Accessories Included: MFC cable and CPR connector, A/C power cord, One (1) roll printer paper, 6.6 Ah Li-ion battery, Operators Manual, Quick Reference Guide, and One (1)-year EMS warranty.</p> <p>Parameter Details: Real CPR Help - Dashboard display of CPR Depth and Rate for Adult and Pediatric patients, Visual and audio prompts to coach CPR depth (Adult patient only), Release bar to ensure adequate release off the chest, Metronome to coach rate for Adult and Pediatric patients. See-Thru ® CPR artifact filtering • Interpretative 12-Lead ECG (Full 12 ECG lead view with both dynamic and static 12-lead mode display. 12-Lead OneStep ECG cable - includes 4-Lead limb lead cable and removable precordial 6-Lead set) • ZOLL Noninvasive Pacing Technology • Real BVM Help: Dashboard provides real-time ventilation feedback on both volume and rate for intubated and non-intubated patients. AccuVent Cable included. (Accuvent disposable sensors sold separately) • Welch Allyn NIBP with Smartcuff. 10 foot Dual Lumen hose and SureBP Reusable Adult Medium Cuff • Masimo SpO2 & SpCO with Signal Extraction Technology (SET), Rainbow SET® • EtCO2 Oridion Microstream Technology. Microstream tubing set sold separately •</p> | 253 | \$52,644.00 | \$31,514.00 | \$7,973,042.00 |



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City of Los Angeles
 Quote No: Q-68480 Version: 2

| Item | Contract Reference | Part Number | Description | Qty | List Price | Adj. Price | Total Price |
|------|--------------------|----------------|--|-----|-------------|---------------|------------------|
| 2 | 1326270 | 8000-001128 | Accuvent Flow Tube (Box of 10) | 253 | \$762.00 | \$437.50 | \$110,687.50 |
| 3 | 1145100 | 8000-0895 | Cuff Kit with Welch Allyn Small Adult, Large Adult and Thigh Cuffs | 253 | \$186.00 | \$110.25 | \$27,893.25 |
| 4 | 1145100 | 8000-0580-01 | Six Hour Rechargeable, SurePower II Smart Battery | 506 | \$957.00 | \$346.50 | \$175,329.00 |
| 5 | 1326270 | 8300-0500-01 | SurePower 4 Bay Charging System including 4 Battery Charging adapters | 112 | \$3,304.00 | \$1,808.00 | \$202,496.00 |
| 6 | 1326270 | 8000-000876-01 | Paper, Thermal, w/Grid, BPA Free (Box of 6) | 253 | \$30.00 | \$16.80 | \$4,250.40 |
| 7 | 1326270 | 8000-000393-01 | X Series Carry Case, Premium | 253 | \$424.00 | \$350.00 | \$88,550.00 |
| 8 | | 8400-110045 | CaseReview Premium Subscription, X Series, 5 Year- Hosted Provides detailed post-case information, including CPR quality on compression depth, rate, pause time and release velocity, as well as ECG, shocks, EtCO2 and SpO2 vital signs. | 253 | \$2,430.00 | \$2,054.85 | \$519,877.05 |
| 9 | | 8400-110041 | CaseReview Premium Subscription, X Series, 1 Year- Hosted Provides detailed post-case information, including CPR quality on compression depth, rate, pause time and release velocity, as well as ECG, shocks, EtCO2 and SpO2 vital signs. | 506 | \$604.00 | \$452.00 | \$228,712.00 |
| 10 | | 7800-0414-61 | LP 15 12-Lead Version 4 Trade In Allowance See Trade Unit Considerations. | 228 | | (\$11,500.00) | (\$2,622,000.00) |
| 11 | | 7800-0414-61 | LP 15 12-Lead Version 4 Trade In Allowance See Trade Unit Considerations. | 25 | | (\$15,000.00) | (\$375,000.00) |
| 12 | | 8778-890066-WF | Worry-Free Service Plan, 6 Years, On-Site, Point Of Sale | 253 | \$11,136.00 | \$7,592.00 | \$1,920,776.00 |
| 13 | | 8900-0400 | CPR Electrodes - CPR Stat Padz - Case Case of CPR Stat Padz | 253 | \$716.00 | \$394.00 | \$99,682.00 |
| 14 | | 8900-0810-01 | Pedi-padz II Pediatric Multi-Function Electrodes Designed for use with the AED Plus. The AED recognizes when pedi?padz II are connected and automatically proceeds with a pediatric ECG and adjusts energy to pediatric levels. Twenty four (24) month shelf-life. One pair. | 750 | \$117.00 | \$30.50 | \$22,875.00 |
| 15 | | 8200-000100-01 | Single Bay Charger for the SurePower and SurePower II batteries | 115 | \$1,209.00 | \$694.57 | \$79,875.55 |



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Quote No: Q-68480 Version: 2

| Item | Contract Reference | Part Number | Description | Qty | List Price | Adj. Price | Total Price |
|------|--------------------|-------------|--|-----|------------|------------|-------------|
| 16 | | 8000-0341 | rainbow® SpO2/SpCO/SpMet Reusable Patient Cable: Connects to Single Use Sensors (4 ft) | 253 | \$313.00 | \$171.50 | \$43,389.50 |
| 17 | | 8000-000371 | rainbow® DCI® SpO2/SpCO/SpMet Adult Reusable Sensor with connector (3 ft) | 253 | \$1,076.00 | \$346.50 | \$87,664.50 |

Subtotal: \$8,588,099.75

Estimated Tax: \$846,994.79

Total: \$9,435,094.54

| Contract Reference | Description |
|--------------------|--|
| 1145100 | Reflects CMAS Contract No. 7-21-11-1003 pricing. Notwithstanding anything to the contrary herein, the terms and conditions set forth in the California Multiple Award Schedule (CMAS) Contract No 4-21-11-1003 shall apply to the customer's purchase of the products set forth on this quote. |
| 1326270 | Notwithstanding anything to the contrary herein, the terms and conditions set forth in BID CITY OF LOS ANGELES ARC 40 230000000044 shall apply to the customer's purchase of the products set forth on this quote. |

Trade Unit Considerations

Trade-In values valid through June 30, 2024 if all equipment purchased is in good operational and cosmetic condition and includes all standard accessories. Trade-In values are dependent on the quantity and configuration of the ZOLL devices listed on this quotation. Customer assumes responsibility for shipping trade-in equipment at the quantities listed on the trade line items in this quotation to ZOLL's Chelmsford Headquarters within 60 days of receipt of new equipment. Customer agrees to pay cash value for trade-in equipment not shipped to ZOLL on a timely basis.

ALS/BLS Software Solutions Master Application Service Provider Agreement

1. Orders. ZOLL Data Systems, Inc. (“ZOLL”) shall provide the ASP Services, Implementation Services and Support Services identified in any order or contract (“Order”) between ZOLL and another party (“Customer”) incorporating this Software Solutions Master Application Service Provider Agreement (together with each such Order, the “Agreement”). ASP Services are further defined in [Section 3](#). Implementation Services are further defined in [Section 4](#). Support Services are further defined in [Section 5](#). The ASP Services, Implementation Services, and Support Services are each, and are collectively, “Services”. The terms and conditions set forth in this Agreement shall only apply to ALS/BLS Software Solutions products that are used with ZOLL Medical Corporation defibrillators. For the sake of clarity, these terms and conditions do not apply to any ZOLL patient care reporting software.

2. Payment. Customer shall pay fees to ZOLL for Services as provided in any Order and this Agreement (“Fees”). Unless otherwise provided in the applicable Order, Customer will pay ZOLL all Fees due under this Agreement within thirty (30) days after the date of ZOLL’s invoice. The first invoice will be sent after the Deployment Effective Date. “Deployment Date” means the date upon which the deployment of the ASP Services is complete and it is able to function as described in the warranty set forth in this Agreement, regardless of whether Customer actually uses such ASP Services. “Deployment Effective Date” means the earlier of (a) the Deployment Date or (b) 90 days from the date after ZOLL’s shipment of defibrillators that are included on the Order (the “Latest Deployment Date”), unless a delay in the Deployment Date has been caused by ZOLL, in which case the Deployment Effective Date shall be postponed by a number of days equal to the delay that ZOLL has caused. Fees are non-refundable other than as expressly set forth herein. Amounts not paid when due will accrue interest at the rate of 1.5% per month, or the maximum allowed by law, whichever is less. Customer shall pay all expenses (including reasonable attorney’s fees) incurred by ZOLL in connection with collection of late payments. Any amounts not paid by Customer when due may result in the forfeiture by Customer, in ZOLL’s sole discretion, of any discounts previously offered by ZOLL. In addition, ZOLL may cease providing any or all of the Services if any invoice is not paid in a timely manner, in which event ZOLL will not be liable to Customer for any damages caused by such cessation. Payment terms are subject to ZOLL’s credit approval. Fees exclude all applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges (“Taxes”).

3. ASP Services. “ASP Services” means the hosting and maintenance of ZOLL software, as modified, updated, and enhanced (the “Underlying Software”), for remote electronic access and use by Registered Users on the website with a unique URL to be provided by ZOLL to Customer (the “ZOLL Site”) in substantial conformity with the instructions for use, documentation and users manuals from time-to-time provided by ZOLL (the “Documentation”), as listed in any Order, on and after the Implementation Date (defined below) for such services and before that Order has expired or been terminated in accordance with the Agreement. Customer acknowledges that the ASP Services are only compatible with ZOLL equipment that has been enabled and configured for use with the ASP Services in accordance with the Documentation and only with the browser and other technical environment that supports the use of the ASP Services in accordance with the Documentation.

3.1. Provision of ASP Services. Subject to the terms and conditions of the Agreement, ZOLL will use commercially reasonable efforts to make the ASP Services available to Customer and Customer’s employees, directors, principals, partners, consultants and agents authorized to use ASP Services on behalf of Customer and registered through the ZOLL Site for such use (“Registered Users”) through the ZOLL Site over normal network connections in accordance with the Documentation, excepting downtime due to necessary maintenance and troubleshooting. Customer, not ZOLL, shall be responsible for controlling Registered Users and protection of confidentiality of its login identifications and passwords. Customer acknowledges that (i) it is responsible for maintaining its interface and connectivity to the ASP Services and (ii) any facilities used for provision of the ASP Services may be owned or operated by ZOLL, or a ZOLL affiliate or a third party, or any combination of such facilities, as determined by ZOLL. Customer acknowledges that ZOLL may modify and upgrade the ASP Services, on an ongoing basis, to improve or adapt the ASP Services. Without limiting the foregoing, ZOLL will have the right, in its sole discretion, to develop, provide and market new, upgraded or modified ASP Services to Customer, including adding, removing or modifying the functionality or features of the ASP Services accessible by Registered Users. ZOLL will use commercially reasonable efforts to notify Customer within a reasonable period of time prior to the implementation of such changes so that Customer is reasonably informed of alterations to the ASP Services that will affect the ASP Services and Customer’s use of them. Notwithstanding anything to the contrary in the Agreement, ZOLL may cease providing any ASP Services upon at least six months advance notice to Customer.

3.2. Access Software. Subject to the terms and conditions of this Agreement, ZOLL grants to Customer, during the Term, a non-exclusive, non-transferable, non-sublicensable license for Registered Users to access and use the ASP Services using the ZOLL software that Registered Users may download at the ZOLL Site to access the ASP Services, as modified, updated and enhanced (the “Access Software”), each as made available to Customer through the ZOLL Site, solely for Customer’s internal business purposes and solely in accordance with the Documentation. Access Software and Underlying Software are, collectively, the “Software”.

3.3. Restrictions. Customer shall not, and shall not permit any third party to: (a) use, reproduce, modify, adapt, alter, translate or create derivative works from the ASP Services, Software or Documentation; (b) merge the ASP Services, Software or Documentation with other software or services; (c) sublicense, distribute, sell, use for service bureau use, lease, rent, loan, or otherwise transfer or allow access to the ASP Services, Software or the Documentation to any third party; (d) reverse engineer, decompile, disassemble, or otherwise attempt to alter or derive the Source Code for the ASP Services or Software; (e) remove, alter, cover or obfuscate any copyright notices or other proprietary rights notices included in the ASP Services, Software or Documentation; or (f) otherwise use or copy the ASP Services, Software or Documentation in any manner not expressly permitted by the Agreement. Customer agrees not to use the ASP Services in excess of its authorized login protocols. Customer shall immediately notify ZOLL of any unauthorized use of Customer’s login ID, password or account or other breach of security. If Customer becomes aware of any actual or threatened activity contemplated by the restrictions on use set forth in this section, Customer will, and will cause Registered Users to, immediately take all reasonable measures necessary to stop the activity or threatened activity and to mitigate the effect of such activity including: (i) discontinuing and limiting any improper access to any data; (ii) preventing any use and disclosure of improperly obtained data; (iii) destroying any copies of improperly obtained data that may have been made on their systems; (iv) otherwise attempting to mitigate any harm from such events; and (v) immediately notifying ZOLL of any such event so that ZOLL may also attempt to remedy the problem and prevent its future occurrence.

3.4. Service Level Agreement.

3.4.1. Downtime. “Downtime”, expressed in minutes, is any time the ASP Services are not accessible to Registered Users.

3.4.2. Planned Downtime. “Planned Downtime” is Downtime during which ASP Services may not be available in order for ZOLL to continue to provide commercially reasonable services, features and performance to its customers. Planned Downtime includes, but is not limited to: (a) Standard Maintenance; and (b) Emergency Maintenance. “Standard Maintenance” is performed when upgrades or system updates are desirable. “Emergency Maintenance” is performed when a critical system update must be applied quickly to avoid significant Downtime. Standard Maintenance may be performed weekly on Monday and Wednesday between the hours of 7 p.m. to 11 p.m. in Broomfield, Colorado. ZOLL will provide Customer with notice at least 24 hours in advance of Standard Maintenance.

3.4.3. Excused Downtime. “Excused Downtime” time is Downtime caused by: (a) services, software or hardware provided by anyone or any entity other than ZOLL, (b) software, services or systems operating outside of a ZOLL Site, including any software or systems operating on a Customer’s premises (including ZOLL software); (c) a Force Majeure Event or (d) Customer’s failure to comply with its obligations under the Agreement or use of the ASP Services in ways that were not intended.

3.4.4. Unplanned Downtime. Unplanned Downtime in a calendar month is expressed as a percentage calculated as follows:

$$\frac{(\text{Downtime} - (\text{Planned Downtime} + \text{Excused Downtime}))}{\text{Total number of minutes in the calendar month}} \times 100 = x \%, \text{ where “x” is Unplanned Downtime.}$$

3.4.5. Unplanned Downtime Goal. ZOLL shall provide the ASP Services such that there is less than 1% of Unplanned Downtime in a calendar month (the “Unplanned Downtime Goal”). The ASP Services covered by the Unplanned Downtime Goal are those for which Customer has paid all Fees when due and is using in the course of carrying out its normal business operations in accordance with the Agreement.

3.4.6. Revocation of Administrative Rights. Notwithstanding anything to the contrary in the Agreement, ZOLL may revoke administrative rights, including database access rights, if the use of any such rights results in Downtime.

3.4.7. Customer Content; Security; Backup.

3.4.7.1. Customer Content. As between ZOLL and Customer, and without limiting the rights of any patient, Customer will retain all right, title and interest in and to all data, information or other content provided by Customer in its use of the ASP Services (“**Customer Content**”); *provided, however*, that ZOLL may de-identify and use Customer Content for any lawful purpose consistent with all applicable law.

3.4.7.2. Security. Subject to Customer’s obligations under this Agreement, ZOLL will implement commercially reasonable security measures within the ASP Services in an attempt to prevent unlawful access to Customer Content by third parties. Such measures may include, where appropriate, use of updated firewalls, commercially available virus screening software, logon identification and passwords, encryption, intrusion detection systems, logging of incidents, periodic reporting, and prompt application of current security patches and virus definitions.

3.4.7.3. Backup of Customer Content (Not Applicable to Remote View). Although ZOLL will use commercially reasonable efforts to maintain the integrity of the Customer Content, to back up the Customer Content, and to provide full and ongoing access to the ASP Services, loss of access to the ASP Services and loss of Customer Content may occur. Customer will make provision for additional back-up storage of any critical Customer Content and shall be responsible for compliance with all records retention requirements applicable to Customer. ZOLL will not be responsible for any loss, corruption of or inaccessibility of the Customer Content due to interruption in the ASP Services or otherwise arising out of circumstances not within ZOLL’s control.

3.4.7.4. Availability of Customer Content (Not Applicable to Remote View). It is Customer’s responsibility to maintain any Customer Content that it requires for archival purposes, ongoing management of its operations and compliance with applicable records retention requirements. Unless specified otherwise in the Agreement, ZOLL will store Customer Content, other than Inactive Customer Content as defined below (the “**Active Customer Content**”), in ZOLL’s working data set until the earlier of (i) five years (calculated from the date of creation of such Customer Content, or ZOLL’s receipt of such Customer Content, whichever is later) or (ii) the expiration or termination of this Agreement or the Order under which such Active Customer Content was stored (the “**Active Retention Period**”). Upon the expiration of the Active Retention Period, ZOLL will notify Customer in writing and will provide Customer the option, which Customer shall exercise by informing ZOLL in writing, within 30 days of receiving the notice, that either (a) Customer wishes to receive Active Customer Content in a database determined by ZOLL in its sole and absolute discretion (a “**Database**”), or (b) Customer will pay ZOLL, at ZOLL’s then-current storage rates and upon ZOLL’s then-current terms and conditions, to continue to store the Active Customer Content. If Customer fails to exercise one of the foregoing options within such 30-day period, ZOLL will have the right to destroy the Active Customer Content. During the time ZOLL stores Customer Content for Customer hereunder, ZOLL may periodically identify Customer Content that has had no activity associated with it for at least 180 days (“**Inactive Customer Content**”) and will notify Customer in writing of its intent to remove the Inactive Customer Content from ZOLL’s working data set and destroy such data, unless Customer requests, in writing, within 30 days of receiving the notice from ZOLL, that either (z) Customer wishes to receive the Inactive Customer Content in a Database, or (y) Customer will pay ZOLL, at ZOLL’s then-current storage rates and upon ZOLL’s then-current terms and conditions, to continue to store such Inactive Customer Content. If Customer fails to exercise one of the foregoing options within such 30-day period, ZOLL will have the right to destroy the applicable Inactive Customer Content in its possession or under its control. Except for this [Section 3.4.7.4](#), the terms of [Section 3.4](#) (including, without limitation, the Unplanned Downtime Goal) do not apply to Customer’s access of Inactive Customer Content. Customer represents, warrants and agrees that it (A) is solely responsible for determining the retention period applicable to it with respect to Customer Content maintained by ZOLL; (B) has consulted with or has had the opportunity to consult with legal, information governance or records management professionals; and (C) is not relying upon ZOLL to assist with determining the records maintenance or retention requirements applicable to it.

3.4.8. Remedies. A “**Service Credit**” means a percentage of the monthly Fee to be credited to Customer (subject to Customer’s written request therefor and ZOLL’s verification thereof) for any ASP Service for which the Unplanned Downtime Goal is exceeded in a calendar month. For any calendar month where the aggregate total of Unplanned Downtime for any ASP Service exceeds one percent ZOLL will provide a 10% Service Credit towards Customer’s monthly Fee for such ASP Service that was affected; *provided, that* Customer (i) requests such Service Credit in writing within 30 days of the end of the calendar month in which such Unplanned Downtime occurred, (ii) includes in such request the nature of, and date and time of such Unplanned Downtime and (iii) such Unplanned Downtime is verified by ZOLL. Such Service Credit will be applied to a future month’s invoice for such ASP Services, which typically is two months later. Failure to submit a written request for Service Credit as provided in this [Section 3.4.8](#) shall constitute a waiver of such Service Credit by Customer. Further, Service Credits shall not be issued if Customer is not current on all Fees due and payable. The remedy set forth in this [Section 3.4.8](#) shall be the Customers’ sole and exclusive remedy with respect to ZOLL exceeding the Unplanned Downtime Goal.

3.4.9. Modifications. Changes to this [Section 3.4](#) may be made from time to time at ZOLL’s sole discretion. Customer will be notified of any such changes that are material.

4. Implementation Services. ZOLL shall provide ASP Services implementation, training and any related services identified in an Order (the “**Implementation Services**”). Customer shall, in a timely manner and at its own expense, cooperate and provide or make available to ZOLL access to the Customer’s premises, systems, telephone, terminals and facsimile machines and all relevant information, documentation and staff reasonably required by ZOLL to enable ZOLL to perform the Implementation Services. Customer acknowledges that any time frames or dates for completion of the Implementation Services set out in an Order are estimates only and the ability to meet them is influenced by a range of factors including, without limitation, response times and level of cooperation of Customer. Any obligations as to time are therefore on a “reasonable efforts” basis only and ZOLL shall not be liable for failure to meet time frames or completion dates unless solely due to ZOLL’s negligence.

5. Support Services. ZOLL shall provide the following Support Services for ASP Services without any additional Fees, except that ZOLL will have no obligation to provide such Support Services if any Fees for ASP Services are past due.

5.1. Support.

5.1.1. Emergency Support. ZOLL shall provide telephone support to Customer for 24 hours a day, 7 days a week, to address Errors that prevent Customer from using Supported ASP Services for a purpose for which Customer has an immediate and material need. “**Supported ASP Services**” means the ASP Services for which Customer has paid the then-current Fees. “**Supported Environment**” means a browser and other technical environment that supports the use of the ASP Services in accordance with the Documentation. “**Error**” means a reproducible defect in the Supported ASP Services when operated in accordance with the Documentation in a Supported Environment that causes the Supported ASP Services not to operate substantially in accordance with such Documentation.

5.1.2. Technical Support. ZOLL shall provide telephone support to Customer during 6 a.m. to 6 p.m. Eastern Time, Monday to Friday, excluding ZOLL holidays (“**Business Hours**”) to address all other Errors relating to any Supported ASP Services. Such telephone support will include (i) clarification of functions and features of the Supported ASP Services; (ii) clarification of the Documentation; (iii) guidance in operation of the Supported ASP Services; (iv) assistance in identifying and verifying the causes of suspected Errors in the Supported ASP Services; and (v) advice on bypassing identified Errors in the Supported ASP Services, if reasonably possible. Responses to such reporting shall be provided at a minimum within twenty-four (24) hours during Business Hours.

5.1.3. Resolution. ZOLL shall use commercially reasonable efforts to provide a modification or workaround to Supported ASP Services that resolves an Error in all material respects (“**Resolution**”).

5.1.4. Expenses. Support Services provided hereunder shall be provided from Chelmsford, Massachusetts or Broomfield, Colorado, as determined in ZOLL’s sole discretion. Should Customer request that ZOLL send personnel to Customer’s location to resolve any Error in the Supported ASP Services, ZOLL may charge Customer a fee of \$2,500 for each day ZOLL personnel is at Customer’s location.

5.1.5. Exceptions. ZOLL shall have no responsibility under this Agreement to fix any Errors arising out of or related to the following causes: (a) Customer’s modification or combination of the Access Software (in whole or in part), (b) use of the Supported ASP Services in an environment other than a Supported Environment; or (c) accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; failure or fluctuation of electric power, air conditioning or humidity control; failure of media not furnished by ZOLL; excessive heating; fire and smoke damage; operation of the Supported ASP Services with other media and hardware, software or telecommunication

interfaces; or causes other than ordinary use. Any corrections performed by ZOLL for such Errors shall be made, in ZOLL's reasonable discretion, at ZOLL's then-current time and material charges. ZOLL will provide the Support Services only for the most current release and the one immediately preceding major release of any Access Software. Notwithstanding anything to the contrary in the Agreement, (i) ZOLL may cease providing Support Services for any ASP Services upon at least six (6) months advance notice to Customer of such cessation and (ii) Support Services do not cover Third Party Products or Services (defined below).

5.2. Conditions and Limitations. Customer shall provide ZOLL with access to Customer's personnel and its equipment. This access must include the ability to remotely access the equipment on which the Supported ASP Services are operating and to obtain the same access to the equipment as those of Customer's employees having the highest privilege or clearance level. ZOLL will inform Customer of the specifications of the remote access methods available and associated software needed, and Customer will be responsible for the costs and use of said equipment. Fees for third party software and services are set by the owner of such software.

6. Warranties.

6.1. Implementation Services and Support Services. Subject to Customer's payment of the Fees, ZOLL warrants that any Implementation Services or Support Services provided to Customer will be performed with due care in a professional and workmanlike manner. ZOLL shall, as its sole obligation and Customer's sole and exclusive remedy for any breach of the warranty set forth in this [Section 6.1](#), perform again the Implementation Services or Support Services that gave rise to the breach or, in the case of Implementation Services, at ZOLL's option, refund the Fees for such Implementation Services paid by Customer for the Implementation Services which gave rise to the breach. The availability of any remedy for a breach of the warranty set forth in this [Section 6.1](#) is conditioned upon Customer notifying ZOLL in writing of such breach within thirty (30) days following performance of the defective Implementation Services or Support Services, specifying the breach in reasonable detail.

6.2. ASP Services and Access Software. Subject to Customer's payment of the Fees, ZOLL represents and warrants with respect to any ASP Services that (i) ZOLL has the right to license the Access Software and Documentation and make the ASP Services available to Customer pursuant to this Agreement and (ii) the ASP Services, when used as permitted and in accordance with the Documentation, will materially conform to the Documentation. ZOLL does not warrant that Customer's use of the ASP Services will be error free or uninterrupted. Customer will notify ZOLL in writing of any breach of this warranty with respect to any ASP Services prior to the expiration or termination of the Order for such ASP Services. If ZOLL is unable to provide a correction or work-around pursuant to the terms governing the provision of the ASP Services after using commercially reasonable efforts, ZOLL may terminate such Order upon written notice to Customer. Any such correction or work-around shall not extend the term of such Order. This [Section 6.2](#) sets forth Customer's exclusive remedy, and ZOLL's entire liability, for breach of the warranty for the ASP Services contained herein.

6.3. Warranty Disclaimers. The warranties for the Software and Services are solely and expressly as set forth in [Section 6.1](#) and [Section 6.2](#) and are expressly qualified, in their entirety, by this [Section 6.3](#). EXCEPT AS EXPRESSLY SET FORTH IN [SECTION 6.1](#) AND [SECTION 6.2](#), (A) THE SOFTWARE AND SERVICES ARE PROVIDED STRICTLY "AS IS", WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, WRITTEN OR ORAL; (B) ZOLL DOES NOT PROMISE THAT THE SOFTWARE OR SERVICES WILL BE SECURE, UNINTERRUPTED OR ERROR-FREE OR THAT THEY ARE SUITABLE FOR THE PARTICULAR NEEDS OF CUSTOMER, REGISTERED USERS OR ANY THIRD PARTY; AND (C) ZOLL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE OR USAGE IN TRADE. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN THIS AGREEMENT, AND THAT NO WARRANTIES ARE MADE BY ANY OF ZOLL'S LICENSORS OR SUPPLIERS WITH RESPECT TO THIRD PARTY PRODUCTS OR SERVICES. Customer acknowledges and agrees that, in entering into this Agreement, it has not relied upon the future availability of any new or enhanced feature or functionality, or any new or enhanced product or service, including, without limitation, updates or upgrades to ZOLL's existing products and services. ZOLL's performance obligations hereunder are limited to those expressly enumerated herein, and payment for ZOLL's performance obligations shall be due as described herein.

7. Confidentiality. Neither party will use any trade secrets, information, or other material, tangible or intangible, that relates to the business or technology of the other party and is marked or identified as confidential or is disclosed in circumstances that would lead a reasonable person to believe such information is confidential ("Confidential Information") for any purpose not expressly permitted by this Agreement, and will further disclose the Confidential Information of the party disclosing it ("Disclosing Party") only to the employees or contractors of the party receiving it ("Receiving Party") who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care. The ASP Services, Software and Documentation shall be ZOLL's Confidential Information (including without limitation any routines, subroutines, directories, tools, programs, or any other technology included in the Software), notwithstanding any failure to mark or identify it as such. The Receiving Party's obligations under this [Section 7](#) with respect to any Confidential Information of the Disclosing Party will terminate when and to the extent the Receiving Party can document that such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without access to, or use of, Confidential Information. In addition, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent that such disclosure is: (i) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (ii) required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such disclosure in writing prior to making such disclosure and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such disclosure.

8. Indemnification.

8.1. By ZOLL. ZOLL will defend, at its own expense, any action against Customer or its or any of its agents, officers, director, or employees ("Customer Parties") brought by a third party alleging that any Software or Services infringe any U.S. patents or any copyrights or misappropriate any trade secrets of a third party, and ZOLL will pay those costs and damages finally awarded against the Customer Parties in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Customer: (a) notifying ZOLL promptly in writing of such claim or action; (b) giving ZOLL sole control of the defense thereof and any related settlement negotiations; and (c) cooperating with ZOLL and, at ZOLL's request and expense, assisting in such defense. If any of the Software or Services become, or in ZOLL's opinion is likely to become, the subject of an infringement claim, ZOLL may, at its sole option and expense, either: (i) procure for Customer the right to continue using such Software or Services; (ii) modify or replace such Software or Services with substantially similar software or services so that such Software or Services becomes non-infringing; or (iii) terminate this Agreement, in whole or in part. Notwithstanding the foregoing, ZOLL will have no obligation under this [Section 8.1](#) or otherwise with respect to any infringement claim based upon: (1) use of any of the Software or Services not in accordance with this Agreement; (2) any use of any Software or Services in combination with products equipment, software, services or data not supplied by ZOLL if such infringement would have been avoided but for the combination with other products, equipment, software, services or data; (3) the failure of Customer to implement any replacements, corrections or modifications made available by ZOLL for any Software or Services including, but not limited to, any use of any release of the Software other than the most current release made commercially available by ZOLL; (4) any Customer Content; or (5) any modification of any Software or Services or use thereof by any person other than ZOLL or its authorized agents or subcontractors. This [Section 8](#) states ZOLL's entire liability and the exclusive remedy for any claims of infringement.

8.2. By Customer. Customer shall indemnify, defend and hold ZOLL and its agents, officers, directors and employees (the "ZOLL Parties") harmless from and against any and all liabilities, losses, expenses, damages and claims (collectively, "Claims") that arise out of the following except to the extent the Claims are due to the gross negligence, intentional misconduct or breach of this Agreement by the ZOLL Parties: (i) information provided to any of the ZOLL Parties by any of the Customer Parties; (ii) any of the Customer Parties' use or misuse of any of the Software or Services, including without limitation in combination with Customer's software or services or third party software or services; (iii) any modifications made by any of the Customer Parties to any of the Software or Services; (iv) infringement by any of the Customer

Parties of any third party intellectual property right; (v) Taxes (other than taxes based on ZOLL's net income) and any related penalties and interest, arising from the payment of the Fees or the delivery of the Software and Services to Customer; and (ix) any violation of laws or regulations, including without limitation applicable export and import control laws and regulations in the use of any of the Software or Services, by any of the Customer Parties.

9. Limitation of Liability. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT WILL ZOLL OR ITS AFFILIATES, SUBCONTRACTORS OR SUPPLIERS, OR ANY OF THEIR OFFICERS OR DIRECTORS, BE LIABLE, EVEN IF ADVISED OF THE POSSIBILITY, FOR: (i) SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), (ii) LOSS OF PROFIT, DATA, BUSINESS OR GOODWILL, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR (iii) ANY LOSSES, COSTS OR DAMAGES ASSOCIATED WITH CUSTOMER'S PRODUCTS OR OTHER ELEMENTS INCORPORATED OR USED THEREWITH WHICH WERE NOT PROVIDED BY ZOLL OR WITH RESPECT TO ANY MODIFICATIONS MADE TO THE SOFTWARE OR SERVICES OR MISUSE OF THE SOFTWARE OR SERVICES. ZOLL'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT PAID TO ZOLL BY CUSTOMER FOR THE SOFTWARE AND SERVICES PROVIDED UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. Customer acknowledges that these limitations reflect the allocation of risk set forth in this Agreement and that ZOLL would not enter into this Agreement without these limitations on its liability. Customer agrees that these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. The remedies in this Agreement are Customer's sole and exclusive remedies. In addition, ZOLL disclaims all liability of any kind of ZOLL's licensors and suppliers, for third party products or services, and for the actions or omissions of Customer's representatives.

10. Ownership. All right, title and interest, including but not limited to all existing or future copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights, and proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing, in and to the following are the exclusive property of ZOLL (or, as the case may be, its subsidiaries, licensors and suppliers): (i) ASP Services, Software, Documentation, and all proprietary technology used by ZOLL to perform its obligations under this Agreement; (ii) all software, tools, routines, programs, designs, technology, ideas, know-how, processes, techniques and inventions that ZOLL makes, develops, conceives or reduces to practice, whether alone or jointly with others, in the course of performing the Services; (iii) the fully compiled version of any of the foregoing software programs that can be executed by a computer and used without further compilation (the "Executable Code"); (iv) the human readable version of any of the foregoing software programs that can be compiled into Executable Code (the "Source Code"); and (v) all enhancements, modifications, improvements and derivative works of each and any of the foregoing (the "ZOLL Property"). If any derivative work is created by Customer from the Software or Services, ZOLL shall own all right, title and interest in and to such derivative work. Any rights not expressly granted to Customer hereunder are reserved by ZOLL (or its licensors and suppliers, as the case may be).

11. Term and Termination.

11.1. Term. The term of this Agreement ("Term") begins on the effective date of the first Order incorporating this Agreement and continues until it is terminated. The term of each Order begins on the effective date of such Order and continues until it expires or is terminated; *provided, however*, that such term (and any extension thereof) shall automatically renew for an equivalent period at ZOLL's then current list pricing unless either party notifies the other party in writing of an intent to not renew such term at least ninety (90) days prior to the expiration of such term. "Implementation Date" for any ASP Services means the earlier of (a) the date upon which the activation of such ASP Services is complete and such ASP Services are able to function as described in the warranty for such ASP Services, regardless of whether Customer uses such ASP Services or (b) one hundred eighty (180) days following the shipment of the monitor/defibrillators in connection with which such ASP Services are to be used, unless a delay in the activation of such ASP Services is caused by ZOLL, in which case the Implementation Date shall be postponed by a number of days equal to the delay that ZOLL has caused; or (c) if Customer does not use Implementation Services to activate such ASP Services, the date of the Order for such ASP Services.

11.2. Termination. Either party may terminate this Agreement or any Order without cause on thirty (30) days' prior written notice to the other party. Either party may terminate this Agreement or any Order if the other party materially defaults in the performance of any of its obligations hereunder and fails to cure such default within twenty (20) days after written notice from the non-defaulting party.

11.3. Effects of Termination. Upon expiration or termination of this Agreement or any Order for any reason: (a) all amounts, if any, owed to ZOLL under this Agreement or the Order that has expired or been terminated (the "Expired or Terminated Document") before such termination or expiration will become immediately due and payable; (b) Customer's right to access the ASP Services, and all licensed rights granted, in the Expired or Terminated Document will immediately terminate and cease to exist; and (c) Customer must (i) promptly discontinue all use of any ASP Services provided under the Expired or Terminated Document (ii) erase all copies of Access Software from Customer's computers and the computers of its customers and return to ZOLL or destroy all copies of such Access Software and related Documentation on tangible media in Customer's possession and (iii) return or destroy all copies of the Documentation in Customer's possession or control; (d) each party shall promptly discontinue all use of the other party's Confidential Information disclosed in connection with the Expired or Terminated Document and return to the other party or, at the other party's option, destroy, all copies of any such Confidential Information in tangible or electronic form. Additionally, if any Order for ASP Services is terminated by ZOLL for a material default or by Customer without cause, then Customer immediately shall pay ZOLL an early termination fee equal to the amount of (x) the Fees for such ASP Services otherwise payable during the initial term of such Order had such Order not been terminated during such term minus (y) the sum of such Fees paid by Customer to ZOLL prior to the date of termination. Upon ZOLL's request, Customer will provide a written certification (in a form acceptable to ZOLL), certifying as to Customer's compliance with its post-termination obligations set forth in this [Section 11.3](#).

12. General Provisions.

12.1. Compliance with Laws. Customer shall comply with all applicable laws and regulations, and obtain required authorizations, concerning its use of the ASP Services, including without limitation if applicable all export and import control laws and regulations. Customer will not use any ASP Services for any purpose in violation of any applicable laws. ZOLL may suspend performance if Customer violated applicable laws or regulations.

12.2. Audits and Inspections. Upon written request from ZOLL, Customer shall furnish ZOLL with a certificate signed by an officer of Customer stating that the ASP Services are being used strictly in accordance with the terms and conditions of this Agreement. During the Term and for a period of six months following the termination or expiration of this Agreement, upon prior written notice, ZOLL will have the right, during normal business hours, to inspect, or have an independent audit firm inspect, Customer's records relating to Customer's use of the ASP Services to ensure it is in compliance with the terms of this Agreement. The costs of the audit will be paid by ZOLL, unless the audit reveals that Customer's underpayment of Fees exceeds five percent. Customer will promptly pay to ZOLL any amounts shown by any such audit to be owing (which shall be calculated at ZOLL's standard, non-discounted rates) plus interest as provided in [Section 2](#) above.

12.3. Assignments. Customer may not assign or transfer, by operation of law or otherwise (including in connection with a sale of substantially all assets or equity, merger or other change in control transaction), any of its rights under this Agreement or any Order to any third party without ZOLL's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void. ZOLL shall have the right to assign this Agreement or any Order to any affiliate, or to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise, and to contract with any third party to provide part of any of the Software and Services, and to delegate performance of this Agreement or any Order to any of its subsidiaries.

12.4. U.S. Government End Users. If Customer is a branch or agency of the United States Government, the following provision applies. The Software and Documentation are composed of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 (SEPT 1995) and are (i) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202 1 (JUN 1995) and 227.7202 3 (JUN 1995).

12.5. Notices. All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, electronic facsimile, or certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth in the most recent Order (or to such other address or person as from time to time provided by such party in accordance with this [Section 12.5](#)), and will be effective upon receipt or three (3) business days after being deposited in the mail as required above, whichever occurs sooner.

12.6. Governing Law and Venue; Waiver of Jury Trial. This Agreement will be governed by and interpreted in accordance with the laws of the State of Colorado without reference to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement shall be brought in a federal or state court in the State of Colorado, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

12.7. Remedies. Except as otherwise expressly provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that the Software and Services are built on valuable trade secrets and proprietary information of ZOLL, that any actual or threatened breach hereof will constitute immediate, irreparable harm to ZOLL for which monetary damages would be an inadequate remedy, and that ZOLL will be entitled to injunctive relief for such breach or threatened breach. Customer further agrees to waive and hereby waives any requirement for the security or the posting of any bond in connection with such remedies. Such remedies shall not be considered to be the exclusive remedies for any such breach or threatened breach, but shall be in addition to all other remedies available at law or equity to ZOLL.

12.8. Waivers. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

12.9. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement will continue in full force and effect. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of this Agreement, and this Agreement shall continue in full force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.

12.10. Independent Contractors. The parties are entering into, and will perform, this Agreement as independent contractors. Nothing in this Agreement will be construed to make either party the agent of the other for any purpose whatsoever, to authorize either party to enter into any contract or assume any obligation on behalf of the other or to establish a partnership, franchise or joint venture between the parties.

12.11. Third Parties. Customer is solely responsible for, and none of the fees set forth herein shall be deemed to cover, any amounts owed to third parties in connection with the use of the ASP Services. If Customer engages a third-party provider ("**Third Party Provider**") to deliver products or services, including without limitation software, integrated into or receiving data from or accessing the ASP Services ("**Third Party Products or Services**"), Customer represents, warrants and agrees that: (i) ZOLL shall have no liability, and makes no representation, with respect to such Third Party Products or Services; and (ii) the Third Party Provider shall not be an agent of ZOLL. To the extent the ASP Services or Software contains software owned by a third party for which ZOLL has a license agreement with a third party, the ASP Services and Software and all rights granted hereunder are expressly limited by and subject to any license agreements ZOLL may have for such software.

12.12. Force Majeure. Neither party shall be liable for damages for any delay or failure of performance hereunder (other than payment obligation) arising out of causes beyond such party's reasonable control and without such party's fault or negligence, including, but not limited to, failure of its suppliers to timely deliver acceptable parts or services, any act or omission of Customer that interferes with or impedes ZOLL's performance hereunder, acts of God, acts of civil or military authority, fires, riots, wars, embargoes, Internet disruptions, hacker attacks, or communications failures (a "**Force Majeure Event**").

12.13. Entire Agreement; Amendment; No Third Party Beneficiaries; Survival. This Agreement, which may be accepted by performance, constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral, except agreements at zollonline.com. Any other representation or agreement, whether written or oral, including but not limited to any purchase order issued by Customer, shall be wholly inapplicable to the Software and Services and shall not be binding in any way on ZOLL. This Agreement may not be amended or changed or any provision hereof waived except in writing signed by both parties. Any different or additional terms in any purchase order, confirmation or similar form issued or otherwise provided by Customer but not signed by an authorized representative of ZOLL shall have no force or effect. There are no third party beneficiaries of this Agreement. Those provisions of this Agreement that may be reasonably interpreted as surviving termination of this Agreement or the survival of which is necessary for the interpretation or enforcement of this Agreement shall continue in full force and effect in accordance with their terms notwithstanding the termination hereof including, but not limited to, [Section 7](#) (Confidentiality), [Section 8](#) (Indemnification), [Section 9](#) (Limitation on Liability), [Section 10](#) (Ownership), [Section 11.3](#) (Effects of Termination) and [Section 12](#) (General Provisions). This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

13. HIPAA. This [Section 13](#) applies if and to the extent that ZOLL creates, receives, maintains or transmits, directly or indirectly, any protected health information of Customer ("**PHI**") in the course of providing Software or Services to Customer. Capitalized terms used but not defined in this [Section 13](#) have the meanings assigned to them elsewhere in the Agreement or, if not defined therein, as defined in the Health Insurance Portability and Accountability Act of 1996 (P.L. 104 191), 42 U.S.C. Section 1320d, et seq., and regulations promulgated thereunder, as amended from time to time (such statute and regulations collectively referred to as "**HIPAA**"). "**Covered Entity**" as used herein means Customer. "**Business Associate**" as used herein means ZOLL. The purpose of this [Section 13](#) is to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing PHI and business associates under HIPAA.

13.1. Applicability. This [Section 13](#) applies if and to the extent that Business Associate creates, receives, maintains or transmits, directly or indirectly, any PHI in the course of providing Software or Services to Covered Entity.

13.2. Compliance and Agents. Business Associate agrees that, to the extent it has access to PHI, Business Associate will fully comply with the requirements of this [Section 13](#) with respect to such PHI. Business Associate will ensure that every agent, including a subcontractor, of Business Associate to whom it provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity will comply with the same restrictions and conditions as set forth herein.

13.3. Use and Disclosure; Rights. Business Associate agrees that it shall not use or disclose PHI except as permitted under this Agreement, and in compliance with each applicable requirement of 45 CFR Section 164.504(e). Business Associate may use or disclose the PHI received or created by it, (a) to perform its obligations under this Agreement, (b) to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, or (c) to provide data aggregation functions to Covered Entity as permitted by HIPAA. Further, Business Associate may use the PHI received by it in its capacity as Business Associate, if necessary, to properly manage and administer its business or to carry out its legal responsibilities. Business Associate may disclose the PHI received by it in its capacity as Business Associate to properly manage and administer its business or to carry out its legal responsibilities if: (a) the disclosure is required by law, or (b) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it is disclosed to the person and the person notifies Business Associate of any instances of which it is aware that the confidentiality of the information has been breached. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Covered Entity.

13.4. Safeguards. Business Associate agrees to develop, document, use, and keep current appropriate procedural, physical, and electronic safeguards, as required in 45 C.F.R. §§164.308 - 164.312, sufficient to prevent any use or disclosure of electronic PHI other than as permitted or required by this Agreement.

13.5. Minimum Necessary. Business Associate will limit any use, disclosure, or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request.

13.6. Report of Improper Use or Disclosure. Business Associate shall report to Covered Entity any information of which it becomes aware concerning any use or disclosure of PHI that is not permitted by this Agreement and any security incident of which it becomes aware. Business Associate will, following the discovery of a breach of "**unsecured protected health information**," as defined in 45 C.F.R. § 164.402, notify Covered Entity of such breach within 15 days. The notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by Business Associate to have been, accessed,

acquired, or disclosed during such breach. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement.

13.7. Individual Access. In accordance with an individual’s right to access to his or her own PHI in a designated record set under 45 CFR §164.524 and the individual’s right to copy or amend such records under 45 CFR §164.524 and §164.526, Business Associate shall make available all PHI in a designated record set to Covered Entity to enable the Covered Entity to provide access to the individual to whom that information pertains or such individual’s representative.

13.8. Amendment of and Access to PHI. Business Associate shall make available for amendment PHI in a designated record set and shall incorporate any amendments to PHI in a designated record set in accordance with 45 CFR §164.526 and in accordance with any process mutually agreed to by the parties.

13.9. Accounting. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to an individual’s request for an accounting of disclosures of their PHI in accordance with 45 CFR §164.528. Business Associate agrees to make available to Covered Entity the information needed to enable Covered Entity to provide the individual with an accounting of disclosures as set forth in 45 CFR §164.528.

13.10. DHHS Access to Books, Records, and Other Information. Business Associate shall make available to the U.S. Department of Health and Human Services (“DHHS”), its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity for purposes of determining the Covered Entity’s compliance with HIPAA.

13.11. Individual Authorizations; Restrictions. Covered Entity will notify Business Associate of any limitation in its notice of privacy practices, any restriction to the use or disclosure of PHI that Covered Entity has agreed to with an individual and of any changes in or revocation of an authorization or other permission by an individual, to the extent that such limitation, restriction, change, or revocation may affect Business Associate’s use or disclosure of PHI.

13.12. HITECH Act Compliance. Covered Entity and Business Associate agree to comply with the amendments to HIPAA included in the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), including all privacy and security regulations issued under the HITECH Act that apply to Business Associate.

13.13. Breach; Termination; Mitigation. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate’s obligations under this Section 13, Covered Entity and Business Associate shall take any steps reasonably necessary to cure such breach and make Business Associate comply, and, if such steps are unsuccessful, Covered Entity may terminate this Agreement. Business Associate shall take reasonable actions available to it to mitigate any detrimental effects of such violation or failure to comply.

13.14. Return of PHI. Business Associate agrees that upon termination of this Agreement, and if feasible, Business Associate shall (a) return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate has continued to maintain in any form or manner and retain no copies of such information or, (b) if such return or destruction is not feasible, immediately notify Covered Entity of the reasons return or destruction are not feasible, and extend indefinitely the protection of this Section 13 to such PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI not feasible.

13.15. De-identified Health Information. Business Associate may de-identify any and all PHI and may create a “**Limited Data Set**” in accordance with 45 C.F.R. § 164.514(b) & (e). Covered Entity acknowledges and agrees that de-identified information is not PHI and that Business Associate may use such de-identified information for any lawful purpose. Use or disclosure of a Limited Data Set must comply with 45 CFR 164.514(e).

13.16. Survival. All representations, covenants, and agreements in or under this Section 13 shall survive the execution, delivery, and performance of this Agreement.

13.17. Further Assurances; Conflicts. Each party shall in good faith execute, acknowledge or verify, and deliver any and all documents which may from time to time be reasonably requested by the other party to carry out the purpose and intent of this Section 13. The terms and conditions of this Section 13 will override and control any expressly conflicting term or condition of the Agreement. All non-conflicting terms and conditions of the Agreement shall remain in full force and effect. Any ambiguity shall be resolved in a manner that will permit Covered Entity to comply with HIPAA. For the avoidance of doubt, a limitation on liability in the Agreement does not conflict with this Section 13.

13.18. Applicable Law. The parties acknowledge and agree that HIPAA may be amended and additional guidance or regulations implementing HIPAA may be issued after the date of the execution of this Agreement and may affect the parties’ obligations hereunder. The parties agree to take such action as is necessary to amend this Agreement from time in order as is necessary for Covered Entity to comply with HIPAA.

By signing below, the Customer acknowledges and agrees to those terms and conditions. The person signing below represents and warrants that she or he has the authority to bind the Customer to those terms and conditions.

Customer

Signature:

Name: _____

Title: _____

Company: _____

Company Address: _____

Date: _____