



**AGREEMENT
FOR
Cardiac Monitors and Cardiac Monitor Preventative
Maintenance**

Between

THE COUNTY OF VOLUSIA

AND

ZOLL MEDICAL CORPORATION

County of Volusia
Purchasing & Agreements Division
123 West Indiana Avenue, Suite 302
DeLand, Florida 32720-4608
386-736-5935

AGREEMENT FOR CARDIAC MONITORS AND CARDIAC MONITOR PREVENTATIVE MAINTENANCE

This Agreement For Cardiac Monitor and Cardiac Monitor Preventative Maintenance (hereinafter "Agreement") made and entered by and between Zoll Medical Corporation, duly authorized to conduct business in the State of Florida, whose principal place of business is located at 269 Mill Road, Chelmsford, MA 01824 (hereinafter the "Contractor") and COUNTY OF VOLUSIA, a body corporate and politic and a subdivision of the State of Florida, whose address is County of Volusia, 123 West Indiana Avenue, DeLand, Florida 32720 (hereinafter the "County").

RECITALS:

Whereas, the County desires to retain the services of a competent and qualified Contractor to provide Cardiac Monitors and Cardiac Monitor Preventative Maintenance; and

Whereas, the County has propounded Request for Proposal 16-P-64AK (the "RFP") seeking a qualified firm to provide Cardiac Monitors and Cardiac Monitor Preventative Maintenance, and has received responses from various potential vendors; and

Whereas, the County has determined that the Contractor is fully qualified to render the required service; and

Whereas, it has been determined that the execution of this Agreement is beneficial to the people of County of Volusia, Florida.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and other specific consideration set forth in this Agreement, the receipt and sufficiency of which is acknowledged by the Contractor and County, the parties agree and stipulate as follows:

1 DEFINITIONS

For this Agreement and any incorporated exhibits, certain terms, phrases, words and their respective derivations shall have the meaning set forth and defined therein and shall be applicable in both. Definition of terms in the Agreement shall first be governed by this Agreement, second by the incorporated Scope of Services (Exhibit A), third by the Contractor's Response (Exhibit A-1) and fourth by the incorporated Fee Schedule (Exhibit B). In the event of any conflict among the foregoing, the conflict shall be resolved in the order of priority set forth in the preceding sentence. If there is no applicable definition as described above, the terms, phrases, and words, and their respective derivations when used in this Agreement and the Scope of Service, shall have the meanings ascribed to them in Webster's New Collegiate Dictionary (G & C Merriam Co., 11th ed., July 2003, or any subsequent edition).

1.1. **Agreement:** This Agreement or Contract, including its articles, exhibits, and attachments.

1.2. **Agreement Administrator:** The Director of Purchasing and Contracts or his/her designee responsible for addressing any concerns within this Agreement.

- 1.3. **Amendment:** An amendment to this Agreement in writing by the County, approved by the Director of Purchasing and Contracts, and signed by the County authorizing an addition, deletion, or revision in the Scope of Services, or modifications of this Agreement.
- 1.4. **Change Order:** A written order signed by the County and Contractor authorizing an addition, deletion, or revision in the Scope of Services, or an adjustment in the Agreement price or time, without change to any other substantive terms or conditions of the Agreement.
- 1.5. **Compensation:** The amount paid by the County to Contractor for Services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated which includes the total monies payable to the Contractor which includes all Services, labor, materials, supplies, travel, training, profit, overhead, costs, expenses, and any other costs necessary to complete work under the Scope of Services.
- 1.6. **Contractor's Services:** Those Services within the Scope of Services of this Agreement or any exhibit, attachment or addendum thereto which relates to the General Scope of Services in Section 4.1 to be performed by Contractor in connection with Contractor's employment or practice.
- 1.7. **County:** The County of Volusia, Florida, and shall be synonymous with the term "County."
- 1.8. **County Project Manager:** Also known as the person designated by the County to review, approve and make decisions regarding the Scope of Services in this Agreement.
- 1.9. **Deliverable:** The result(s) or end products or services that meet the requirements and functional parameters articulated in the Scope of Services for this Agreement including, but not limited to: services, reports, written documentation, training, systems or processes.
- 1.10 **Effective Date:** The date that this Agreement is fully executed by Contractor and the County.
- 1.11 **Key Personnel:** Contractor's personnel, designated by Contractor, who are responsible for Contractor's day-to-day Project operations as described in the Contractor's Proposal.
- 1.12 **Project:** The project that is described in Exhibits A – A1 of this Agreement.
- 1.13 **Proposal:** The document submitted by the Contractor in response to a formal solicitation (RFP No. 16-P-64AK) used to determine if the Contractor is highly qualified.
- 1.14 **Scope of Services:** The services or work, herein defined in this Agreement under the Scope of Services (e.g., Exhibit A) that is agreed to by the parties in writing, which includes responsibility for performing and complying with all incidental matters pertaining thereto.

- 1.15 **Services:** Those services defined in the Scope of Services to be performed by the Contractor pursuant to this Agreement and its attached exhibits, including: the work, duties and obligations to be carried out and performed by Contractor under the Agreement and pursuant to Exhibits A – A-1 attached hereto and made a part of this Agreement.
- 1.16 **State:** State of Florida.
- 1.17 **Subcontractor:** A person other than a materialman or laborer who enters into an agreement with a Contractor for the performance of any part of the basic Agreement.
- 1.18 **Warranty:** The warranties as set forth in this Agreement including any warranties required by State Law or regulation.
- 1.19 **Work:** Any and all obligations, Services, duties and responsibilities necessary to the successful completion of the Scope of Services assigned to or undertaken by Contractor under the Agreement, including the furnishing of all labor, materials, equipment and other incidentals.

2 EXHIBITS

- 2.1 The exhibits listed below are incorporated into and made a part of this Agreement.
- 2.1.1 Exhibit A - Scope of Services/Work,
- 2.1.2 Exhibit A-1 – Contractor's Functional Requirements Matrix
- 2.1.3 Exhibit B–Fee Schedule

3 ORDER OF PRECEDENCE

- 3.1 If Contractor finds a conflict, error or discrepancy in the Agreement, it shall call it to the County Project Manager's attention, in writing, and request the County Project Manager's interpretation and direction before proceeding with the work affected thereby. Such notice shall be provided by the Contractor to the County's Project Manager in a timely fashion so as not to cause additional costs due to delay. In resolving such conflicts, errors and discrepancies, the documents shall be given precedence in the following order:

- 3.1.1 In the event of any conflicts or inconsistencies between provisions of the exhibits or attachments to this Agreement, the following order of precedence shall govern.

This Agreement with its exhibits and attachments in the following order:

- | | | |
|----------|---------|--|
| 3.1.1.1. | First: | The terms and conditions in the main body of this Agreement. |
| 3.1.1.2. | Second: | Exhibit A, Scope of Services/Work |
| 3.1.1.3. | Third: | Exhibit A-1 Functional Requirements Matrix |
| 3.1.1.4. | Fourth: | Exhibit B, Fee Schedule |

4 **SCOPE OF SERVICES.** The Contractor shall provide Services under this Agreement and act as Contractor to the County in accordance to the Scope of Services as specifically set forth in this Agreement and its exhibits.

4.1 Contractor shall provide Cardiac Monitors and Cardiac Monitor Preventative Maintenance to the County in accordance with the Scope of Services attached as Exhibits A and A-1.

4.2 **Performance Criteria:**

4.2.1 All services shall be performed in accordance with the Agreement and carried out under the direction of the County's Project Manager.

4.2.2 All labor necessary to complete the Scope of Services shall be performed in a good and competent workmanlike manner to the satisfaction of the County.

4.2.3 **Independent Contractor.** The Contractor shall provide the services required herein strictly in an independent contractual relationship with the County and, except as expressly set forth herein, is not, nor shall be, construed to be an agent or employee of the County. Nothing herein shall create any association, partnership, joint venture or agency relationship between them. The County shall not provide vehicles or equipment to the Contractor to perform the duties required under this Agreement nor will the County pay for any business, travel, office, or training expense or any other Agreement performance expense not specifically set forth in the Scope of Services of this Agreement. The Contractor is not exclusively bound to the County and may provide Services to other private and public entities, but agrees and covenants that any such Service provided by the Contractor to or for such entities will not conflict or otherwise interfere with the Contractor's provision of Services to the County under this Agreement.

4.2.4 **Changes to Scope of Services.** The County may at any time, by written order, make changes within the general Scope of Services to be performed under this Agreement. Except as provided in this Agreement otherwise, if any such change causes an increase or decrease in the Contractor's cost of, or the time required for performance of the Project Services, an equitable adjustment shall be made and this Agreement shall be amended in writing, signed by authorized representatives of the parties, stating the equitable adjustment. Unless the County grants, in writing, an additional period of time before the completion of the Agreement, any claim by the Contractor for adjustment under this Section must be asserted in writing within thirty (30) days from the date of receipt by the Contractor of the notification of change; otherwise, the claim shall be deemed waived. The Contractor shall then proceed with the prosecution of the Service as changed. Except as otherwise provided in this Agreement, no charge for any extra work or materials shall be allowed or approved by the County. No additional work shall be performed or extra materials purchased until a written Change Order has been approved by Contractor and County.

- 4.2.5 **Time is of the Essence.** Time is of the essence for all Work and Services performed under this Agreement and all Projects performed in accordance herewith.
- 4.2.6 **Authority to Act on Behalf of County.** County's Purchasing and Contracts Director or such other proper authority pursuant to County policies and procedures shall have the authority to approve, award, and execute all documents or other instruments required to effectuate changes, modifications, or additional service, so long as the then cumulative financial obligation of County for such additional items does not exceed the Director of Purchasing and Contracts' authority under the County Code of Ordinances or policies and procedures. Any change, modification or additional service that causes the cumulative financial obligation of County for such additional items to exceed the Purchasing Director's or County Manager's authority under the Procurement Code shall be presented to the Volusia County Council for approval.

5 RESPONSIBILITY OF CONTRACTOR

- 5.1 Where questions exist as to the Scope of Services to be provided, Contractor shall confer with the Project Manager to ascertain the functional or design criteria of the Scope of Services. The Services of the Contractor shall also include the following:
- 5.1.1 Contractor covenants and agrees that there are no obligations, commitments, or impediments of any kind that shall limit or prevent Contractor's performance of the Services.
- 5.1.2 Contractor shall keep the County informed of any changes or advancements in technology occurring any time prior to or during actual implementation of the Services to the extent that such changes and advancements may increase efficiency or otherwise allow for better services or reductions in costs to the County.
- 5.1.3 Contractor covenants and agrees as follows:
- 5.1.3.1 That Contractor recognizes that its special talent, training, and experience caused the County to select Contractor to be the prime professional;
- 5.1.3.2 That Contractor comprehends the specifications and requirements of the Scope of Services and the use of the same in their entirety to provide Deliverables;
- 5.1.3.3 That Contractor possesses the special skills to recognize material errors or omissions that would result in failures to appropriately perform in accordance with the Scope of Services; and
- 5.1.3.4 That Contractor shall adhere to the standard of care applicable to a contractor with the degree of skills and diligence normally employed by a licensed professional in his field or practice performing the

same or similar Services in compliance with all applicable federal, state, and municipal laws, regulations, codes, and ordinances.

- 5.1.4 **Accuracy of Documentation.** Contractor covenants and agrees that any Project data, summaries, reports, or studies, submitted by the Contractor to the County shall be competently drafted and accurate with regard to the information contained therein. County's acceptance, approval, or reliance on any such documentation shall not release Contractor from any liability if such information is incorrect or inaccurate, it being understood that the County is relying on the Contractor's status as an industry professional in accepting such documentation.
- 5.1.5 **Notification of Errors or Defects.** Contractor covenants and agrees to notify the County if it discovers or has knowledge of anything of any nature in any reports, studies, bulletins, schedules, documentation, requirements or instructions prepared by Contractor or data or instructions supplied to Contractor by the County or any other party, Contractor regards in Contractor's professional opinion as unsuitable, improper, or inaccurate.
- 5.1.6 **Administration.** Contractor covenants and agrees to efficiently administer and perform all Services economically and expeditiously in a competent and workmanlike manner.
- 5.2 **Supervision.** The Contractor shall direct and supervise competent and qualified personnel and shall devote time and attention to the direction of the operation to ensure performance of obligations and duties as set forth herein. The Contractor shall hire, compensate, supervise, and terminate members of its work force, and the Contractor shall direct and control the manner in which work is performed including conditions under which individuals shall be assigned duties, how individuals shall report, and the hours individuals shall perform. The Contractor shall be responsible for all income tax, social security and Medicare taxes, federal unemployment taxes, and any other withholdings from the company's employees' and/or subcontractors' wages or salaries. Benefits, if any, for the Contractor's employees and/or subcontractors shall be the responsibility of the Contractor including, but not limited to, health and life insurance, retirement, liability/risk coverage, and worker's and unemployment compensation. Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures in delivering services pursuant to this Agreement. Further, Contractor shall be responsible for assuring the County that finished or completed Deliverables accurately comply with the requirements of this Agreement and the Scope of Services contained therein.
- 5.3 **Assurance.** Contractor gives County its assurance that all Services performed under this Agreement shall be timely performed in a competent and workmanlike manner and in accordance with the specifications and requirements of the Agreement and any approvals required under the Agreement. All Services not conforming to the specifications and requirements of the Scope of Services shall be considered materially defective and constitute a breach of this Agreement.
- 5.4 **Accuracy of Reports / Summaries.** The Contractor shall be responsible for the professional and technical accuracy and the coordination of all data, reports, summaries, and any other Services furnished by the Contractor under this Agreement.

The Contractor shall, without additional cost to the County, correct or revise any errors or deficiencies in its Services for which it is responsible.

- 5.5 **Services to Comply with Specifications and Law.** All Services provided by Contractor including all general provisions, special provisions, job specifications, drawings, addendum, amendments to the basic Agreement, written interpretations, and written orders for minor changes in Services, shall comply with the Scope of Services and all applicable local laws, codes, ordinances and statutes.

5.6 **Subcontractors.**

- 5.6.1 **Employment or Substitution of Subcontractors.** Contractor shall not employ any Subcontractor, other person, or organization against whom the County may have reasonable objection, nor shall Contractor be required to employ any Subcontractor against whom it has reasonable objection. Contractor shall not make any substitution for any Subcontractor who has been accepted by the County without the County's approval.

- 5.6.2 **Disapproval of Subcontractors.** County's disapproval or requirement of removal or replacement of Contractor's employee or Subcontractor shall be deemed for lawful reasons if in County's reasonable judgment, such Contractor's employee or Subcontractor poses a threat or causes harm to the health, welfare, or safety, or morale of the County or its agencies, personnel or property or who fails any drug test administered in connection with this Agreement, or who has been convicted of a felony or a misdemeanor involving "moral turpitude" or has been released or dishonorably discharged or separated under conditions other than honorable from any of the Armed Forces of the United States.

- 5.6.3 **Contractor Responsible for Subcontractors.** Contractor shall be fully responsible for all negligent acts and omissions of its Subcontractor and of persons directly or indirectly employed by them and of persons for whose negligent acts any of them may be liable to the same extent that it is responsible for the negligent acts and omissions of persons directly employed by it. Nothing in the Agreement shall create any contractual relationship between any Subcontractor and the County or any obligation on the part of the County to pay or to see to the payment of any moneys due any Subcontractor, except as may otherwise be required by law. County may furnish to any Subcontractor to the extent practicable, evidence of amounts paid to Contractor on account of specific Services performed in accordance with the schedule of values.

- 5.6.4 **Subcontractors to Act Pursuant to this Agreement.** Contractor agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Agreement for the benefit of the County, and shall require all Subcontractors or other outside associates employed in connection with this Agreement to comply fully with the terms and conditions of this Agreement as such may apply to the Services being performed for the Contractor.

- 5.6.5 **Consent Required for Substitution.** Any Subcontractor and/or outside associates required by the Contractor in connection with the Services covered by the Agreement will be limited to such individuals or firms as are specifically identified for the Scope of Services assigned under this Agreement. Any substitution of such Subcontractors/associates will be subject to the prior written approval of the County Project Manager.

6 TERM OF AGREEMENT

- 6.1 The term of this Agreement shall commence on the Effective Date of this Agreement or when it is fully executed by all parties and shall terminate three (3) years from the Effective Date. Two (2) subsequent one (1) year renewals are permissible upon mutual written agreement between the parties and County Council approval.
- 6.2 The Services to be rendered by the Contractor shall be commenced, as specified in this Agreement or as may be requested by the County and shall be completed within the time specified therein.

7 AGREEMENT PRICE AND COMPENSATION

- 7.1 **Payment Pursuant to Fee Schedule.** The Contractor shall be paid Compensation for all Work or Services. Total Compensation for this Agreement shall be comprised of the total cost of all projects, materials, equipment, labor, expenses (including reimbursable expenses), all mark-ups for overhead and profit more particularly described in Exhibit B–Fee Schedule attached hereto and incorporated herein. The County agrees to pay the Contractor in current funds, as compensation for its Services.
- 7.2 **Errors and Omissions in Pricing.** Compensation shall not be adjusted because of errors or omissions which are not the fault of the County in computing the Services costs which result in an increase in the cost of this Agreement or because the time for completion varies from the original estimate, including completion or substantial completion of this Agreement prior to the scheduled or Agreement completion date or on account of County's election to furnish any of the Services. In addition, Contractor shall certify that the original Agreement price or Compensation for the Scope of Services and any additions thereto shall be adjusted to exclude any significant sums by which the County determines the price or Compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.
- 7.3 **Reimbursable Expenses.** County's payment to the Contractor pursuant to the Fee Schedule, attached hereto and incorporated herein as Exhibit B–Fee Schedule, shall be full compensation for Services rendered and any expenses incurred in connection therewith, and Contractor shall not be eligible for reimbursement for any expenses incurred in connection with the performance of this Agreement.
- 7.4 **Payments.** Any payments shall be made in accordance with Exhibit B–Fee Schedule.
- 7.4.1 **Approval of Payment.** If, on the basis of the County Project Manager's observation and review of Contractor's Services, the County Project Manager is satisfied that the Services have been completed and the Contractor has fulfilled all of its obligations under the Agreement, the County Project Manager, after receipt of a proper invoice, shall indicate in writing his or her approval of

payment and present the invoice to Accounts Payable for payment. Otherwise, the County Project Manager shall return the invoice to the Contractor, indicating in writing the reasons for refusing to approve final payment, in which case the Contractor will make the necessary corrections and resubmit the invoice. Regardless of the foregoing, approval of payment pursuant to this section shall not prevent the County from recovering amounts paid when the County subsequently discovers material defects or deficiencies in the Services provided by the Contractor, which defects or deficiencies would have otherwise caused the County to withhold payment.

- 7.4.2 **Invoice Detail.** The Contractor shall submit an invoice for which Services were rendered to the County upon the completion and acceptance of the Services. Each invoice shall show detailed explanations of the Services accomplished in accordance with the Agreement prices set forth by labor hours by classification, associated rates, any material or subcontracted costs and any indirect rates or costs in accordance with the Agreement prices set forth hereto. All of the above shall sum to the total amount requested.
- 7.5 **Invoices.** Invoices or payment requests shall be addressed from the Contractor and submitted to the County's Project Manager. All invoicing and payments, including the practices and procedures pertaining thereto, shall be governed by the applicable provisions of Part VII of Chapter 218, Florida Statutes.
- 7.5.1 **Documentation.** The Contractor's Invoice(s) shall be accompanied by supporting data as may be required by the County Project Manager. County Project Manager shall review the Contractor's Invoice and supporting data and notify the Contractor in writing within twenty (20) days from receipt of the statement if any amounts requested are disputed or lack adequate support or documentation.
- 7.5.2 **Invoicing Pursuant to Agreement.** Pursuant to Exhibit B–Fee Schedule, Contractor shall invoice County for all payments due Contractor under this Agreement. County shall pay invoices in accordance with this Agreement. Invoices shall be sent to the address specified by the County.
- 7.5.3 **Withholding.** The County may withhold payment of any specific invoiced charges that it disputes in good faith and pay all undisputed charges on the invoice.
- 7.5.4 **Payment Due.** Within forty-five (45) days of acceptance by the County Project Manager of all the Services for which Contractor has submitted an invoice for Services, the Contractor shall be paid the unpaid balance of any money due for any undisputed Services covered by said statement.
- 7.5.5 **Taxes.** County is a tax exempt entity and shall not be charged or invoiced for the payment of taxes for Services performed under this Agreement.
- 7.6 **Contractor's Continuing Obligations.** Contractor's obligation to perform Services in accordance with this Agreement shall be absolute. Neither approval of any progress nor final payment to Contractor nor documentation confirming acceptance of the

Services by the County, nor any payment by County to Contractor under this Agreement nor any act of acceptance by the County nor any failure to do so, nor any correction of defective Service by County shall constitute an acceptance of Services not in accordance with the Agreement.

8 PAYMENT OF SUBCONTRACTORS

- 8.1 **Payment.** Contractor shall pay its Subcontractors and suppliers, within thirty (30) days following receipt of payment from the County for such subcontracted Services or supplies.
- 8.2 **Indemnification as to Payment of Subcontractors.** Contractor shall save, defend, and hold the County harmless from any and all claims and actions from Contractor's Subcontractors for payment for Services and Deliverables provided by Subcontractors for Contractor under this Agreement.
- 8.3 **County not Liable for Payment to Subcontractors.** Nothing in this Agreement shall create any obligation on the part of the County to pay directly to any Subcontractor any monies due to such Subcontractor, or claims of a Subcontractor for amounts owed by Contractor to Subcontractor for Services performed under this Agreement.

9 LIMITATION OF LIABILITY AND INDEMNIFICATION OF COUNTY

- 9.1 The Contractor shall, at its own expense, indemnify, defend, and hold harmless the County and its public officials (elected and appointed), successors and assigns, agents, officers, and employees, from and against claims (including losses incurred or suffered in consequences either of bodily injury to a person or damage to tangible property), damages, losses and expenses, including, but not limited to, reasonable attorney's fees, to the extent arising from the performance of this Agreement provided that the claim, damage, loss and expense is caused by any negligent act or omission of the Contractor, or anyone directly or indirectly employed by Contractor, except that the Contractor will not be required to indemnify, defend and hold harmless the County if such claim, damage, loss and expense is the result of the negligence of the County, or of anyone directly or indirectly employed by the County or anyone for whose acts the County may be liable.
- 9.2 **Sovereign Immunity.** The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of the County's immunity or limits of liability beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature, and the cap on the amount and liability of the County for damages, regardless of the number or nature of claims in tort, equity, or contract, shall not exceed the dollar amount set by the legislature for tort. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the County, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

10 INSURANCE

10.1 Required Types of Insurance:

- 10.1.1 The Contractor shall purchase and maintain at its own expense, during the term of this Agreement the following types and amounts of insurance with limits no less than those shown below, in the form and from companies satisfactory to the County:

<u>SCHEDULE</u>	<u>LIMITS</u>
Workers' Compensation	Florida Statutory Coverage
Commercial General Liability	\$2,000,000. General Aggregate
.....	\$1,000,000. Personal/Advertising Injury
Blanket Contractual Liability.....	\$1,000,000. Each Occurrence
(The County of Volusia shall be named as an additional insured under General Liability-Premises/Operations	
Auto Liability.....	\$1,000,000. CSL
All autos-owned, hired or no-owned (Symbol 1 Coverage)	
Excess Liability.....	\$5,000,000. Per Occurrence
Products Liability.....	\$1,000,000. Per Occurrence

- 10.1.2 Minimum underlying coverage shall include Commercial General Liability, Automobile Liability and Workers' Compensation/Employer's Liability. (Umbrella liability limit will not be required to be carried by Subcontractors.)

(If the Services provided require the disposal of any hazardous or non-hazardous materials off the job site, the disposal site operator must furnish a certificate of insurance for Pollution Legal Liability with coverage for bodily injury and property damage for losses that arise from the facility that is accepting the waste under this Agreement).

- 10.1.3 **Workers' Compensation Insurance.** Per Section 10.1.1, Workers' Compensation insurance is required for all employees of the Contractor, employed or hired to perform or provide Work or Services under this Agreement or that is in any way connected with Work or Services performed under this Agreement, without exclusion for any class of employee, and shall comply fully with the Florida Workers' Compensation Law (Chapter 440, Florida Statutes, Workers' Compensation Insurance) and include Employers' Liability Insurance with limits no less than the statutory amount shown above per occurrence.

Contractor and its Subcontractors, or any associated or subsidiary company doing work on County property or under this Agreement must be named in the Workers' Compensation coverage or provide proof of their own Workers'

Compensation coverage, without exclusion of any class of employee, and with a minimum of the statutory limits per occurrence for Employer's liability coverage. Further, if the Contractor's Subcontractors fail to obtain Workers' Compensation insurance and a claim is made against the County by the uncovered employee of said Subcontractor of the Contractor, the Contractor shall indemnify, defend, and hold harmless the County from all claims for all costs including attorney's fees and costs arising under said employee(s) Workers' Compensation insurance claim(s).

- 10.1.4 **Commercial General Liability Insurance.** Per Section 10.1.1, Commercial General Liability insurance, with a limit of not less than the amounts shown above with an aggregate limit and per occurrence basis, including coverage for the Contractor's operations, independent Contractors, Subcontractors and "broad form" property damage coverages protecting itself, its employees, agents, Contractors or subsidiaries, and their employees or agents for claims for damages caused by bodily injury, property damage, or personal or advertising injury, products liability/completed operations including what is commonly known as groups A, B, and C (libel, false arrest, slander). Such policies shall include coverage for claims by any person as a result of actions directly or indirectly related to the employment of such person or entity by the Contractor or by any of its Subcontractors arising from work or services performed under this Agreement. Public liability coverage shall include either blanket contractual insurance or a designated Contract contractual liability coverage endorsement, indicating expressly the Contractor's contract to indemnify, defend and hold harmless the County as provided in this Agreement. The commercial general liability policy shall be endorsed to include the County as an additional insured under Premises/Operations.
- 10.1.5 **Excess/Umbrella Liability.** Per Section 10.1.1, the Contractor shall obtain an excess liability policy in addition to the scheduled underlying policies (commercial general liability, business auto liability, professional, and employers' liability) with a limit of no less than the amount shown above. This insurance shall follow the underlying and include either blanket contractual or a designated contract contractual coverage endorsement, indicating expressly the Contractor's agreement to hold the County harmless.
- 10.1.6 **Motor Vehicle Liability.** Per Section 10.1.1, the Contractor shall secure and maintain during the term of this Agreement, motor vehicle coverage in the split limit amounts of no less than the amounts shown above per person, per occurrence for bodily injury and for property damage or a combined single limit of the amount shown above **with "Any Auto", Coverage Symbol 1, providing coverage for all autos operated regardless of ownership, and** protecting itself, its employees, agents or lessees, or subsidiaries and their employees or agents against claims arising from the ownership, maintenance, or use of a motor vehicle.
- 10.1.7 **Primary and Excess Coverage.** Any insurance required may be provided by primary and excess insurance policies.

10.2 General Insurance Requirements

- 10.2.1 All insurance policies shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of A- in the "Best Key Rating Guide" published by A.M. Best & Company, Inc.
- 10.2.2 Approval by County of any policy of insurance shall not relieve Contractor from its responsibility to maintain the insurance coverage required herein for the performance of Work or Services by the Contractor or its Subcontractors for the entire term of this Agreement and for such longer periods of time as may be required under other clauses of this Agreement.
- 10.2.3 Waiver of Subrogation. The Contractor hereby waives all rights against the County and its Subcontractors to the extent of the risk coverage by any insurance policy required hereunder for damages by reason of any claim, demand, suit, or settlement (including workers' compensation) for any claim for injuries or illness of anyone, or perils arising out of this Agreement. The Contractor shall require similar waivers from all its Subcontractors. This provision applies to all policies of insurance required under this Agreement (including Workers' Compensation, and general liability).
- 10.2.4 County Not Liable for Paying Deductibles. For all insurance required by Contractor, the County shall not be responsible or liable for paying deductibles for any claim arising out of or related to the Contractor's business or any Subcontractor performing Work or Services on behalf of the Contractor or for the Contractor's benefit under this Agreement.
- 10.2.5 Cancellation Notices. During the term of this Agreement, Contractor shall be responsible for promptly advising and providing County of Volusia's Risk Management Division and the Purchasing and Contracts Division with copies of notices of cancellation or any other changes in the terms and conditions of the original insurance policies approved by the County under this Agreement within two (2) business days of receipt of such notice or change.
- 10.2.6 For any on-site Work performed by or on behalf of Contractor on County property, the County shall be named as an additional insured under Contractor's General Liability Premises/Operations Coverage

10.3 Proof of Insurance

- 10.3.1 The Contractor shall be required to furnish evidence of all required insurance in the form of certificates of insurance which shall clearly outline all hazards covered as itemized herein, the amounts of insurance applicable to each hazard, and the expiration dates.
- 10.3.2 The Contractor shall furnish proof of insurance acceptable to the County prior to or at the time of execution of this Agreement and the Contractor shall not commence Work or provide any Service until the Contractor has obtained all

the insurance required under this Agreement and such insurance has been filed with and approved by the County. In the event of a claim to which the County is a party, at the request of the County, the Contractor shall furnish copies of the insurance policies and any changes or amendments thereto, immediately, to the County and County's Risk Management and Purchasing and Contracts Divisions prior to the commencement of any contractual obligations. This Agreement may be terminated by the County, without penalty or expense to County if at any time during the term of this Agreement proof of any insurance required hereunder is not provided to the County.

- 10.3.3 All certificates of insurance shall clearly indicate that the Contractor has obtained insurance of the type, amount and classification required by this Article. No Work or Services by Contractor or its Subcontractors shall be commenced until County has approved these policies or certificates of insurance. Further, the Contractor agrees that the County shall make no payments pursuant to the terms of this Agreement until all required proof or evidence of insurance has been provided to the County. This Contractor may be terminated by the County, without penalty or expense, if proof of any insurance required hereunder is not provided to the County.
- 10.3.4 The Contractor shall file replacement certificates with the County at the time of expiration or termination of the required insurance occurring during the term of this Agreement. In the event such insurance lapses, the County expressly reserves the right to renew the insurance policies at the Contractor's expense or terminate this Agreement but County has no obligation to renew any policies.
- 10.3.5 **Survival.** The provisions of this Article shall survive the cancellation or termination of this Agreement.

11 TERMINATION

- 11.1.1 The Agreement may be terminated by either party upon the material breach by the other party if such breach is not cured within thirty (30) days written notice from the non-breaching party.
- 11.1.2 County may terminate the Agreement for convenience or non-appropriation upon at least thirty (30) calendar days' prior written notice to Contractor.
- 11.1.3 The Contractor may cancel the Agreement with one-hundred eighty (180) days written notice to the Director of Purchasing and Contracts. Failure to provide proper notice to the County may result in the Contractor being barred from future business with the County.
- 11.1.4 After Contractor's receipt of a notice of termination pursuant to Article 11.1.1 above (or to the extent Contractor has not cured a material breach within thirty (30) days notice from County), and except as otherwise directed by the County, the Contractor shall:
 - 11.1.4.1 Stop work under the Agreement or applicable statement of work on the date specified in the notice of termination.

- 11.1.4.2 Place no further orders or subcontracts for materials, services or facilities.
- 11.1.4.3 Terminate all orders and subcontracts to the extent that they relate to the performance of work or services terminated by the notice of termination.
- 11.1.4.4 With the approval of the County and to the extent required by the County, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts. County's approval of such settlements shall be final for all the purposes of Article 11, Termination.
- 11.1.5 After receipt of a notice of termination, the Contractor shall submit to the County its termination claim for amounts owed by County (which shall include, without limitation, all amounts due for work or services performed through the date of termination), in the form and with a certification as prescribed by the County. Such claim shall be submitted promptly but in no event later than thirty (30) days from the effective date of termination, unless one or more extensions in writing are granted by the County, upon request of the Contractor made in writing within such thirty (30) days period or authorized extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, the County may determine on the basis of information available to it, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined. In the event County terminates for convenience or non-appropriation, Contractor shall not be obligated to refund to County any prepaid fees.
- 11.1.6 Non-Appropriation. The Agreement may be terminated by the County or Contractor if the County does not appropriate the funding in any fiscal year necessary to pay the compensation set forth in the Article entitled Compensation in the Agreement.
- 11.1.7 In the event that the Agreement is terminated by the County or Contractor for non-appropriation, Contractor shall be paid in accordance with terms of the Article entitled Compensation in the Agreement. Contractor shall be paid (a) to the date of termination on a prorated basis for any work or deliverable that has been completed but not yet been paid. County's obligation to pay Contractor under this Article 11, Termination, and the Agreement is limited to the budgeted amount for the fiscal year approved by the Volusia County Council for the then current fiscal year of the Agreement. Contractor shall have no right to compel the Volusia County Council to appropriate funds for any fiscal year to pay the compensation.
- 11.1.8 Upon being notified of County's election to terminate for default of Contractor, non-appropriation or convenience, Contractor and its Subcontractors shall refrain from performing further work or incurring additional expenses under the terms of the Agreement which is not specifically authorized in the notice of termination.

11.1.9 If termination of the Agreement occurs for any reason:

11.1.9.1 Except as otherwise provided in the Agreement, Contractor shall return to the County, or destroy, all County confidential information in Contractor' possession and shall certify the destruction or return of said information in a written document signed by the duly authorized representative of the Contractor that all such information has been destroyed or returned, provided that Contractor shall be permitted to retain an archival copy of any such confidential information (provided it continues to maintain the confidentiality of such as prescribed herein) to the extent necessary to have a record of the work or service performed hereunder.

11.1.9.2 For all undisputed outstanding invoices submitted to the County for Services completed or deliverables delivered prior to the effective date of the termination, the County shall cause payments to be made to Contractor within forty-five (45) days of receipt of invoice. Contractor shall invoice the County for any sums Contractor claims to be owed by County under the Agreement for Services performed from the last invoice to the effective date of termination. County shall review such invoice for payment within fifteen (15) days of receipt and County shall pay any undisputed amount within forty-five (45) days, subject to the Article entitled Compensation in the Agreement. Any disputed amounts on any invoices shall be subject to the dispute resolution process set forth in the Article entitled Dispute Resolution in the Agreement.

11.1.10 In the event of termination by the County for non-appropriation, for all items or products ordered by Contractor before receipt by Contractor of the Notice of Termination which Contractor could not cancel without imposition of a fee, the County shall cause payments to be made to Contractor within forty-five (45) days of receipt of an undisputed invoice for all cancellation, restocking or residual fees resulting from the cancellation or return of third party products ordered from or shipped by the vendor thereof prior to the effective date of the termination.

12 DISPUTE RESOLUTION

1. **Good Faith Efforts to Resolve.** The parties to this Agreement shall exercise their best efforts to negotiate and settle promptly any dispute that may arise with respect to this Agreement in accordance with the provisions set forth in this Article 12, Dispute Resolution. The Contractor and County Project Manager shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, to address and work toward resolution of issues that arise in performance of this Agreement and any applicable statement of Services. Issues shall be escalated to successive management levels as needed.
2. **Informal Dispute Resolution.** If a dispute develops between the parties concerning any provision of this Agreement, or the interpretation thereof, or any conduct by the other party under this Agreement, and the parties are unable to resolve such dispute

within five (5) business days or longer, that party, known as the invoking party, through its applicable Project Manager, shall promptly bring the disputed matter to the attention of the non-invoking party's Project Manager or designated representative, as the case may be, of the other party in writing ("Dispute Notice") in order to resolve such dispute.

3. **Discovery and Negotiation / Recommended Procedures.** Upon issuance of a Dispute Notice, the Project Managers or designated representative shall furnish to each other all non-privileged information with respect to the dispute believed by them to be appropriate and germane. The Project Managers shall negotiate in an effort to resolve the dispute without the necessity of any formal proceeding. If such dispute is not resolved by the Project Managers or designated representative within five (5) County Work Days of issuance of the Dispute Notice, or such other time as may be mutually allowed by the Project Managers as being necessary given the scope and complexity of the dispute, the Project Managers may, depending upon the nature, scope, and severity of the dispute, escalate the dispute as indicated below:

County Work Days	Contractor's Representative	County Representative
10	Contractor's Project Manager	County's Project Manager
10	Contractor's Sr. Vice President of Sales	Director of Purchasing and Contracts
20	Contractor's COO or President	Deputy County Manager

4. **Formal Dispute Resolution.** At any point after issuance of a Dispute Notice under this section, either party may request and initiate formal non-binding mediation before a single mediator, which mediation shall be completed within thirty (30) days of initiation or such longer time as may be agreed upon by both parties as being necessary for the mutual selection of a mediator and scheduling of such mediation. Any such mediation shall be convened and conducted in accordance with the rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700 et seq. of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize any pending termination remedies and commence litigation in a court of competent jurisdiction. Each party shall bear its own costs and attorney's fees for mediation or arbitration of an issue arising under this Agreement.
5. **Right to Terminate Reserved.** Regardless of the dispute resolution procedures provided for in this Article 12, Dispute Resolution, nothing herein shall affect, delay, or otherwise preclude a party from terminating this Agreement in accordance with the provisions of Article 11, Termination, it being understood that these dispute resolution

procedures are intended as a means of resolving disputes both during the term of this Agreement and after termination or expiration thereof.

13 MISCELLANEOUS PROVISIONS

- 13.1 **Independent Contractor.** Contractor is an independent contractor under this Agreement. Services provided by Contractor pursuant to this Agreement shall be subject to the supervision of Contractor. In providing such Services, neither Contractor nor its agents shall act as officers, employees, or agents of the County. No partnership, joint venture, or other joint relationship is created hereby. County does not extend to Contractor or Contractor's agents any authority of any kind to bind County in any respect whatsoever.
- 13.2 **Third Party Beneficiaries.** Neither Contractor nor County intends to directly or substantially benefit a third party by this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement, except as otherwise provided in this Agreement.
- 13.3 **Notice.** All notice required under this Agreement shall be in writing and shall be sent by certified United States Mail or national parcel service, postage prepaid, return receipt requested, or by hand-delivery with a written receipt of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

In the case of County:	with a copies of legal notices to:
County of Volusia Attn: Director of Purchasing & Contracts Address: 123 W. Indiana Ave., Rm. 302 DeLand, Florida 32720 Phone: 386-736-5935	County of Volusia Attn: County Attorney Address: 123 W. Indiana Ave., Rm. 301 DeLand, Florida 32720 Phone: 386-736-5950
In the case of Contractor:	with a copy of legal notices to:
Zoll Medical Corporation Attn: Michael Trotter EMS Group VP of Sales Address: 269 Mill Road Chelmsford, MA 01824 Phone: (800) 348-9011	Zoll Medical Corporation Attn: Michael Trotter EMS Group VP of Sales Address: 269 Mill Road Chelmsford, MA 01824 Phone: (800) 348-9011

13.4 **Assignment.**

Contractor may not assign or otherwise convey Contractor's rights and/or obligations under this Agreement without obtaining County's prior written consent, which consent County may withhold, limit and/or condition in County's sole discretion, including, but

not limited to posting a performance bond. Any consent by the County under this Section shall be by written amendment to the Agreement in a form and substance specified by the County in its sole discretion. If Contractor desires to assign or otherwise convey its rights and/or obligations under this Agreement, Contractor no less than thirty (30) days prior to the assignment's proposed effective date, provide County with a written request for County's consent. Failure to provide such notice may result in the County assessing a processing fee of Five Hundred Dollars (US \$500.00).

Failure by the Contractor to obtain the County's consent in accordance with this Section prior to assignment or other conveyance shall: 1) constitute a material breach of the Agreement; and 2) entitle the County to retain any and all legal rights, claims and defense to enforce this Section, including, but not limited to, injunctive, declaratory, damages and attorney's fees and costs. Payment of any sum by the County in accordance with the Agreement to the Contractor or any person or entity prior to the Contractor obtaining the County's consent to the assignment shall not constitute a waiver of the rights of the County under this Section 14.10.

Nothing herein shall preclude the right of the County to waive its rights under this Section but no waiver shall be granted by the County without amendment to the Agreement.

- 13.5 **Conflicts.** Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement. Contractor further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Contractor is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Contractor or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding. In the event Contractor is permitted pursuant to this Agreement to utilize Subcontractors to perform any Services required by this Agreement, Contractor agrees to require such Subcontractors, by written Agreement, to comply with the provisions of this section to the same extent as Contractor.

- 13.6 **Audit Right and Retention of Records.** County shall have the right to audit the books, records, and accounts of Contractor and its Subcontractors that are related to this Agreement. Contractor and its Subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement. Contractor shall preserve and make available, at reasonable times for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a retention period of five (5) years after completion or termination of this Agreement, and any renewals, as required by Item 65, General Records Schedule GS1-SL for State and Local Government Agencies, effective February 19, 2015 and the Florida Public Records Act (Chapter 119, Florida Statutes). Contractor shall, by written Agreement, require its Subcontractors to agree to the requirements and obligations of

this Article 13.6. Audits will be subject to applicable privacy and confidentiality laws and regulations and Contractor's privacy and confidentiality policies and procedures. All audits must be performed at Contractor's home office in Massachusetts. Nothing in this section 13.6 shall require Contractor to violate any laws applicable to Contractor as a provider of Cardiac Monitors and Cardiac Monitor Preventative Maintenance.

13.7 **Location of County Data.** Contractor shall not out-source any development and/or support for this Agreement or transfer any County Data outside the territorial limits of the United States of America, without the written approval of the Agreement Administrator.

13.8 **Key Personnel.** The initial key personnel and any changes or substitutions in the key personnel must be made known to County or specified in the Scope of Services or future Statement of Work, and County must grant approval before any such initial personnel or change or substitution can become effective. County agrees not to unreasonably withhold any such approval. Contractor shall, except as agreed by the parties, provide the key personnel as long as said staff are in Contractor's employment. In the event of injury, illness, or death of Contractor's key personnel, or if such key personnel leave Contractor's employ, Contractor shall replace such individual within thirty (30) County work Days after such injury or illness, or from the date of departure from employment or of death. Contractor shall obtain prior written approval of the Agreement Administrator to replace key personnel, such approval not to be unreasonably withheld. Contractor shall provide the Agreement Administrator with such information as necessary for County to evaluate the new key personnel. In the event the Agreement Administrator has reasonable objections to any replacement of key personnel, County shall notify Contractor in writing regarding such objections. Promptly after its receipt of such objections, Contractor shall investigate the matters stated and discuss its findings with County. If County thereafter requests in good faith replacement of the key personnel, Contractor shall use its reasonable best efforts to replace the employee with a person of suitable ability and qualification. Contractor shall use its best efforts to avoid replacing or reassigning any key personnel under this Agreement. If, notwithstanding this commitment, it becomes necessary for Contractor to replace any key personnel under this Agreement, Contractor shall give County as much reasonable detail as possible concerning the proposed replacement. At a minimum, Contractor agrees, where reasonably possible, to provide County with at least thirty (30) days notice of changes to Contractor's Project team participants. Contractor agrees to provide County with resumes of new Project team participants and County may choose to interview new Project team members.

13.9 **References to County or Contractor.** Contractor agrees that during the term of this Agreement, except as provided herein, Contractor may not reference County in Contractor's website, and/or press releases, and, may not place County's name and logo on Contractor's Web site or in collateral marketing materials relating to Contractor's products and Services without prior review and written approval by County. Further, Contractor agrees that it may not use County's name, logo or any trademarks (including in any press releases, customer "case studies," and the like) without County's prior written consent. Termination or expiration of this Agreement shall not affect Contractor's obligation in this regard and such obligation shall survive the termination or cancellation of this Agreement.

13.10 **Force Majeure.** Neither party shall be liable for any failure or delay in the performance

of its obligations under the Agreement to the extent such failure or delay necessarily results from the occurrence of a Force Majeure Event beyond the control or reasonable anticipation of either party, including, but not limited to, compliance with any unanticipated government law or regulation not otherwise in effect at the time of execution of this Agreement, acts of God, unforeseeable governmental acts or omissions, fires, strikes, natural disasters, wars, riots, transportation problems, and/or any other unforeseeable cause whatsoever beyond the reasonable control of the parties (and such cause being referred to as a "Force Majeure Event"). Accordingly, the parties further agree that:

13.10.1 Upon the occurrence of Force Majeure Event, the non-performing party shall be excused from any further performance of those obligations under this Agreement that are affected by the Force Majeure Event for as long as (a) the Force Majeure Event continues; and (b) the non-performing party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

13.10.2 Upon the occurrence of a Force Majeure Event, the non-performing party shall notify the other party of the occurrence of such event and describe in reasonable detail the effect(s) of such event upon the party's performance of its obligations and duties pursuant to this Agreement. Such notice shall be delivered or otherwise communicated to the other party within two (2) business days following the failure or delay caused by the Force Majeure Event, or as soon as possible after such failure or delay if the Force Majeure Event precludes the non-performing party from providing notice within such time period.

13.10.3 In the event of a Force Majeure Event, the time for performance by the parties under the applicable Statement of Work shall be extended for a period of time equal to the time lost by reason of such cause through execution of a change order pursuant to the terms of the Agreement.

13.11 **Bankruptcy Rights of County.** All rights and licenses granted under or pursuant to this Agreement or any attachments hereto by Contractor to County are, and shall otherwise be deemed to be, for purposes of Section 365 (n) of the United States Bankruptcy Code (the "Code"), or replacement provision therefore, licenses to rights to "intellectual property" as defined in the Code. The parties agree that County, as licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the Code. The parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against Contractor under the Code, County shall be entitled to retain all of its rights under this Agreement.

13.12 **Waiver of Breach and Materiality.** Failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

13.13 **Severance.** In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to

be effective to the extent practicable unless County or Contractor elects to terminate this Agreement.

- 13.14 **Entire Agreement.** This Agreement contains the entire agreement between Contractor and County. Any modifications to this Agreement shall not be binding unless in writing and signed by both parties.
- 13.15 **Applicable Law, Venue and Waiver of Jury Trial.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. Jurisdiction over and venue for any controversies or legal issues arising out of this Agreement shall be exclusively in the state courts of the Judicial Circuit of County of Volusia, Florida, unless one or more causes of action are solely cognizable in federal court, in which case, venue for and jurisdiction over such dispute(s) shall be in the Middle District of Florida, Orlando Division. By entering into this Agreement, Contractor and County hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Agreement, and, unless otherwise expressly provided herein, each agrees to bear its own costs and attorney's fees relating to any dispute arising under this Agreement.
- 13.16 **Prior Agreements.** This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The Parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.
- 13.17 **Other Agencies.** The Contractor may, upon mutual agreement, permit any municipality or other governmental agency to participate in the Agreement under the same prices, terms, and conditions. It is understood that at no time will any city or municipality or other agency be obligated for placing an order for any other city, municipality, or agency, nor will any city, municipality, or agency be obligated for any bills incurred by any other city, municipality, or agency. Further it is understood that each agency will issue its own purchase order to the Contractor.
- 13.18 **F.O.B. Point.** The F.O.B. points for this Agreement and for all purchases made under it shall be as specified by the using department, in Volusia County, Florida. Delivery will not be complete until the using department has accepted each item. Delivery to a common carrier shall not constitute delivery to the ordering agency. All disputes shall be between the Seller/Respondent and the carrier.
- 13.19 **New Material.** Unless otherwise provided for in this Agreement, the Contractor represents and warrants that the goods, materials, supplies, or components offered to the County under this Agreement are new, not used or reconditioned. The Contractor represents that these goods, materials, supplies, or components are not of such age or so deteriorated as to impair their usefulness or safety and that the goods, materials, supplies, or components offered are current production models of the respective manufacturer.
- 13.20 **Waiver of Claims.** Once the Agreement expires, or final payment has been requested and made, the Contractor shall have no more than thirty (30) calendar days to present

or file any claims against the County concerning the Agreement. After that period, the County will consider the Contractor to have waived any right to claims against the County concerning the Agreement.

- 13.21 The Contractor shall take the necessary precautions and bear the sole responsibility for the safety of the methods employed in performing the work. The Contractor shall at all times comply with the regulations set forth by federal, state, and local laws, rules, and regulations concerning "OSHA" and all applicable state labor laws, regulations, and standards. The Contractor shall indemnify and hold harmless the County from and against all liabilities, suits, damages, costs, and expenses (including attorney's fees and court costs) which may be imposed on the County because of the Contractor, Subcontractor, or supplier's failure to comply with the regulations.

13.22 Right to Require Performance

13.22.1 The failure of the County at any time to require performance by the Contractor of any provision hereof shall in no way affect the right of the County thereafter to enforce same, nor shall waiver by the County of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

13.22.2 In the event of failure of the Contractor to deliver services in accordance with the Agreement terms and conditions, the County, after due written notice, may procure the services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the County may have.

- 13.23 **Damages.** Due to the nature of the services to be provided and the potential impact to the County for loss, the Contractor cannot disclaim consequential or special damages related to the performance of this Agreement. The Contractor shall be responsible and accountable for any and all damages, directly or indirectly, caused by the actions or inaction of its employees, staff, or Subcontractors. In no event shall the maximum liability exceed \$10,000,000.

14 LOCAL GOVERNMENT REQUIREMENTS

- 14.1 Public Records Law. Pursuant to section 119.0701(2)(a), Florida Statutes, the County is required to provide Contractor with this statement and establish the following requirements as contractual obligations pursuant to the Agreement:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 386-736-5935, purchasing@volusia.org, by mail, Purchasing and Contracts Division, Attn: Public Records Custodian, 123 W. Indiana Ave. RM 302 DeLand, FL 32720.

- 14.2 By entering into this Agreement, Contractor acknowledges and agrees that any records maintained, generated, received, or kept in connection with, or related to the performance of Services provided under this Agreement are public records subject to the public records disclosure requirements of section 119.07(1), Florida Statutes, and Article I, section 24 of the Florida Constitution. Pursuant to section 119.0701, Florida Statutes, any Contractor entering into a contract for services with the County is required to:
- 14.2.1 Keep and maintain public records required by the County to perform the services provided pursuant to this Agreement.
 - 14.2.2 Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 - 14.2.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the County.
 - 14.2.4 Upon completion of the Contract, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the Service. If the Contractor transfers all public records to the County upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.
 - 14.2.5 Requests to inspect or copy public records relating to the County's Agreement for Services must be made directly to the County. If Contractor receives any such request, Contractor shall instruct the requestor to contact the County. If the County does not possess the records requested, the County shall immediately notify the Contractor of such request, and the Contractor must provide the records to the County or otherwise allow the records to be inspected or copied within a reasonable time.
 - 14.2.6 Contractor acknowledges that failure to provide the public records to the County within a reasonable time may be subject to penalties under section 119.10, Florida Statutes.

- 14.2.7 Contractor further agrees not to release any records that are statutorily confidential or otherwise exempt from disclosure without first receiving prior written authorization from the County.

Contractor shall indemnify, defend, and hold the County harmless for and against any and all claims, damage awards, and causes of action arising from the Contractor's failure to comply with the public records disclosure requirements of section 119.07(1), Florida Statutes, or by Contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorney's fees and costs arising therefrom. Contractor authorizes County to seek declaratory, injunctive, or other appropriate relief against Contractor from a Circuit Court in Volusia County on an expedited basis to enforce the requirements of this section.

- 14.3 **No Code Violation or Past Due Debt.** Contractor warrants and represents that neither the business, nor any officer or significant stakeholder of the business is in violation of the Volusia County Code of Ordinances, and does not owe the County any past due debt. Any breach of the foregoing warranty and representation shall be a material breach of this Agreement and the County shall have the right to terminate this Agreement as set forth herein.
- 14.4 **Changes Due to Public Welfare.** The County and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to change in law or Ordinance.
- 14.5 **Compliance with Applicable Laws.** Contractor shall perform its obligations hereunder in accordance with all applicable federal, state and local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the performance of this Agreement. Contractor shall protect and indemnify County and all its officers, agents, servants and employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order or decree caused or committed by Contractor, its representatives, subcontractors, professional associates, agents, servants or employees. Additionally, Contractor shall obtain and maintain at its own expense all applicable licenses and permits to conduct business pursuant to this Agreement from the federal government, State of Florida, County of Volusia or municipalities when legally required and maintain same in full force and effect during the term of this Agreement.
- 14.6 **Nondiscrimination and Americans with Disabilities Act.** Contractor shall not unlawfully discriminate against any person in the operations and activities in the use or expenditure of the funds or any portion of the funds provided by this Contract. Contractor agrees it shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing all Services funded by County, including Titles I, II and III of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. If the County, the Department of Justice or other governmental entity tasked with the enforcement of the ADA ("Enforcement Agency") notes any deficiency in the facilities, practices, services, or operations of the Contractor furnished or provided in connection with this Contract, Contractor shall, at no additional charge or cost to the County,

immediately cure any such deficiencies without delay to the satisfaction of such Enforcement Agency. Contractor further agrees that it shall, to the extent permitted by law, indemnify, defend, and hold harmless the County against any and all claims, sanctions, or penalties assessed against the County, which claims, sanctions, or penalties arise or otherwise result from Contractor's failure to comply with the ADA. In performing under this Contract, Contractor agrees that it shall not commit an unfair employment practice in violation of any state or federal law and that it shall not discriminate against any member of the public, employee or applicant for employment for work under this Agreement because of race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability.

- 14.7 **Drug Free Workplace.** The County of Volusia is a drug-free and smoke-free workplace. Contractor agrees that it shall provide a drug-free environment to its personnel during the term of this Agreement and will comply, subject to the prior receipt thereof, with the County's policies on drug-free and smoke-free work place during the term of this Agreement.
- 14.8 **Employment of Illegal Aliens.** Contractor certifies that it does not knowingly or willingly and will not during the performance of the Agreement employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986, as amended.
- 14.9 **Prohibition Against Contingent Fees.**
- 14.9.1 The Contractor warrants that he or she or it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement and that he or she or it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor any fee, commission, compensation, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the County shall have the right to terminate this Agreement without liability and, at its sole discretion, to deduct from the Agreement price or compensation, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.
- 14.9.2 Contractor understands and acknowledges that any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for the Contractor, who offers, agrees, or contracts to solicit or secure County contracts for Services for any other individual, company, corporation, partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or the making of an agreement for Services shall, upon conviction in a competent court of this State, be found guilty of a first degree misdemeanor, punishable as provided in Sections 775.082 or 775.083 of the Florida Statutes.
- 14.9.3 Any County official, agent or employee who offers to solicit or secure, or solicits or secures, an agreement for professional Services and to be paid, or is paid,

any fee, commission, percentage, gift, or other consideration contingent upon the award or making of such an agreement for professional Services between the County and any individual person, company, firm, partnership, or corporation shall, upon conviction by a court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in Sections 775.082 or 775.083 of the Florida Statutes.


14.10 **Equal Opportunity; Disadvantaged Business Enterprises.**

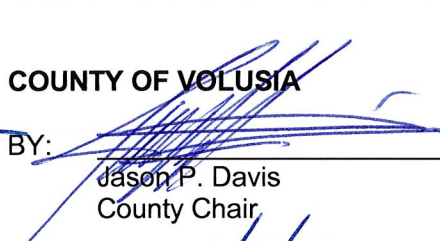
The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

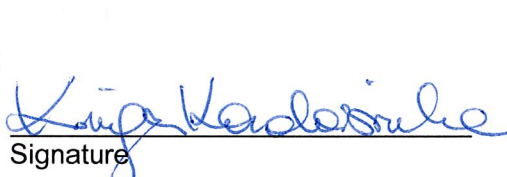
15 All provisions of this Agreement which impose or contemplate continuing obligations on a party shall survive the expiration or termination of this Agreement.

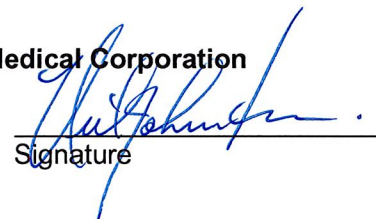
16 **SIGNATURES**

IN WITNESS WHEREOF, the parties have made and executed this Agreement for **Cardiac Monitors and Cardiac Monitor Preventative Maintenance** on the date last written below.

Attest: 
James T. Dinneen
County Manager
Date: 9/15/16

COUNTY OF VOLUSIA
BY: 
Jason P. Davis
County Chair
Date: 9/9/16

Attest: 
Signature
KINGA KARDASINSKA, CONTRACTS SPECIALIST
Name and Title
Date: 8/23/2016

Zoll Medical Corporation
BY: 
Signature
Neil Johnston, VP for Hospital Sales
Name and Title
Date: 08/23/2016

CC Date: 9.8.2016

Cardiac Monitors

1.0 PURPOSE & OVERVIEW

The purpose of the Agreement is for the purchase of Zoll X-Series cardiac monitor/defibrillators for the Emergency Medical Services (EMS) and the Volusia County Fire Rescue (VCFR) Divisions.

As part of this Agreement, the Department of Public Protection will be trading in existing cardiac monitors/defibrillators, chargers, and batteries.

The EMS Division will purchase up to fifty two (52) cardiac monitors/defibrillators and the Fire Rescue Division will purchase up to twenty seven (27) cardiac monitors/defibrillators.

2.0 SCOPE OF SERVICES

2.1 Specifications

- A. The cardiac monitor/defibrillators shall, at a minimum, perform the following functions:
1. Monitor, print, and visually display 4-lead EKG rhythms;
 2. Monitor and print 12-lead EKG rhythms;
 3. Monitor and visually display continuous, real-time peripheral capillary oxygen saturation (SpO₂);
 4. Monitor and visually display continuous, real-time end tidal carbon dioxide readings (ETCO₂);
 5. Monitor and display carbon monoxide (SpCO) readings;
 6. Perform Non-Invasive Blood Pressure Monitoring (NIBP);
 7. Perform synchronized cardioversion based on current American Heart Association recommendations;
 8. Perform unsynchronized defibrillation based on current American Heart Association recommendations;
 9. Perform Transcutaneous Pacing (TCP);
 10. Transmit electrocardiograms (EKG) directly from the cardiac monitor to a receiving hospital with the use of a wireless card (i.e. from a remote location away from response vehicle) and via a secured Wi-fi network (when in range of response vehicle's wireless network);
 11. Upload complete full-disclosure case reports to an electronic patient care report (ePCR) solution (current solutions in use by Volusia County are Zoll ePCR and FireHouse); and,
 12. Ability to upload complete full-disclosure case reports to a repository (client based and/or cloud based) to ensure all patient reports are stored.

- B. The cardiac monitor/defibrillators shall be approved for use by the Food and Drug Administration (FDA) in a pre-hospital setting.
- C. The end-user shall be able to view the entire case report after upload and it shall have the ability to be viewed in real-time.
- D. The cardiac monitor shall be secured to the stretcher for continuous patient monitoring while moving the patient from one location to another on the stretcher. The cardiac monitor shall be secured to FERNO™ and/or STRYKER brand stretchers.
- E. The cardiac monitor shall be secured inside the patient compartment of a transport vehicle in accordance to National Fire Protection Association standards.
- F. The cardiac monitors shall include power cords.

2.2 Delivery

- A. Cardiac Monitors shall be received within 60-90 days after receipt of accepted purchase order. All cardiac monitors/defibrillators shall be delivered at the same time and the prices indicated on Exhibit B – Price Sheet. The units shall be shipped to Volusia County Emergency Medical Services facility, 112 Carswell Avenue, Holly Hill, Florida 32117.
- B. The County will trade-in the current cardiac monitor/defibrillators at the conclusion of the training and installation of mounts/brackets/chargers. Trade-ins will be available for return within thirty (30) days of completion of training and installation of all new defibrillators. Contractor accepts responsibility for the cost of the returns.

2.3 Service Agreement & Training

- A. The Contractor shall provide an on-going non-warranty service agreement to include training for field personnel for initial deployment and provide any additional updates that are required of the manufacturer.
- B. The Contractor shall provide the length of training recommended by the manufacturer for approximately 300 end users and 50 administrative staff.
- C. Proposed Training Plan
 - 1. First Week
 - a. Equipment setup and education for training staff.
 - b. Super-user Training for Clinical and Supervisory Staff/4 training sessions - 3 hours per session.
 - 2. Weeks 2+

- a. Contractor's staff will provide end-user training in conjunction with service's clinical training staff.
- b. End-user Equipment Training (recommended 2-3 end users per/device) - 90-120 minutes per session.

D. Training Schedule

Training Schedule #1:

1 Clinical Deployment Specialist on site for 4 - 6 weeks

- i. 3-4 training sessions per day I 4 training days per week
- ii. 60 - 80 providers trained per day
- iii. 250 - 300 providers trained per week

- E. County will have full access to Contractor's online training program as an adjunct to deployment services provided.

2.4 Preventative Maintenance

- A. Contractor's maintenance plan for the cardiac monitor/defibrillators, listing all correlating costs, is listed in Exhibit B-Pricing. This plan includes the cost of expedited loaner equipment, weekly on-site repair visits, annual preventative maintenance/quality assurance checks, and replacement parts/accessories. The maintenance plan shall be comprehensive in nature.
- B. Battery replacement program shall be part of the maintenance plan.
- C. All repairs and preventative maintenance shall be performed at one of the following locations (subject to change in the future):
- 1. Volusia County Emergency Medical Services facility located at 112 Carswell Avenue, Holly Hill, Florida.
 - 2. Volusia County Fire Rescue Logistics facility located at 1970 South Volusia Avenue, Orange City, Florida
 - 3. Repairs that cannot be made at one of the above locations shall be shipped (at Contractor's cost) to the manufacturer's repair facility.
- D. Contractor will provide technical assistance through their Technical Support Department. Should the equipment require service, County will contact the Technical Support Department directly.
- E. Technical Support Hours of Coverage
- 1. Technical support is available to the County free of charge through Contractor's technical support help desk by calling 1 - 800-348-9011, Monday through Friday from 8:30 AM to 6:00 PM EST.

2. The technical support representative will require the following pertinent information to open a service request:
 - a. Unit serial number;
 - b. Description of the complaint;
 - c. Department where the equipment is being used;
 - d. Patient information if applicable;
 - e. ECG strips if available; and,
 - f. Master Agreement number if the device is out of warranty.
3. This information will assist Contractor in performing a full evaluation when the product is received at Contractor's repair facility. County will be given a returned merchandise authorization number to track the return of the product.

F. Emergency Service

Outside the coverage identified above, technical support is available to the County on an emergency basis seven (7) days a week. Emergency support Contractor's *off* hours dispatch system. During weekends and evenings, Contractor's on call technical support representative will return the call within four (4) hours.

G. Response Time

1. The technical support help desk answers support inquiries in real time. If the County prefers to leave a voicemail, the technical support team will return the call within one (1) hour during business hours. The County will work with the technical support representative to troubleshoot the issue.
2. Technical support help desk may dispatch a service loaner to our facilities (listed in Section 2.4(C)). A service loaner is available at no charge during the repair analysis process and will be shipped to arrive before 10 AM the next business day.

H. On-Site Service

If the inquiry is not resolved during the phone call, a local field support technician will be dispatched.

I. Terms

1. Within forty eight (48) hours of contact to technical support, a Field Support Representative will be on-site during normal business hours to respond to the County's needs.
2. In the event of a device problem, the device should be made available to the Contractor's field support technician during the scheduled on-site visit at one of the two locations listed in §2.4(C).

3. A primary and back-up contact will be provided to the Contractor's field support technician for all communication.
4. Only closed box repairs will be completed on-site (i.e. software updates, software reloading, handle replacement, external cable replacement).

J. Service Provided by On-Site Service

1. The following services will be provided by a Contractor's field technician during the scheduled on-site visit:
 - a. Troubleshoot device(s) and/or accessories under contract;
 - b. Place calls with the technical support help desk to open service requests and obtain a return authorization number for devices requiring repair/evaluation;
 - c. Coordinate service loaner deployments with Contractor's technical support help desk;
 - d. Functionally test and assist in the deployment of service loaners or customer devices, including:
 - i. loading custom device configurations;
 - ii. attaching carrying cases/ bags;
 - iii. attaching mounting brackets;
 - iv. connecting accessories; and
 - v. establishing communications (pairing BT, Wi-Fi, etc.);
 - e. Perform authorized on-site device repairs;
 - f. Package (or un-package) service loaners and customer units under contract for shipment to (or returned from) Contractor;
 - g. Provide answers or guidance to assure that any issues or questions County staff may have are addressed;
 - h. Provide product training as required;
 - i. Perform device software updates with the permission of the County; and,
 - j. Review battery chargers and battery management. Cycle batteries as required.

K. Contractor's Depot Repairs

1. Repairs are performed in the Contractor' Service Depot located at.
2. Contractor's service technicians are highly skilled individuals that are trained in accordance with the technical service standard operating procedures. Training is required to be completed prior to evaluating and repairing any device. Technicians are also required to be trained on any updates to these procedures as they occur.
3. Training requirements, procedures and records are retained electronically in the Contractor's database.

4. All repaired products will go through an integral recertification process prior to being returned to the County. This includes devices that undergo a repair or an evaluation which determines that a repair is not required, as the evaluation may include disassembly of the product. This process recertifies device for clinical use.

L. On-Site Service for Preventive Maintenance

1. Contractor's factory trained PM and Deployment Technician will be scheduled to provide annual on-site preventive maintenance at the locations listed in §2.4(C). Primary and back-up contact information will be provided to the Contractor's field support technician for all communication and scheduling. Contractor will work with County Project Manager to coordinate the Preventive Maintenance.
2. Performance of Preventive Maintenance Includes:
 - a. Clean all exterior surfaces of unit;
 - b. Perform visual inspection to ensure integrity of the unit;
 - c. Test Power Supply, ECG, Pacer Outputs & Rates, Defib Times and Output Energy;
 - d. Test of MFC functions;
 - e. Test Real Time Clock of the system;
 - f. Perform operational check of all system level functions per device Service Manual; and,
 - g. Recertify device for clinical use.

M. Battery Replacement Program

1. Batteries will be maintained per Contractor's recommended maintenance program.
2. Batteries will be replaced, one for one, throughout the Extended Warranty period on an as needed basis, should the SurePower battery or SurePower Charger display a fault.
3. Battery replacement program will only apply to batteries included with the original shipment of the devices.
4. Batteries will be returned to the Contractor for evaluation and confirmation of failure.

2.5 Warranty

- A. The warranty shall be the manufacturer's standard warranty. All warranty work shall be performed at one of the locations listed in §2.4(C) above.
- B. Warranty shall include, at a minimum:

Exhibit A-Scope of Work

1. One (1) year parts and labor warranty against manufacturing defects affecting the performance of the unit, to include transport of affected unit(s); and,
2. Ninety (90) days warranty for accessories (i.e. EKG cables, sensor probes, etc.).

Exhibit A-1
Functional Requirements Matrix

RFP 16-P-64AK

REQUIRED INFORMATION	RESPONSE
1 SPECIFICATIONS AND FUNCTIONALITY	
1.1 PROPOSED cardiac monitor	
A. Approved for use by the Food and Drug Administration (FDA) in a pre-hospital setting	The X Series is intended for use by trained medical personnel who are familiar with basic monitoring, vital sign assessment, emergency cardiac care, and the use of the X Series. The X Series is also intended for use by (or on the order of) physicians at the scene of an emergency or in a hospital emergency room, intensive care unit, cardiac care unit, or other similar areas of a hospital. The usage may be in an ambulance or at the scene of an emergency. It is also intended to be used during the transport of patients. The X Series will be used primarily on patients experiencing symptoms of cardiac arrest or in post trauma situation. It may also be used whenever it is required to monitor any of those functions that are included (as options) in the device. The X Series unit can be used on neonate patients and on adult patients (21 years of age or older) with and without heart dysfunction. Full FDA approval documentation is available.
B. Ability to monitor, print and visually display 4-lead EKG rhythms	The X Series has the ability to monitor, print, display and/or record 4-lead ECG waveform and heart rate, and to alarm when heart rate is above or below limits set by the operator. The patient population will range from newborn (neonate) to adult, with and without heart dysfunction.
C. Ability to monitor and print 12-lead EKG rhythms	The X Series has the ability to monitor, print, display and/or record 12-lead ECG waveform and heart rate, and to alarm when heart rate is above or below limits set by the operator. The patient population will range from newborn (neonate) to adult, with and without heart dysfunction. The 12-lead ECG Analysis is intended for use in acquiring, analyzing and reporting ECU data, and to provide interpretation of the data for consideration by caregivers.
D. Ability to monitor and visually display continuous, real-time peripheral capillary oxygen saturation (SpO2)	The X Series pulse CO-oximeter, with Masimo Rainbow SET technology and the Rainbow series of sensors, is intended for use for continuous noninvasive monitoring of functional oxygen saturation of arterial hemoglobin (SpO2), pulse rate, carboxyhemoglobin saturation (SpCO), and/or methemoglobin saturation (SpMet). The pulse CO-oximeter and accessories are indicated for use on adult, pediatric, and neonatal patients during both no motion and motion conditions, and for patients who are well or poorly perfused, in hospitals, hospital-type facilities, or in mobile environments. Saturation Range: 1 – 100%; Pulse Rate Range: 25 – 240 bpm
E. Ability to monitor and visually display continuous, real-time end tidal carbon dioxide readings (ETCO2)	The X Series is intended for use to make continuous noninvasive measurement and monitoring of carbon dioxide (CO2) concentration of the expired and inspired breath and breath rate. The patient population will range from newborn (neonate) to adult. Range: 0 – 150 mmHg; Respiration Range: 0 – 149 breaths per minute; Flow rate: 50 ml/min -7.5 + 15 ml/min; Typical response time: 2.9 seconds; Maximum response time: 3.9 seconds
F. Ability to monitor and display carbon monoxide (SpCO) readings	The X Series pulse CO-oximeter, with Masimo Rainbow SET technology and the Rainbow series of sensors, is intended for use for continuous noninvasive monitoring of functional oxygen saturation of arterial hemoglobin (SpO2), pulse rate, carboxyhemoglobin saturation (SpCO), and/or methemoglobin saturation (SpMet). The pulse CO-oximeter and accessories are indicated for use on adult, pediatric, and neonatal patients during both no motion and motion conditions, and for patients who are well or poorly perfused, in hospitals, hospital-type facilities, or in mobile environments. Range: 0 – 99%; Accuracy: 1 – 40% ± 3 digits
G. Ability to perform non-invasive blood pressure monitoring (NIBP)	The X Series is intended for use to make non-invasive measurements of arterial pressure and heart rate, and to alarm if either parameter is outside of the limits set by the user. Measurements are made using an inflatable cuff on the patient's arm or leg. The patient population will range from newborn (neonate) to adult. Utilizes Smartcuf® and Sure BP® technology. Measurement Intervals: Automatic 1-, 2-, 3-, 5-, 10-, 15-, 30-, 60-minute, and manual quick-action NIBP Start/Stop button; TurboCuf: 5 min of repeated NIBP readings; Display: Systolic, diastolic, mean. Viewable on-screen with large numerics. Cuff Overpressure Protection; Typical Measurement Time: 30 – 45 sec (on deflation) 15 – 30 sec – Sure BP (on inflation) Standard Cuff Sizes: Neonate #1 – #5, Infant, Small Child, Small Adult, Adult Long, Large Adult, Thigh

Exhibit A-1
Functional Requirements Matrix

RFP 16-P-64AK

REQUIRED INFORMATION	RESPONSE
H. Ability to perform Synchronized Cardioversion based on current American Heart Association recommendations	The X Series can be used for synchronized cardioversion of certain atrial or ventricular arrhythmias. Qualified medical personnel must decide when synchronized cardioversion is appropriate. The patient population will range from newborn (neonate) to adult. Synchronizes defibrillator pulse to patient's R wave. "SYNC" message displayed on monitor and markers shown on both monitor and recorded ECG. Meets Clause 104 of AAMI DF80.
I. Ability to perform Unsynchronized Defibrillation based on current American Heart Association recommendations	The X Series can be used for external defibrillation for victims of cardiac arrest where there is apparent lack of circulation as indicated by: unconsciousness, absence of breathing, and absence of pulse. Waveform: Rectilinear Biphasic™ Energy Selections: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 15, 20, 30, 50, 70, 85, 100, 120, 150, 200 joules. Charge Time: Less than 7 seconds with a new, fully charged battery.
J. Ability to perform Transcutaneous Pacing (TFP)	The X Series can be used for transcutaneous pacing in conscious or unconscious patients as an alternative to endocardial stimulation. Pulse Types: Rectilinear, constant current; Pulse Width: 40 ms ± 2 ms; Pacer Rate: 30 – 180 bpm ± 1.5%; Output Current: 0 – 140 mA ± 5% or 5 mA, whichever is greater; Modes: Demand and Fixed
K. Ability to transmit electrocardiograms (EKG) directly from the cardiac monitor to a receiving hospital with the use of a wireless card (i.e. from a remote location away from response vehicle)	The X Series is the first monitor to integrate a complete array of communications technology. The approach not only delivers an added layer of protection for the demands of the pre-hospital environment, it eliminates the need for cables and dongles. Every X Series comes with the following communications capabilities: WiFi, Bluetooth, USB 2.0 that can be used to wirelessly transmit 12-lead EKGs. The open architecture philosophy embodied by the X Series design gives services, and ultimately patients, a path to improvements that can't be matched by other monitors. X Series 12-leads can be sent to all leading STEMI and cardiology management systems, such as: ZOLL's RescueNet 12 Lead; Physio Control's LifeNet; Philips' IntelliSpace; GE's MUSE as well as email and smartphones/tablets.
L. Ability to upload complete full-disclosure case reports to an ePCR solution (current solutions in use by The County of Volusia are Zoll ePCR and FireHouse). The vendor shall list all ePCR solutions that can facilitate a direct upload with their product	The X Series simplifies medic charting by seamlessly uploading the event record with the speed of a WiFi connection. It will automatically populate patient data fields for many of the leading ePCR systems. Some examples of ePCR vendors are ZOLL ePCR, ESO Solutions, ImageTrend, EMS Charts, and Documed. ZOLL's open architecture makes it possible to send event files to all ePCR systems. In line with ZOLL's commitment to open architecture, a Software Development Kit (SDK) is available to any ePCR vendor desiring to complete the interface.
1 Internal memory or storage card shall be able to save a minimum of 15 patient encounters and/or 6 hours of continuous data for upload.	The X Series redefines what a monitor should collect and send to the patient record. Its built-in memory ensures the complete patient record is transmitted by capturing 24 hours of event or trend data, and up to 1,000 time-stamped events. The X Series simplifies medic charting by seamlessly uploading the event record with the speed of a WiFi connection. It will automatically populate patient data fields for many of the leading ePCR systems.
M. Ability to upload complete full-disclosure case reports to a repository (client based and/or cloud based) to ensure all patient reports are stored	The X Series can upload complete full-disclosure case reports to RescueNet Code Review. This software captures all clinical defibrillator and vital sign information for quality review and analysis, delivering the complete picture to reviewers. RescueNet Code Review provides ECG, vital sign data, and CPR rate and depth of compressions for a complete review of the rescue.
N. Ability for the end-user to be able to view the entire case report after upload and shall be able to be viewed in real-time. This ability can be either built into the ePCR or can be a standalone product that can be installed on the ePCR tablet.	End-users can view entire case reports after upload from the X Series within RescueNet Code Review, software provided by ZOLL. Code Review provides ECG, vital sign data, and CPR rate and depth of compressions for a complete review of the rescue. X Series can also, with the push of a button, send files to your system. With RescueNet CaseReview, access to case files is as fast as opening your web browser. RescueNet Case Review provides: Simplified data collection: access files without delay, same-day debriefing, system-wide performance analytics, IS and network independence
O. The cardiac monitor must be able to be secured to the stretcher for continuous patient monitoring while moving the patient from one location to another on the stretcher. The vendor shall provide assurance that the cardiac monitor can be secured to a FERNO brand stretcher for patient movement	The X Series can be secured to FERNO brand stretchers for patient movement.
P. The cardiac monitor must be able to be secured inside the patient compartment of a transport vehicle in accordance with National Fire Protection Association standards.	ZOLL does not manufacture mounting brackets. However, there are many companies that specialize in the production of mounting brackets that will secure the X Series inside the compartment of a transport vehicle in accordance with National Fire Protection Association standards. An example is FERNO's D360 Swivel Defibrillator Mount for the X Series.

Exhibit A-1
Functional Requirements Matrix

RFP 16-P-64AK

REQUIRED INFORMATION	RESPONSE
1.2 Preventative Maintenance. The preventative maintenance plan shall include:	
A. The cost of expedited loaner equipment;	No cost. This is included in the first year standard warranty as well as extended warranty and PM as outlined in the "Technical Support and Onsite Services" and "EMS One Year Product Warranty" documents located in Tab 9.
B. Weekly on-site repair visits;	ZOLL Medical agrees to make on-site repair services as part of the extended warranty. This is outlined in the "Technical Support and Onsite Services" document located in Tab 9
C. Bi-Annual (2 times per year) preventative maintenance/quality assurance checks;	ZOLL recommends that only 1 PM per year is necessary as outlined in the "Technical Support and Onsite Services" document located in Tab 9
D. Replacement parts/accessories.	This is covered as part of the standard warranty as well as extended warranty and PM as outlined in the "Technical Support and Onsite Services" and "EMS One Year Product Warranty" documents located in Tab 9.
1.3 Warranty. The warranty shall include:	
A. One (1) year parts and labor warranty against manufacturing defects affecting the performance of the unit, to include transport of affected unit (s);	Per addendum, Volusia County will accept the manufacturer's standard warranty. Please see "EMS One Year Product Warranty" located in Tab 9
B. Two (2) year components warranty against manufacturing defects affecting the performance of the components.	Per addendum, Volusia County will accept the manufacturer's standard warranty. Please see "EMS One Year Product Warranty" located in Tab 9

Cardiac Monitor, Brackets, and Charger Pricing			
Pricing is inclusive of the cardiac monitor and the following accessorie and include <u>all delivery costs</u> .			
Description		Cost	
a. One (1) limb lead cable;			
b. One (1) 12-lead cable;			
c. One (1) Patient Therapy/Defibrillation Cable;			
d. One (1) NIBP Hose;			
e. One (1) each of the following NIBP cuffs – Infant, Child, Adult, Large Adult;			
f. One (1) User Test module (if required to perform daily user tests);			
g. One (1) Adult SpO2/SpCO reusable sensor w/ extension cable (must be at least 5' in length);			
h. One (1) Pediatric SpO2/SpCO reusable sensor w/extension cable (must be at least 5' in length);			
i. Three (3) factory direct batteries;			
j. One (1) standard/premium (pathogen resistant) carry case with shoulder strap;			
k. One (1) storage card or internal memory that will save a minimum of 15 patient encounters and/or 6 hours of continuous data for upload;			
l. One (1) wireless card that will allow for transmission of EKG's.			
M. Power Cord			
Total Cost (per unit)		\$29,995.63	
Optional Items			
The following pricing is for optional items:			
Description		Cost per Unit	
a. Methemoglobin		\$1,601.40	
b. Invasive/Core Temperature Testing		\$676.60	
c. Arterial Line Monitoring*		\$2,546.60	
*X Series units that have Arterial Line Monitoring must also have Invasive/Core Temperature Testing, this price is inclusive of both parameters.			
Trade-In Value			
Description		Estimated Number of Units	Trade-In Value (per unit)
Zoll E-Series Cardiac Monitor/Defibrillators (includes ETCO2, with 12-lead, SpO2, NIBP)		55	\$2,000.00
Zoll M-Series Cardiac Monitor/Defibrillators (includes ETCO2, with 12-lead, SpO2, NIBP)		15	\$500.00
Annual Maintenance and Support			
Annual maintenance and support costs associated with the cardiac monitors are listed below.			
Year 1 Summary			Annual Cost
*Year One Includes ONE (1) Year of Factory Warranty at No Additional Charge			\$0.00
*Preventive Maintenance Recommended After Year One, N/A.			\$0.00
*Hardware Would be Covered Under the Warranty and Sotware is at No Charge.			\$0.00
*Exclusions for Hardware Would be Accidental Damage/Abuse That is Not Covered Under the Warranty.			\$0.00
Total Year 1 Cost			\$0.00
Year 2 Summary			Annual Cost
*Year two: \$1,392.50 per unit, per year, for Extended Warranty with 1 PM & Battery Replacement, On-Site (for 70 X Series)			\$97,475.00
Year 3 Summary			Annual Cost
*Year three: \$1,392.50 per unit, per year, for Extended Warranty with 1 PM & Battery Replacement, On-Site (for 70 X Series)			\$97,475.00
Year 4 Summary			Annual Cost
*Year four: \$1,392.50 per unit, per year, for Extended Warranty with 1 PM & Battery Replacement, On-Site (for 70 X Series)			\$97,475.00
Description of Accessories and Components		Discount off List Price	Cost
1. Limb Lead Cables		25%	\$221.25
2. 12-Lead Cables		25%	\$243.75
3. SpO2/SpCO patient cables		25%	\$221.25
4. SpO2/SpCO sensors (both pediatric and adult)		25%	\$633.75
5. NIBP hoses		25%	\$48.75
6. NIBP cuffs		25%	\$39.38
7. Replacement carrying cases		25%	\$371.25
8. Factory Direct replacement batteries.		25%	\$371.25
9. ETCO2 Filterline Set Adult/Pediatric Case of 25 (For Intubations)		25%	\$206.25
10. ETCO2 Smart CapnoLine, Oral/Nasal w/ O2 tubing for supplemental oxygen.Case of 25 (For Respiri		25%	\$266.25
11. Paper (Pack of 6)		25%	\$18.00
12. RescueNet Code Review Software (there are NO restrictions on the number of computers that softwa		0%	\$2,495.00
13. Adapters for existing chargers (80 adapters)		0%	No Charge