

**SERVICE AGREEMENT**

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

**1. SERVICE COVERAGE AND TERM**

This Contract shall be in effect for three(3) years, beginning October 1, 2018, and ending September 30, 2021, with the option to extend for two (2) additional one (1) year renewals at the same pricing and terms and conditions upon mutual written agreement of both Parties. Stryker shall provide to Customer the services (the "Services") as defined on Exhibit A of the Stryker Quote as the equipment ProCare Program (hereinafter each, a "Service Plan"). The equipment covered under said Service Plan is set forth on Exhibit B to the Quote (the "Equipment"). The Services and Service Plan are ancillary to and not a complete substitute for the requirements of Customer to adhere to the routine maintenance instructions provided by Stryker, its equipment and operations manuals, and accompanying labels and/or inserts for the Equipment. Customer covenants and agrees that its personnel will follow the instructions and contents of those manuals, labels and inserts. When Equipment or a component is replaced, the item provided in replacement will be the Customer's property (if Customer owns the Equipment) and the replaced item will be Stryker's property.

**2. EQUIPMENT SCHEDULE CHANGES**

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

**3. INSPECTION SCHEDULING**

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

**4. INSPECTION ACTIVITY**

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

**5. CUSTOMER OBLIGATIONS**

Customer shall use commercially reasonable efforts to cooperate with Stryker in connection with Stryker's performance of the Services. Customer understands and acknowledges that Stryker employees will not provide surgical or medical advice, will not practice surgery or medicine, will not come in physical contact with the patient, will not enter the "sterile field" at any time, and will not direct equipment or instruments that come in contact with the patient during surgery. Customer's personnel will refrain from requesting Stryker employees to take any actions in violation of these requirements or in violation of applicable laws, rules or regulations, Customer policies, or the patient's informed consent. A refusal by Stryker employees to engage in such activities shall not be a breach of this Agreement. Customer consents to the presence of Stryker employees in its operating rooms, where applicable, in order for Stryker to provide Services under this Agreement and represents that it will obtain all necessary consents from patients.

**6. SERVICE INVOICING**

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

**7. PRICING**

The Service prices specified herein are those in effect as of the date of acceptance of this Agreement and will continue in effect throughout the term of the Service Plan. As full compensation for Stryker's delivery of the goods and/or services, the Customer agrees to pay the amounts for the goods and/or services as set out herein and in Exhibit A. The Customer is not financially committed by this Contract to purchase any minimum amount of goods and/or services. The financial exposure to the Customer is not expected to exceed \$315,212.40, and in any event payment will be made only from budgeted funds in accordance with N.C. Gen. Stat. Chapter §159. This Contract is subject to annual appropriation of funds by the Guilford County Board of Commissioners or other funding source, pursuant to N.C. Gen. Stat. Chapter §153A-13.

**8. INITIAL INSPECTION**

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

## **9. OPERATION MAINTENANCE**

Stryker's Services are ancillary to and not a complete substitute for the requirements of Customer to adhere to the routine maintenance instructions provided by Stryker, its Equipment and operations manuals, and accompanying labels and/or inserts for each item of Equipment. Customer's appropriate user personnel should be entirely familiar with the instructions and contents of those manuals, labels and inserts and implement them accordingly.

## **10. SERVICE PLAN WARRANTY AND LIMITATIONS**

Stryker represents and warrants that the Services shall be performed in a workmanlike manner and with professional diligence and skill. Services will comply with all applicable laws and regulations. During the term of the Service Plan, Stryker will maintain the Equipment in good working condition. Notwithstanding any other provision of this Agreement, the Service Plan does not include repairs or other services made necessary by or related to, the following: (1) abnormal wear or damage caused by misuse or by failure to perform normal and routine maintenance as set out in the Stryker maintenance manual or operating instructions. (2) accidents (3) catastrophe (4) acts of god (5) any malfunction resulting from faulty maintenance, improper repair, damage and/or alteration by non-Stryker authorized personnel (6) Equipment on which any original serial numbers or other identification marks have been removed or destroyed; or (7) Equipment that has been repaired with any unauthorized or non-Stryker components. In addition, in order to ensure safe operation of the Equipment, only Stryker accessories should be used. Stryker reserves the right to invalidate the Service Plan if Equipment is used with accessories not manufactured by Stryker.

TO THE FULLEST EXTENT PERMITTED BY LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION ARE THE ONLY WARRANTIES APPLICABLE TO THE SERVICES AND ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTY BY STRYKER, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.

## **11. WAIVER EXCLUSIONS**

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

## **12. LIMITATION OF LIABILITY**

EXCEPT FOR THIRD PARTY DAMAGES RELATED TO STRYKER'S INDEMNITY OBLIGATIONS UNDER SECTION 13, STRYKER'S LIABILITY ARISING UNDER THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF SERVICE FEES PAID DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. IN NO INSTANCE WILL STRYKER BE LIABLE TO CUSTOMER FOR INCIDENTAL, PUNITIVE, SPECIAL, COVER, EXEMPLARY, MULTIPLIED OR CONSEQUENTIAL DAMAGES OR ATTORNEYS' FEES OR COSTS FOR ANY ACTIONS UNDER OR RELATED TO THIS AGREEMENT.

## **13. INDEMNIFICATION**

Stryker shall indemnify and hold harmless Customer from any loss or damage brought by a third party which Customer may suffer directly as a result of the gross negligence or willful misconduct of Stryker or its employees or agents in the course of providing Services. The foregoing indemnification will not apply to any liability arising from: (i) an injury or damage due to the negligence of any person other than Stryker's employee or agent; (ii) the failure of any person other than Stryker's employee or agent to follow any instructions outlined in the labeling, manual, and/or instructions for use of the Equipment; (iii) the use of any equipment or part not purchased from Stryker or any equipment or any part thereof that has been modified, altered or repaired by any person other than Stryker's employee or agent; or (iv) any actions taken or omissions made by any Stryker employee while under the direction or control of Customer's staff. Customer agrees to hold Stryker harmless from and indemnify Stryker for any claims or losses or injuries arising from (i)-(iv) above resulting from Customer's or its employees' or agents' actions.

## **14. TERMINATION**

The Agreement shall commence on the date indicated on the first Service Plan entered into between the parties and shall continue until Stryker ceases to provide Services or the Agreement is canceled by either party by giving a thirty (30) days prior written notice of any such cancellation to the other party. If this Agreement is canceled during or before the expiration date of the Agreement, Customer will owe for the months covered up to the cancellation date of the Agreement and for any parts, labor, and travel charges, required to maintain Equipment, exceeding that already paid during the Agreement. All goods and/or services provided and accepted as of the date of termination will be paid for; similarly, amounts paid in advance, if any, for which goods and/or services have not been provided and accepted by the Customer will be promptly refunded to the Customer by Stryker within thirty (30) days of date of termination of this Contract.

**15. FORCE MAJEURE**

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

**16. INSURANCE REQUIREMENTS**

Stryker shall maintain the following insurance coverage during the term of the Agreement: (i) commercial general liability coverage, including coverage for products and completed operations liability, with minimum limits of \$1,000,000.00 per occurrence and \$2,000,000.00 annual aggregate applying to bodily injury, personal injury, and property damage; (ii) automobile liability insurance with combined single limits of \$1,000,000.00 for owned, hired, and non-owned vehicles; and (iii) worker's compensation insurance as required by applicable law. At Customer's written request, certificates of insurance shall be provided by Stryker prior to commencement of the Services at any premises owned or operated by Customer. To the extent permitted by applicable laws and regulations, Stryker shall be permitted to meet the above requirements through a program of self-insurance.

**17. WARRANTY OF NON-EXCLUSION**

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

**18. COMPLIANCE**

Stryker, as supplier, hereby informs Customer, as buyer, of Customer's obligation to make all reports and disclosures required by law or contract, including without limitation properly reporting and appropriately reflecting actual prices paid for each item supplied hereunder net of any discount (including rebates and credits, if any) applicable to such item on Customer's Medicare cost reports, and as otherwise required under the Federal Medicare and Medicaid Anti-Kickback Statute and the regulations thereunder (42 CFR Part 1001.952(h)). Pricing under this Agreement (and each Service Plan) may constitute discounts on the purchase of Services. Customer represents that (i) it shall make all required cost reports, and (ii) it has the corporate power and authority to make or cause such cost reports to be made. To the extent required by law, Customer and Stryker agree to comply with the Omnibus Reconciliation Act of 1980 (P.L. 96Z499) and its implementing regulations (42 CFR, Part 420). To the extent applicable to the activities of Stryker hereunder, Stryker further specifically agrees that until the expiration of four (4) years after furnishing Services pursuant to this Agreement, Stryker shall make available, upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General, or any of their duly authorized representatives, this Agreement and the books, documents and records of Stryker that are necessary to verify the nature and extent of the costs charged to Customer hereunder. Stryker further agrees that if Stryker carries out any of the duties of this Agreement through a subcontract with a value or cost of ten thousand dollars (\$10,000) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives the subcontract, and books and documents and records of such organization that are necessary to verify the nature and extent of such costs.

**19. CONFIDENTIALITY**

The parties hereto shall hold in confidence this Agreement and the terms and conditions contained herein (including Services Plan pricing) and any information and materials which are related to the business of the other or are designated as proprietary or confidential, herein or otherwise, or which a reasonable person would consider to be proprietary or confidential information; and (b) hereby covenant that they shall not disclose such information to any third party without prior written authorization of the one to whom such information relates. The rights and remedies available to a party hereunder shall not limit or preclude any other available equitable or legal remedies.

**20. HIPAA**

Stryker is not a "business associate" of Customer, as the term "business associate" is defined by HIPAA (the Health Insurance Portability and Accountability Act of 1996 and 45 C.F.R. parts 142 and 160-164, as amended). To the extent the parties mutually agree that Stryker becomes a business associate of Customer, the parties agree to negotiate to amend the Service Plan or this Agreement as necessary to comply with HIPAA, and if an agreement cannot be reached the applicable Service Plan will immediately terminate. All medical information and/or data concerning specific patients (including, but not limited to, the identity of the patients), derived incidentally during the course of this Agreement, shall be treated by both parties as confidential, and shall not be released, disclosed, or published to any party other than as required or permitted under applicable laws. Notwithstanding the foregoing, Stryker may be considered a "business associate" of Customers related to any Service Plan for wireless products and/or other designated business associate services. If Stryker is considered a "business associate" of Customer, Stryker will agree to enter into a business associate agreement with Customer as required by HIPAA and as referenced in Exhibit C.

## 21. ASSUMPTION

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

## 22. MAINTENANCE INSPECTION

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

## 23. JURISDICTION

The Parties agree that this Contract is subject to the jurisdiction and laws of the State of North Carolina. Stryker will comply with bid restrictions, if any, and applicable laws, including N.C. Gen. Stat. §143-129(j) regarding E-Verify. Any controversies arising out of this Contract shall be governed by and construed in accordance with the laws of the State of North Carolina. An Affidavit Regarding E-Verify is attached hereto and incorporated herein by reference as Exhibit D.

## 24. ENTIRE AGREEMENT

This Contract, including the Exhibits and/or Attachments, if any, sets forth the entire Agreement between the Parties. All prior conversations or writings between the Parties hereto or their representatives are merged within and extinguished. This Contract shall not be modified except by a writing subscribed to by all the Parties.

## 25. NOTICES.

All notices pursuant to this Agreement shall be in writing and delivered personally or mailed by certified mail, registered mail, postage prepaid, with return receipt requested, at the addresses appearing below, but each Party may change such address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of three (3) days after mailing.

Marty K. Lawing, Guilford County Manager  
GUILFORD COUNTY  
P.O. Box 3427  
Greensboro, NC 27402

President  
Stryker  
3800 E. Centre Ave  
Portage, MI 49002

WITNESS the following signatures and seals all pursuant to authority duly granted, effective as of the day and year first above written.

GUILFORD COUNTY

ATTEST:

\_\_\_\_\_  
Marty K. Lawing      Date  
Guilford County Manager

\_\_\_\_\_  
Robin Keller      Date  
Guilford County Clerk to Board

STRYKER, INC.

WITNESS:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness      Date

Printed Name/Title: \_\_\_\_\_

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

(CORPORATE SEAL)

This contract does not create an obligation to purchase and, therefore, has not been preaudited. Purchases under this contract shall only be made pursuant to purchase orders, each of which will contain a preaudit certificate.

\_\_\_\_\_  
Harley Will      Date  
Guilford County Finance Director



3800 E. Centre Ave

Portage, MI 49009

# ProCare Services Agreement

Sales Rep Name: Tim Richardson  
ProCare Service Rep: Kevin Hazen

Date: 6/11/2018  
ID #: 180611090313

## PROCARE PROPOSAL SUBMITTED TO:

Account Number: 1151504  
Account Name: Guilford County EMS  
Account Address: 1002 Meadwood St  
City, State Zip: Greensboro, NC 27409

Name: Daren Nunn  
Title:  
Phone: 336-641-6989  
Email:

## PROCARE COVERAGE

Item No.	Model Number	Model Description	ProCare Program	Qty	Yrs		Total
1	6506	Power-PRO XT	EMS Protect +	40	1		\$52,720.00
2	6500	Power-PRO XT	EMS Protect +	17	1		\$22,406.00
3	6500	Power-PRO XT	EMS Protect + 10	1	1		\$1,449.80
4	6392	Performance-LOAD	EMS Protect	41	1		\$28,495.00

## PROGRAM INCLUDES:

### EMS Protect:

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

### EMS Protect +:

Includes parts, labor, travel, 1 annual PM inspection, unscheduled service, SMRT battery replacement or Charger upon failure & product equipment checklists. Replacement parts do not include mattresses, and other disposable or expendable parts.

	ProCare Total	\$105,070.80
	Discount	20%
	<b>FINAL TOTAL</b>	<b>\$84,056.64</b>

Start Date: 8/1/2018  
End Date: 7/31/2019

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

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

Purchase Order Number (MUST INCLUDE HARD COPY)

## COMMENTS:

Please fax signed Proposal and Purchase Order to Tom Tackabury at 269-321-3501.  
All information contained within this quotation is considered confidential and proprietary and is not subject to public disclosure.  
\*\*Quote pricing valid for 30 days.

**SERIAL NUMBER SHEET****EXHIBIT B**

Item No.	Model	Serial Number
1	6506	170341344
2	6506	170341343
3	6506	170341342
4	6506	170341341
5	6506	170341340
6	6506	170339425
7	6506	170339424
8	6506	170339423
9	6506	170339422
10	6506	150940529
11	6506	150940528
12	6506	150940527
13	6506	150940526
14	6506	150940525
15	6506	141139651
16	6506	141139650
17	6506	141139649
18	6506	141139648
19	6506	141139647
20	6506	140239311
21	6506	140239310
22	6506	140239309
23	6506	140239308
24	6506	140239307
25	6506	130141370
26	6506	130141369
27	6506	130141368
28	6506	130141367
29	6506	130141366
30	6506	130141365
31	6506	170841783
32	6506	170841782
33	6506	170841791
34	6506	170841789
35	6506	170841786
36	6506	170841785
37	6506	170841787
38	6506	170841790
39	6506	170841788
40	6506	170841784
41	6500	110240386
42	6500	110240358
43	6500	110240384
44	6500	110240383
45	6500	110144174
46	6500	100640420
47	6500	100640419
48	6500	090639898
49	6500	090639897
50	6500	090339340
51	6500	090339339

52	6500	090339593
53	6500	090339592
54	6500	090139482
55	6500	090139555
56	6500	090139454
57	6500	090139453
58	6500	081139555
59	6392	TBD

Guilford County  
HIPAA: Business Associate Addendum

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This Business Associate Addendum is hereby made, entered into, and effective as of the effective date of this contract, by and between GUILFORD COUNTY, (“Covered Entity”) and STRYKER, INC. (“Business Associate”), and collectively referred to as the “Parties.”

Definitions

Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in 45 CFR 160.103 and 164.501.

- A. Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- B. Privacy Rule. “Privacy Rule” shall mean the standards for privacy of individual identifiable health information at 45 CFR part 160 and part 164, subparts A and E.
- C. Protected Health Information. “Protected Health Information” shall have the same meaning as the term “protected health information” is 45 CFR 164.501, limited to the information created or received by the Business Associate from or on behalf of the Covered Entity.
- D. Required by Law. “Required by Law” shall have the same meaning as the term “required by law” in 45 CFR 164.501.
- E. Secretary. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- F. Data Aggregation. “Data Aggregation” shall mean, with respect to Protected Health Information created or received by the Business Associate in its capacity as the business associate of the Covered Entity, the combining of such Protected Health Information by the Business Associate with the Protected Health Information received by the Business Associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.
- G. Designated Record Set. “Designated Record Set” shall mean a group of records maintained by or for the Covered Entity that is (i) the medical records and billing records about individuals maintained by or for the Covered Entity, (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. As used herein the term “Record” means any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for the Covered Entity.
- H. Electronic Media. “Electronic Media” shall mean the mode of electronic transmissions. It includes the Internet, extranet (using Internet technology to link a business with information only accessible to collaborating parties), leased lines, dial-up lines, private networks and those transmissions that are physically moved from one location to another using magnetic tape, disk or compact disk media.

Recitals

- A. The U.S. Department of Health and Human Services has issued regulations on “Privacy Standards for Individually Identifiable Health Information,” implementing the Health Insurance Portability and Accountability Act of 1996 (the “Privacy Standards”).



- B. Covered Entity is a service provider. The U.S. Department of Health and Human Services has issued final regulations, pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), governing the privacy of Individually Identifiable Health Information obtained, created or maintained by certain entities, including health care providers.
- C. Business Associate either 1) performs certain functions for, or on behalf of the Covered Entity involving the disclosure of Protected Covered Entity Health Information ("PHI") by the Covered Entity to Business Associate, or the creation or receipt of PHI by Business Associate on behalf of the Covered Entity; or 2) provides legal, actuarial, accounting, consulting, data aggregation, management, accreditation, administrative or financial services for the Covered Entity involving the disclosure of Protected Health Information ("PHI") by the Covered Entity or another business associate of the Covered Entity.
- D. The parties of this Addendum agree to enter into this agreement to protect PHI, and to amend any agreements between them, whether oral or written, with the execution of this Addendum.

In consideration of the mutual promises and agreements below and in order to comply with all legal requirements for the protection of this information, the parties agree as follows:

#### General Provisions

- A. Effect. This Addendum supplements, modifies and amends any and all agreements, whether oral or written, between the parties involving the disclosure of PHI by the Covered Entity to Business Associate, or the creation or receipt of PHI by Business Associate on behalf of the Covered Entity. The terms and provisions of the Addendum shall supercede any other conflicting or inconsistent terms and provisions in any agreements between the parties, including all exhibits or other attachments thereto and all documents incorporated therein by reference. Without limitation of the foregoing, any limitation or exclusion of damages provisions shall not be applicable to this Addendum.
- B. Amendment. Business Associate and the Covered Entity agree to amend this Addendum to the extent necessary to allow either party to comply with the Privacy Standards, the Standards for Electronic Transactions (45 CFR Parts 160 and 162) and the Security Standards (45 CFR Part 142) (collectively, the "Standards") promulgated or to be promulgated by the Secretary or other regulations or statutes. Business Associate agrees that it will fully comply with all such Standards and that it will agree to amend this Addendum to incorporate any material required by the Standards.

#### Obligations of Business Associate

- A. Use and Disclosure of Protected Health Information. Business Associate may use and disclose Protected Health Information only as required to satisfy its obligations under the Agreement(s), as permitted herein, or required by law, but shall not otherwise use or disclose any Protected Health Information. Business Associate shall not, and shall ensure that its directors, officers, employees, contractors and agents do not, use or disclose Protected Health Information received from the Covered Entity in any manner that would constitute a violation of the Privacy Standards if so used or disclosed by the Covered Entity, except that Business Associate may use or disclose Protected Health Information (i) for Business Associate's proper management and administrative services, (ii) to carry out the legal responsibilities of Business Associate or (iii) to provide data aggregation services relating to the health care operations of the Covered Entity if required under the Agreement(s). Business Associate hereby acknowledges that, as between Business Associate and the Covered Entity, all Protected Health Information shall be and remain the sole property of the Covered Entity, including any and all forms thereof developed by Business Associate in the course of its fulfillment of its obligations pursuant to this Addendum. Business Associate further represents that, to the extent Business Associate requests that the Covered Entity disclose Protected Health Information to Business Associate, such a request is only for the minimum necessary Protected Health Information for the accomplishment of Business Associate's purpose.

- B. **Safeguards Against Misuse of Information.** Business Associate agrees that it will use all appropriate safeguards to prevent the use or disclosure of Protected Health Information other than pursuant to the terms and conditions of this Addendum.
- C. **Reporting of Disclosures of Protected Health Information.** Business Associate shall, within thirty (30) business days of becoming aware of any use or disclosure of Protected Health Information in violation of this Addendum by Business Associate, its officers, directors, employees, contractors or agents or by a third party to which Business Associate disclosed Protected Health Information, report any such disclosure to the Covered Entity.
- D. **Agreements by Third Parties.** Business Associate shall obtain and maintain an agreement with each agent or subcontractor that has or will have access to Protected Health Information, which is received from, or created or received by Business Associate on behalf of the Covered Entity, pursuant to which agreement such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to Business Associate pursuant to this Addendum with respect to such Protected Health Information.
- E. **Accounting of Disclosures.** Within ten (10) business days of notice by the Covered Entity to Business Associate that it has received a request for an accounting of disclosures of Protected Health Information, other than related to the treatment of the patient, the processing of payments related to such treatment, or the operation of a Covered Entity or its Business Associate and not relating to disclosures made earlier than six (6) years prior to the date on which the accounting was requested, Business Associate shall make available to the Covered Entity such information as is in Business Associate's possession and is required for the Covered Entity to make the accounting required by 45 C.F.R. §164.528. At a minimum, Business Associate shall provide the Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the Protected Health Information, and if known, the address of such entity or person, (iii) a brief description of the Protected Health Information disclosed, and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall within ten (10) business days forward such request to the Covered Entity. Business Associate hereby agrees to implement an appropriate record keeping process to enable it to comply with the requirements of this Section.
- F. **Availability of Books and Records.** Business Associate hereby agrees to make its internal practices, books and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, the Covered Entity available to the Secretary for purposes of determining the Covered Entity's and Business Associate's compliance with the Privacy Standards.
- G. **Indemnification.** Each Party ("the Indemnifying Party") hereby agrees to indemnify and hold the other Party harmless from and against any and all liability and costs, including reasonable attorneys' fees, created by a breach of this Addendum by the Indemnifying Party, its agents or subcontractors, without regard to any limitation or exclusion of damages provision otherwise set forth in the Agreement(s).
- H. **Insurance.** Business Associate shall obtain and maintain during the term of this Addendum liability insurance covering claims based on a violation of the Standards or any applicable state law or regulation concerning the privacy of patient information and claims based on its obligations pursuant to this Addendum in an amount not less than \$1,000,000 per claim. Such insurance shall be in the form of occurrence-based coverage. A copy of such policy or a certificate evidencing the policy shall be provided to the other Party upon written request. The Parties acknowledge and agree that Business Associate currently has a Cyber Liability policy with limits of not less than \$1,000,000 per occurrence, and is partially self-insured.
- I. **Notice of Request for Data.** Business Associate agrees to notify the Covered Entity within ten (10) business days of Business Associate's receipt of any written request or subpoena for Protected Health Information. To the extent that the Covered Entity decides to assume responsibility for challenging the

validity of such request, Business Associate agrees to reasonably cooperate with the Covered Entity in such challenge.

- J. Injunction. Business Associate hereby agrees that the Covered Entity will suffer irreparable damage upon Business Associate's breach of this Addendum and that such damages shall be difficult to quantify. Business Associate hereby agrees that the Covered Entity may file an action for an injunction to enforce the terms of this Addendum against Business Associate, in addition to any other remedy the Covered Entity may have.

#### Term and Termination

- A. Term. This Addendum shall become effective on the Effective Date and, unless otherwise terminated as provided herein, shall have a term that shall run concurrently with that of the last expiration date or termination of the Agreement(s).
- B. Termination Upon Breach of Provisions Applicable to Protected Health Information. Any other provision of the Agreement(s) notwithstanding, this Addendum and the Agreement(s) may be terminated by either Party upon twenty (20) business days written notice to the other Party in the event that the other Party breaches any provision contained in this Addendum and such breach is not cured within such twenty (20) day period; provided, however, that in the event that termination of this Addendum and the Agreement(s) is not feasible, in the Covered Entity's sole discretion, Business Associate hereby acknowledges that the Covered Entity shall have the right to report the breach to the Secretary, notwithstanding any other provision of this Addendum or any Agreement(s) to the contrary.
- C. Return or Destruction of Protected Health Information upon Termination. Upon termination of this Addendum, Business Associate shall either return or destroy all Protected Health Information received from the Covered Entity or created or received by Business Associate on behalf of the Covered Entity and which Business Associate still maintains in any form. Business Associate shall not retain any copies of such Protected Health Information. Notwithstanding the foregoing, to the extent that the Covered Entity agrees that it is not feasible to return or destroy such Protected Health Information, the terms and provisions of this Addendum shall survive such termination and such Protected Health Information shall be used or disclosed solely for such purpose or purposes which prevented the return or destruction of such Protected Health Information.
- D. The Covered Entity's Right of Cure. At the expense of Business Associate, the Covered Entity shall have the right to cure any breach of Business Associate's obligations under this Addendum. The Covered Entity shall give Business Associate notice of its election to cure any such breach and Business Associate shall cooperate fully in the efforts by the Covered Entity to cure Business Associate's breach. All requests for payment for such services of the Covered Entity shall be paid within thirty (30) days.
- E. Transition Assistance. Following the termination of this Addendum and the Agreement(s) for any reason, Business Associate agrees to provide reasonable transition services for the benefit of the Covered Entity.

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STATE OF NORTH CAROLINA

**AFFIDAVIT REGARDING E-VERIFY**

COUNTY OF GUILFORD

I, \_\_\_\_\_ (the individual attesting below), being duly authorized by and on behalf of  
STRYKER, INC. (the entity doing business with Guilford County, hereinafter "Employer")  
after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).
3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. Mark "Yes" or "No":
  - a. YES \_\_\_\_\_; or,
  - b. NO \_\_\_\_\_
4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.

This \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Signature of Affiant  
Print or Type Name: \_\_\_\_\_

State of North Carolina County of Guilford

Signed and sworn to (or affirmed) before me, this the \_\_\_\_\_  
day of \_\_\_\_\_, 2018.

My Commission Expires:

\_\_\_\_\_  
Notary Public

(Affix Official/Notarial Seal)

## **Guilford County Purchasing Department Specifications - Event 623**

### **Section I - General**

Guilford County is seeking a Price Only Contract for Annual Preventive Maintenance and Service of Stryker brand EMS Stretchers. The purpose of this bid package is, therefore, to obtain competitive bids in accordance with the North Carolina Purchasing Laws and the Guilford County Purchasing Policies.

The Contract shall be initially for three years with the option to renew for two additional, one-year renewal periods. This is a Price Only Contract, which means there are no guarantees as to the minimum or maximum amount ordered and dollar amount expended.

Cancellation Clause: Either party may cancel the contract upon a 30-day written notice to cancel for no apparent reasons.

Bonds: No bid deposit or performance bond will be required for this bid process.

Pre-Bid Meeting: There will not be a pre-bid conference held in connection with this bid package since it is believed that the specifications contained herein fully cover the purchase intent.

**ALL QUESTIONS** must be submitted electronically by means of the Q & A Feature included within this bidding event. NO QUESTIONS will be answered by telephone, email, written correspondence or other means except as described herein. Answers to electronic questions properly submitted will be sent out electronically by means of the above described Q & A feature to all properly registered suppliers who received the Initial Notification of bidding event. Those suppliers who registered after the Event Preview date and time will not receive electronic correspondence relative to this Event. There shall be **no communication** with any Guilford County employees other than by means of the Q & A feature. Violation of this requirement may invalidate your proposal.

Answers to Questions and Addendums if any, will be posted in the event. Those vendors/suppliers who registered after the Event Preview date and time will not receive electronic correspondence relative to this Bid Event 623. It is the responsibility of all Suppliers to check the Guilford County Electronic Procurement System for updates in the event.

Terms and Conditions: Terms and Conditions, the Non-Collusion Affidavit are attached to the event and should be reviewed carefully.

**ALL Bids are to be submitted online** All bid responses must be submitted through the online event in the Guilford County Electronic Procurement System in electronic format only. Late responses will not be accepted or considered.

### **Standard of Award**

This contract will be awarded based on the lowest, responsive responsible bid, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract

### **Technical Support**

For technical assistance in submitting a bid or to register as a supplier please contact the Buyer on the event or for immediate assistance, contact the Guilford County Purchasing Department at 336-641-3314. It is strongly recommended that bids be submitted at least 24 hours in advance of the bid closing. Guilford County cannot be responsible for technical difficulties suppliers may encounter when submitting bids.

## **Section II – Specifications**

### **Mandatory requirements:**

- Provide One (1) preventative maintenance inspection on site on each piece of equipment per contract year. These inspections shall be scheduled at a minimum of 30 days in advance of the scheduled inspection
- Guilford County EMS reserves the right to request two (2) Preventive Maintenance inspection per year
- Preventive Maintenance shall include all Stryker Stretchers and Cot Mounting Devices.
- Service Parts, Labor and all Travel shall be included
- ONLY Stryker parts are to be used
- Battery Servicing and Replacement shall be included
- Two (2) hour call back time – After notified of an issue
- 24-72hour repair turnaround time period
- ALL work will be completed by a Certified Stryker-Trained Service Specialist
- Documentation shall be provided on all devices at the completion of the service and or repair(s).
- Ability to **add** or **remove** equipment/devices during this contract period when deemed unrepairable or at the equipment's "end of life" without penalty.

**Equipment**

Guilford County EMS currently has a total of Fifty-Eight (58) Stryker Stretchers:

Twenty-Seven (27) of Model 6500

Thirty-One (31) of Model 6506

Forty-One (41) of the Performance Load Cot Mounting Systems

Guilford County reserves the right to add additional equipment during this contract period as new equipment as purchased based on the county's replacement plan.



## **Guilford County's General Terms and Conditions**

1. This bid package serves as official notice that GUILFORD COUNTY is soliciting and will receive bids for the item(s) and/or service(s) stated on the event cover page and outlined in the Bid specifications. Bids shall be submitted electronically via the Purchasing Department's Strategic Sourcing website:  
[www.co.guilford.nc.us/sourcing](http://www.co.guilford.nc.us/sourcing) **by the event close date and time specified.**
2. All addenda to this bid package will be issued electronically. No oral changes by anyone shall affect this bid package.
3. The official bid price, quote, response for RFP, RFQ, or otherwise instructed; shall be signed by a duly authorized person acknowledging full understanding of the bid information and all addenda. The signature shall be witnessed. The exact legal name of the corporation or other entity shall be provided
4. Price quotes shall be net, to include all discounts and delivery charges to GUILFORD COUNTY. In cases of difference between unit price and total price, unit price shall prevail unless otherwise noted.
5. Bid event submittal schedules are fixed and will not be amended unless Guilford County determines the County has given cause to extend the event.
6. Items and services bid are for delivery or completion as soon as possible unless otherwise stated. Delivery or completion dates could therefore be important in making the award.
7. With the exception of construction bids, state and local sales taxes are not to be included in quotes, but they are to be added later to all invoices shown as a separate line item for payment. Federal sales-excite) taxes, where applicable, are to be included in quotes as they are a part of the purchase price. See the construction bid specifications in the event for construction and repair sales tax instructions.
8. All Formal Bids will be publicly opened and recorded at the date and time specified by and in the Purchasing Department. It is GUILFORD COUNTY's policy to announce the award electronically. All other information, except that specifically noted by the Supplier as being of a Confidential nature, becomes public record in accordance with GS 132 and other applicable North Carolina laws. All interested parties are invited to attend any Formal Bid opening.
9. GUILFORD COUNTY will have a period of thirty (30) days, unless otherwise stated, after opening to analyze and award to lowest responsive and responsible bidder based on service, quality, delivery date, performance data and price. The successful supplier shall promptly enter into a contract acceptable to Guilford County.
10. All Events/Bids in the Formal Range require the final approval of the GUILFORD COUNTY Board of Commissioners who normally meet in open session two times each month, the first and third Thursday at 5:30 PM. Everyone is invited to attend those meetings.
11. A Bid Deposit may be required. If this is the case, it will be clearly stated in the Event specifications for each package. If a bid deposit is required, it should be no less than 5% of the total bid in cash, cashier's check, certified check, or a Bid Bond. The checks shall be drawn on a bank or trust company insured by the Federal Deposit Insurance Corporation; and, the bond shall be a corporate surety licensed under the State of North Carolina. The obligee in either check or bond shall be Guilford County.
12. If Bid Deposit Checks are received, they will be returned to all suppliers when the



successful supplier has been selected and the contract awarded by Guilford County. The successful deposit check will be returned when the required contract has been executed.

13. In addition to the bid deposit or bid bond, some supplier's may require a separate Performance Bond and/or laborers-materials men's bond as provided by law in the amount of the contract by the awarded supplier(s). If this is required, it will be clearly stated in the bid specifications. In place of a bond; cash, cashiers check, certified check or government securities shall be acceptable.
14. Guilford County reserves the right to reject any or all bids if in the best interest of the County.
15. In case of default by the Supplier, Guilford County shall retain the Bid Deposit or call upon the Bid Bond surety unless otherwise provided by Law.
16. Guilford County's policy is normally Net 30 days upon completion and acceptance. In the case of some longer term projects, Guilford County may choose to release partial payments to the supplier each month based on 90% of the estimated value of the work completed. The final payment will be released within thirty (30) days or less after the satisfactory completion of all work, its acceptance by Guilford County and the settlement of all other claims and accounts.
17. In the case of Continuing Service Type Contracts, payment will be made monthly or as otherwise agreed upon.
18. It is Guilford County's Purchasing Policy to conduct all purchasing within the North Carolina Laws and Guilford County Purchasing Policy, to provide each supplier/contractor an equal opportunity to participate, and to award on a best value basis. In order to accomplish our policy, we intend to make every supplier/contractor aware of each purchasing opportunity. Contracts shall be awarded to the lowest responsive and responsible bidder(s) based on quality, performance and the time specified in the proposal for the performance of the contract. Suppliers/contractors should register online at [www.co.guilford.nc.us/sourcing](http://www.co.guilford.nc.us/sourcing).
19. A Material Safety Data Sheet (MSDS) shall be furnished to Guilford County for all products purchased that contain hazardous material and/or components.
20. Any supplier/contractor performing work on GUILFORD COUNTY property is required to have adequate Liability and Workers Compensation Insurance that will fully protect GUILFORD COUNTY from any damages to property and/or persons caused by the supplier/contractor.
21. The successful supplier shall be required (and is responsible) to take Affirmative Action to employ Disabled Veterans and Veterans of the Viet Nam era, including listing vacancies with the North Carolina Employment Security Commission, under 42 US Code 4212 and applicable regulations thereafter.

The successful supplier shall be required to employ in the workforce only those laborers whose employment is consistent with all applicable State and Federal Laws. The successful supplier, and each subcontractor, shall prior to performance of the work receive clear written evidence from each laborer that said laborer may lawfully be employed. Said evidence shall immediately be submitted to the County. Failure of said Supplier or Subcontractor to receive, retain and/or provide to the County such evidence shall constitute a material breach of the Contract with the County.

22. The Supplier shall take Affirmative Action in complying with all Federal and State requirements concerning fair employment without regard to discrimination by reason of race, color, religion, sex, national origin or physical handicap.
23. The successful Supplier is responsible for compliance with all applicable Local, State and Federal Laws, including all state and local permits, licenses and fees.

24. If the Supplier/Contractor should undergo merger, acquisition or any change in their ownership or their name for any reason, the provider shall immediately notify Guilford County in writing of these changes and provide Guilford County with legal documentation supporting these changes, such as an Assumption Agreement, Bill of Sale, Articles of Incorporation, Articles of Amendment, sales contract, merger documents, etc. Further, the Supplier/Contractor shall submit the name and address of their registered agent for Service of Process and/or all notices required under the contract(s).
25. Provider shall operate as an independent contractor for all purposes. The Parties agree to each be solely responsible for their own grossly negligent or acts or omissions, and/or willful misconduct, in the performance of each of their individual duties hereunder, and shall be financially and legally responsible for all liabilities, costs, damages, expenses and attorney fees resulting from, or attributable to any and all of their grossly negligent individual acts or omissions, and/or willful misconduct, to the extent allowable by law.
26. Guilford County and the awarded Vendor shall comply with Equal Employment Opportunities (EEO) requirements, and to take affirmative action to ensure that all individuals have an equal opportunity for employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, genetic information, or veteran status under the Guilford County EEO Plan, as amended, implemented pursuant to 41 CFR Part 60-2.10(a)(3), 41 CFR §60-741.44(a) and 41 CFR §60-300.44(a), and in accordance with the following laws, as amended: Title VII and Title IX of the Civil Rights Act of 1964; The Equal Pay Act of 1963; Executive Order 11246; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973, as amended (Section 503); the Americans with Disabilities Act of 1990; the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA); the Civil Rights Restoration Act of 1988; NC General Statutes Chapters 116 and 126 and Title II of the Genetic Information Nondiscrimination Act of 2008, the North Carolina Equal Employment Opportunity Policy effective June 1, 2015, along with all other applicable federal and state laws governing equal employment opportunities.
27. This contract is governed by the Laws of the State of North Carolina.