

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number
25-22

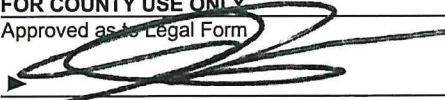
SAP Number

Arrowhead Regional Medical Center


Department Contract Representative	<u>Andrew Goldfrach</u>
Telephone Number	<u>(909) 580-6150</u>
Contractor	<u>Edwards LifeSciences LLC</u>
Contractor Representative	<u>Johnathan Raby</u>
Telephone Number	<u>(858) 353-5669</u>
Contract Term	<u>January 14, 2025 through January 13, 2028</u>
Original Contract Amount	<u>Non-Financial</u>
Amendment Amount	<u></u>
Total Contract Amount	<u></u>
Cost Center	<u></u>
Grant Number (if applicable)	<u>N/A</u>

Briefly describe the general nature of the contract: Pricing Agreement, including non-standard terms, with Edwards LifeSciences LLC for the provision of the INSPIRIS RESILIA Aortic Valve, from January 14, 2025 through January 13, 2028.

FOR COUNTY USE ONLY

Approved as to Legal Form

 Charles Phan, Supervising Deputy County Counsel
 Date 1/3/2025

Reviewed for Contract Compliance
 ▶
 Date _____

Reviewed/Approved by Department

 Andrew Goldfrach, ARMC Chief Executive Officer
 Date 1/6/2025



Edwards Lifesciences

Agreement No	
Account No	JDE528594

Pricing Agreement

This Pricing Agreement (this "Agreement") is effective on the date this Agreement is executed by the last party to sign below ("Effective Date"), between **Edwards Lifesciences LLC**, a Delaware limited liability company, with an address of One Edwards Way, Irvine, California 92614 ("Edwards") and **San Bernardino County on behalf of Arrowhead Regional Medical Center**, with an address of 400 N Pepper Ave, Colton, CA 92324-1819 ("Purchaser"). Purchaser desires to buy the products listed in the attached Schedule A ("Products") from Edwards at the prices set forth therein ("Prices"). Edwards is willing to supply the Products to Purchaser upon the terms and conditions set forth herein.

- 1. Products.** Edwards agrees to supply Purchaser with the Products, and Purchaser agrees to buy the Products solely for its own use from Edwards.
- 2. Term.** The term of this Agreement shall be three (3) years from the Effective Date ("Term"). This Agreement shall not be automatically extended or renewed for successive terms. Either party may terminate this Agreement for any reason with at least thirty (30) days advance written notice. Purchaser's ARMC Chief Executive Officer or its designee is authorized to terminate this Agreement on behalf of Purchaser. Upon termination of this Agreement, Edwards will not honor the pricing contained in this Agreement or issue credits or re-bills for Products ordered or received after the date of termination.
- 3. Payment.** Pricing, as reflected on Schedule A, shall remain firm for the Term of this Agreement. Payment terms are net 30 days from invoice date. Purchases shall be shipped F.O.B. Destination, freight prepaid and charged back to Purchaser. Returns shall be made in accordance with Edwards' returned goods policies. In the event that this Agreement expires or is terminated, and the parties do not enter into a subsequent pricing agreement, the pricing for any Products purchased during that time shall be set forth in Edwards' product price list in effect on the date of shipment. Purchase order placement, confirmation, and invoices for Products shall be sent by use of electronic data interchange (EDI), except where Purchaser does not have such capability. Edwards may suspend sales of the Products to Purchaser or terminate this Agreement with respect to Purchaser in the event that Purchaser delays payment or fails to pay any sum owed by Purchaser to Edwards hereunder.
- 4. Limited Warranty.** EDWARDS WARRANTS THAT EACH OF THE PRODUCTS IT MANUFACTURES, WHEN USED IN ACCORDANCE WITH THE DIRECTIONS ON THE LABELING, IS FIT FOR THE PURPOSES AND INDICATIONS DESCRIBED IN THE LABELING. A PRODUCT DISTRIBUTED BY BUT NOT MANUFACTURED BY EDWARDS IS WARRANTED BY ITS MANUFACTURER. UNLESS A PRODUCT IS USED IN ACCORDANCE WITH ITS INSTRUCTIONS, THESE WARRANTIES ARE VOID AND OF NO EFFECT. THERE ARE NO OTHER EXPRESSED OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EDWARDS' SOLE OBLIGATION AND PURCHASER'S EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY SHALL BE, AT EDWARDS' OPTION, TO REPAIR OR REPLACE THE PRODUCT. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR PROXIMATE, INCIDENTAL OR CONSEQUENTIAL DAMAGES.
- 5. Force Majeure.** Edwards will use commercially reasonable efforts to fill orders, but Edwards shall not be liable for nonperformance or delays caused by shortage of raw materials, manufacturing problems, labor problems, acts of regulatory agencies, discontinuation of a product line, acts of God, or other causes beyond Edwards's control. Purchaser agrees that in such events Edwards may allocate products among all purchasers without liability. In the event that Edwards ceases to manufacture or distribute any of the Products for any reason, Edwards shall have no obligation to supply such Product.
- 6. Direct Order Purchases.** Edwards will provide the Products to Purchaser through direct order only at the Prices set forth herein.
- 7. Intent.** The parties do not intend that any payments made under this Agreement be in return for the purchasing or ordering of any goods or services other than the specific Products described in this Agreement
- 8. Schedules Attached to this Agreement.** The following Schedules are hereby incorporated into and made a part of this Agreement:
Schedule A – Products and Pricing and Schedule B – Insurance Requirements.
- 9. Confidentiality.** Each party (as applicable, "receiving party") agrees to hold the other party's (as applicable, "disclosing party") Confidential Information, and any information derived therefrom, in strict confidence. Confidential Information shall be defined as any information disclosed by a disclosing party to a receiving party for the purposes of providing the Products which is (i) marked as "Confidential" at the time of disclosure; (ii) disclosed orally, identified at the time of such oral disclosure as confidential, and reduced to writing as "Confidential" within thirty (30) days of such oral disclosure; and (iii) if not marked as "Confidential," information that would be considered by a reasonable person in the relevant field to be confidential given its content and the circumstances of its disclosure including but not limited to products, pricing and customers. Notwithstanding the foregoing, Confidential Information will not include information that: (i) receiving party can demonstrate by written records was known to receiving party prior to the Effective Date of this Agreement; (ii) is currently in, or in the future enters, the public domain other than through a breach of the Agreement or through other acts or omissions of receiving party; (iii) is obtained lawfully from a third party; or (iv) is disclosed under the California Public Records Act, California Brown Act, or otherwise disclosed as required by applicable law after notifying disclosing party in writing promptly upon receiving notice of such requirement. Receiving party will not access, use or disclose Confidential Information other than to carry out the purposes for which disclosing party disclosed the Confidential Information to receiving party, except as permitted or required by applicable law, or as otherwise authorized in writing by disclosing party. For avoidance of doubt, this provision prohibits receiving party from using for its own benefit Confidential Information and any information derived therefrom. If required by a court of competent jurisdiction or an administrative body to disclose Confidential Information, receiving party will notify disclosing party in writing promptly upon receiving notice of such requirement and prior to any such disclosure (unless receiving party is prohibited by law from doing so), to give disclosing party an opportunity to oppose or otherwise respond to such disclosure. Upon disclosing party's request, the receiving party shall, at disclosing party's cost, return all Confidential Information to the disclosing party or destroy all such information and certify in writing as to its destruction. This provision shall survive the termination or expiration of this Agreement.
- 10. General.** This Agreement, including without limitation Schedules attached hereto, shall supersede all other agreements between Edwards and Purchaser with respect to the Products. No changes to this Agreement, including any conflicting or additional terms contained in any purchase order or other document submitted by Purchaser, shall be valid unless approved in writing by Edwards at its home office. This Agreement shall not be assigned by either party without the prior written consent of the other party, such consent shall not be unreasonably withheld. This Agreement shall be governed

by and construed in accordance with the laws of the State of California. Any action arising hereunder shall be venued exclusively in the state or federal courts of California. Any invoice claims or disputes by Purchaser must be made in writing within ninety (90) days of invoice date. Edwards will not make payments for, or investigate, any invoice claims or disputes which are made more than ninety (90) days after invoice date. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

11. **Debarment and Suspension.** Edwards to the best of its knowledge hereby represents and warrants that it is not and at no time has been convicted of any criminal offense related to health care nor has been debarred, excluded, or otherwise ineligible for participation in any federal or state government health care program, including Medicare and Medicaid.

12. **Insurance.** Edwards shall comply with the insurance requirements set forth in Schedule B, which is attached hereto and incorporated into and made a part of this Agreement.

13. **Indemnification.** Edwards shall defend, indemnify, and hold harmless the Purchaser, its employees, agents, directors, and officers (collectively "Purchaser Indemnitees") from and against any losses, liabilities, damages, expenses, and costs (including reasonable attorneys' fees) arising from any claim, action, suit, or proceeding made or brought by a third party against Purchaser Indemnitees for (1) the alleged infringement of intellectual property rights of a third-party by any Products provided by Edwards under this Agreement, or (2) bodily injury (including death) or property damage resulting from any (a) negligent or wrongful act or omission by Edwards, its agents or employees, or (b) defect in any Products provided by Edwards under this Agreement. Edwards' indemnity obligations shall not apply to the extent any claims, liabilities, damages, losses, costs, and expenses are caused by the negligence or fault of Purchaser or Purchaser Indemnitees or willful or wanton misconduct, modification of any Products or use of any Products in any manner not contemplated hereunder. If any demand or claim is made or suit is commenced against Purchaser Indemnitees for which Edwards has an indemnity obligation under this Section ("Indemnity Claim"), written notice of such shall be promptly provided to Edwards. However, Purchaser Indemnitees' failure to provide or delay in providing such notice will relieve Edwards of its obligations only if and to the extent that such delay or failure prejudices Edwards' ability to defend such lawsuit or claim. Edwards shall have the right to exercise sole control over the defense and settlement of any such Indemnity Claim for which indemnification or defense is sought, including the sole right to select defense counsel and to direct the defense or settlement of any such Indemnity Claim or suit; provided that Edwards shall not enter into any settlement or admit fault or liability on the Purchaser Indemnitee's behalf without the prior written consent of the Purchaser, which consent shall not be unreasonably withheld or delayed. Purchaser Indemnitees shall have the right to select and obtain representation by separate legal counsel. If Purchaser exercises such right, all costs and expenses incurred by Purchaser for such separate legal counsel shall be borne by Purchaser. If any injury is caused by the negligence or fault of both Edwards on the one hand, and Purchaser on the other hand, the apportionment of said damages shall be shared between Edwards and Purchaser based upon the comparative degree of each other's negligence or fault, and each shall be responsible for its own defense and costs, including but not limited to the costs of defense, attorneys' fees, witnesses' fees and expenses incident thereto.

14. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

This Agreement is not binding until it is fully executed.

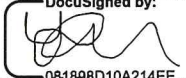
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date:

San Bernardino County on behalf of ARROWHEAD REGIONAL MEDICAL CENTER:

By: 
Name: Dawn M. Rowe

Title: Chair, Board of Supervisors Date: JAN 14 2025

EDWARDS LIFESCIENCES LLC:

DocuSigned by:
By: 
Name: YJ OH

Title: SVP US Sales and Marketing Date: 12/10/2024

In the event that Edwards does not receive executed acceptance of this Agreement within 30 days of January 14, 2025, this offer shall be null and void.

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD LYNN MONELL
Clerk of the Board of Supervisors of the County of San Bernardino



SCHEDULE A
(PRODUCTS AND PRICING)

Category: Tissue Valves

Model Number All sizes	Description	Each Price*
Aortic Valves		
11500A	INSPIRIS RESILIA Aortic Valve	\$8,995.00

*Subject to the provisions of the Agreement, Edwards may provide to the Purchaser additional individual accessory components as needed (handles, sizers, trays, etc). These accessory components for use as described above will be included in the Product unit price listed in this Schedule A.

The price for the Products shall remain firm per the terms of the Agreement, unless parties mutually agree to adjust pricing due to significant changes to raw material, labor, or component pricing of five percent or higher (> 5%). In the event that increases occur in either commodity, labor, or component pricing by five percent or higher (>5%), the Parties will discuss and negotiate new pricing by way of a written amendment to this Agreement. Regardless, Edwards agrees not to make changes to the price of Products due to this provision more than once every calendar year.

SCHEDULE B

INSURANCE REQUIREMENTS

Consignor agrees to maintain insurance set forth in accordance with the requirements herein.

1. Consignor shall secure and maintain throughout the contract term the following types of insurance with limits as shown through a program of self-insurance or any combination thereof:
 - a. Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering employees performing Consignor's obligations under this Agreement. If Consignor has no employees, it may certify or warrant to Consignee that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by Consignee's Director of Risk Management. With respect to contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.
 - b. Commercial/General Liability Insurance – Consignor shall carry General Liability Insurance covering all operations performed by or on behalf of Consignor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence and two million dollars (\$2,000,000) aggregate. The policy coverage shall include:
 - i. Premises operations and mobile equipment.
 - ii. Broad form property damage.
 - iii. Personal injury.
 - iv. Contractual liability.
 - c. Product Liability/Completed Operations – One Million Dollars (\$1,000,000) each occurrence; Two Million Dollars (\$2,000,000) aggregate, claims made basis.
 - d. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage per accident. If Consignor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

If insurance coverage is provided on a "claims made" policy, Consignor will continue to provide continuous insurance for product liability claims made either through insurance program or self-insurance or any combination thereof.

2. **Additional Insured.** All policies, except for Worker's Compensation, Product Liability/Completed Operations and Automobile Liability, shall provide Consignee with certificate holder status.
3. **Waiver of Subrogation Rights.** Consignor Workers' Compensation policy shall include a waiver of subrogation.
4. **Policies Primary and Non-Contributory.** All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by Consignee for claims resulting from Consignor's negligent acts or omissions.
5. **Severability of Interests.** Consignor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross-liability exclusions that preclude coverage for suits between Consignor and Consignee or between Consignee and any other insured or additional insured under the policy.
6. **Proof of Coverage.** Upon request by Consignee, Consignor shall furnish Certificates of Insurance to Consignee evidencing the insurance coverage. Consignor shall endeavor to provide thirty (30) days written notice to Consignee if such insurance shall be terminated or expire, and Consignor shall maintain such insurance in force at all times during the term of this Agreement.
7. **Acceptability of Insurance Carrier.** Insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-" or through a program of self-insurance or any combination thereof.
8. **Failure to Procure Coverage.** In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, Consignee has the right but not the obligation or duty to cancel the contract.
9. **Insurance Review.** Insurance requirements are subject to periodic review by Consignee. The Consignee's Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of Consignee.