



Contract Number

SAP Number

Arrowhead Regional Medical Center

Department Contract Representative	Andrew Goldfrach
Telephone Number	(909) 580-6150
Contractor	Werfen USA LLC
Contractor Representative	Chris Balanay
Telephone Number	(678) 231-5108
Contract Term	October 22, 2024 through five years from the acceptance date of the equipment
Original Contract Amount	NTE \$1,243,500
Amendment Amount	N/A
Total Contract Amount	NTE \$1,243,500
Cost Center	7540
Grant Number (if applicable)	

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, San Bernardino County (“County”) desires to contract with a vendor to provide blood bank reagent products and reagent rental of related testing equipment to the laboratory blood bank at Arrowhead Regional Medical Center (“ARMC”); and

WHEREAS, the County conducted a competitive process through a Request for Proposal (“RFP”) to find (“Contractor”) to provide these services; and

WHEREAS, based on the representations made by Contractor in its proposal in response to the RFP, the County finds Contractor qualified to provide the services; and

WHEREAS, the County desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below;

NOW, THEREFORE, the County and Contractor mutually agree to the following terms and conditions:

A. DEFINITIONS

A.1 Beaker (LIS): Laboratory information system offered by Epic Systems Corporation.

A.2 Board: The San Bernardino County Board of Supervisors.

A.3 Contract Year: Means a 12 month consecutive period, beginning on the Acceptance Date.

A.4 EPIC: The electronic health records system utilized by ARMC.

A.5 FMH: Fetal Maternal Hemorrhage Screen.

B. CONTRACTOR RESPONSIBILITIES

B.1 **Provision of Equipment**: Provide to ARMC the blood bank testing equipment (“Equipment”) as set forth on Attachment A that complies with the following requirements:

- a. Appropriate sensitivity to detect clinically significant antibody.
- b. Specificity for antibody identification.
- c. Interpretation of reactions are easily accessed from workstation/off hospital site.
- d. Interface is compatible with Soft Bank (SCC)/LIS (Beaker)/EPIC
- e. Must be able to perform blood type, antibody screens and antibody identification concurrently and has a throughput of greater than 10 blood type and antibody screen samples per hour.
- f. Equipment has bi-directional interface capabilities with SCC.
- g. Must be FDA approved.
- h. Must allow for remote viewing capability.
- i. Interpretations of results are easy to read.
- j. Sample data to address the sensitivity and specificity of the equipment, which includes provided percentages of false positive and false negative results.
- k. Continuously monitors onboard reagents and lot numbers.

All Equipment shall include all licenses, certificates, and other documents related to the Equipment.

B.2 **Installation and Validation**: As set forth in Attachment A attached hereto.

B.3 **Training**: Provide training as set forth in Attachment A attached hereto.

B.4 **Technical Support**: Provide technical support for the Equipment, Licensed Software, and the ImmuLink Panel ID software/service as set forth on Schedule 1, attached hereto.

B.5 **Preventive Maintenance**: Provide all preventive maintenance for the Equipment as set forth on Schedule 1, attached hereto.

B.6 **Repairs**: Provide repairs and parts for repairs to the Equipment for any malfunction, defect, or breakdown of the Equipment as set forth on Schedule 1, attached hereto. Contractor must conduct the repairs within a reasonable time upon request by ARMC staff.

B.7 **Reagents and Consumables**: Provide, as of the Effective Date: (i) the reagents and consumables (collectively, “Products”) in accordance with Attachment A; and (ii) the Equipment in accordance with Attachment B upon request by ARMC.

B.8 **ImmuLink Panel ID**: Provide a personal, non-transferable and non-exclusive license to the County to utilize the ImmuLink Panel ID software/service (the “Software”), in accordance with provision F.4 of the Contract, for the Equipment at ARMC during the term of this Contract.

B.9 Reimbursement of SCC Fees: Reimburse the County up to \$10,000.00, for the placement of the new Echo Lumena placed under this Contract, provided ARMC: (i) attains reportable results within ninety (90) days of ARMC's execution of Contractor's Operational Qualification Certificate for the Equipment; and (ii) submits to Contractor a copy of the third party LIS vendor's invoice for the actual Interface Costs no later than six (6) months after the Go-Live Date. For the avoidance of doubt, Contractor shall not be responsible for any amount exceeding ARMC's actual Interface Costs. The reimbursement for the Interface Costs will be remitted to ARMC at the ARMC's billing address in Contractor's records, unless specified otherwise. For the avoidance of doubt the reimbursement does not apply to the Echo Lumena with serial number M20363.

C. GENERAL CONTRACT REQUIREMENTS

C.1 Recitals

The recitals set forth above are true and correct and incorporated herein by this reference.

C.2 Contract Amendments

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

C.3 Contract Assignability

Without the prior written consent from either party, the Contract is not assignable by Contractor either in whole or in part.

C.4 Contract Exclusivity

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services.

C.5 Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney's fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and reasonable attorney's fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

C.6 Background Checks for Contractor Personnel

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (d) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the County; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County and not in violation of applicable law, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing Services. If requested by the County, Contractor shall provide the results of the background check of each individual to the County. Such background check shall be in the form generally used by Contractor in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. Contractor personnel who do not meet the County's hiring criteria, in County's sole discretion, shall not be assigned to work on County property or Services, and County shall have the right, at its sole option, to refuse access to any Contract personnel to any County facility.

C.7 Change of Address

Contractor shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

C.8 Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

C.9 Compliance with County Policy

In performing the Services and while at any County facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all laws applicable to the County facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

County shall have the right to require Contractor's employees, agents, representatives and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Contract.

C.10 Confidentiality

Contractor shall protect from unauthorized use or disclosure the names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Contractor shall not use or disclose any identifying information for any purpose other than carrying out the Contractor's obligations under this Contract, except as may otherwise be required by law. This provision will remain in force even after the termination of the Contract.

C.11 Primary Point of Contact

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

C.12 County Representative

The ARMC Chief Executive Officer or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If this contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

C.13 Damage to County Property

Contractor shall repair, or cause to be repaired, at its own cost, all damages to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or its employees or agents. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. The Contractor, as determined by the County, shall repay all reasonable, documented direct costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to the Contractor from the County, as determined at the County's sole discretion.

C. 14 Debarment and Suspension

Contractor hereby represents and warrants that to the best of its knowledge 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. Further, Contractor represents and warrants that no proceedings or investigations are currently pending or to Contractor's knowledge threatened by any federal or state agency seeking to exclude Contractor from such programs or to sanction Contractor for any violation of any rule or regulation of such programs. Contractor further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

C.15 Drug and Alcohol Free Workplace

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Contract, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:

- C.15.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- C.15.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- C.15.3** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of this Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

C.16 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

C.17 Employment Discrimination

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

C.18 Environmental Requirements

In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of

this Contract. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the county in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County's environmentally preferable purchases. Contractor must also be able to report on environmentally preferable goods and materials used in the provision of their service to the County, utilizing a County approved form.

C.19 Improper Influence

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

C.20 Improper Consideration

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

C.21 Informal Dispute Resolution

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

C.22 Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.23 Licenses, Permits and/or Certifications

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract. The equipment should be FDA approved, accredited, or certified.

C.24 Material Misstatement/Misrepresentation

If during the course of the administration of this Contract, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

C.25 Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of “good faith” and “fair dealing”.

C.26 Nondisclosure

Both parties shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the other party or an agent or otherwise made available in connection with this Contract; or, (2) acquired, obtained, or learned in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data which the disclosing party marks as “confidential” prior to disclosing to the receiving party. Nothing in the foregoing prevents the receiving party from disclosing any confidential information or documents where disclosure is required by law.

C.27 Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

C.28 Ownership of Documents

All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the County upon payment for services (and products, if applicable). All such items shall be delivered to County at the completion of work under the Contract, subject to the requirements of Section IV–Term of the Contract. Unless otherwise directed by County, Contractor may retain copies of such items.

C.29 Reserved

C.30 Air, Water Pollution Control, Safety and Health

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

C.31 Records

Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract.

All records relating to the Contractor’s personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate

Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

C.32 Relationship of the Parties

Nothing contained in this Contract 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.

C.33 Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County may be made or used without prior written approval of the County.

C.34 Representation of the County

In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the San Bernardino County.

C.35 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

C.36 Subcontracting

Contractor shall obtain County's written consent, which County may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any subcontractors who may supply any part of the Services to County. At County's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the County, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County for its subcontractors and shall indemnify County for the actions or omissions of its subcontractors under the terms and conditions specified in Section G. All approved subcontractors shall be subject to the provisions of this Contract applicable to Contractor Personnel.

For any subcontractor, Contractor shall:

- 36.1** Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and
- 36.2** Ensure that the subcontractor follows County's reporting formats and procedures as specified by County.
- 36.3** Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities and C. General Contract Requirements.

Upon expiration or termination of this Contract for any reason, County will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with County.

C.37 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense

of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

C.38 Termination

The County reserves the right to terminate the Contract (a) for convenience upon forty-five (45) days' notice to Contractor subject to County's payment of the prorated value of the equipment for the remaining Contract Term following the effective date of termination; or (b) for cause upon thirty (30) days' notice to Contractor due to Contractor's breach of the Contract. Upon such termination, payment will be made to the Contractor for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise.

C.39 Time of the Essence

Time is of the essence in performance of this Contract and of each of its provisions.

C.40 Venue

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

C.41 Conflict of Interest

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

C.42 Former County Administrative Officials

Contractor agrees to provide, or has already provided information on former San Bernardino County administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

C.43 Disclosure of Criminal and Civil Procedures

The County reserves the right to request the information described herein from the Contractor. Failure to provide the information may result in a termination of the Contract. The County also reserves the right to obtain the requested information by way of a background check performed

by an investigative firm. The Contractor also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Contractor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

C.44 Reserved

C.45 Reserved

C.46 Iran Contracting Act

IRAN CONTRACTING ACT OF 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Contractor certifies that at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

C.47 Reserved

C.48 California Consumer Privacy Act

To the extent applicable, if Contractor is a business that collects the personal information of a consumer(s) in performing Services pursuant to this Contract, Contractor must comply with the provisions of the California Consumer Privacy Act (CCPA). (Cal. Civil Code §§1798.100, et seq.). For purposes of this provision, "business," "consumer," and "personal information" shall have the same meanings as set forth at Civil Code section 1798.140. Contractor must contact the County immediately upon receipt of any request by a consumer submitted pursuant to the CCPA that requires any action on the part of the County, including but not limited to, providing a list of disclosures or deleting personal information. Contractor must not sell, market or otherwise disclose personal information of a consumer provided by the County unless specifically authorized pursuant to terms of this Contract. Contractor must immediately provide to the County any notice

provided by a consumer to Contractor pursuant to Civil Code section 1798.150(b) alleging a violation of the CCPA, that involves personal information received or maintained pursuant to this Contract. Contractor must immediately notify the County if it receives a notice of violation from the California Attorney General pursuant to Civil Code section 1798.155(b).

C.49 Executive Order N-6-22 Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>), as well as any sanctions imposed under state law (<https://www.dgs.ca.gov/OLS/Ukraine-Russia>). The EO directs state agencies and their contractors (including by agreement or receipt of a grant) to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should it be determined that Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. Contractor shall be provided advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the County.

C.50 Campaign Contribution Disclosure (SB 1439)

Contractor has disclosed to the County using Attachment C - Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of Contractor's proposal to the County, or (2) 12 months before the date this Contract was approved by the Board of Supervisors. Contractor acknowledges that under Government Code section 84308, Contractor is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer for 12 months after the County's consideration of the Contract.

In the event of a proposed amendment to this Contract, the Contractor will provide the County a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.

Campaign contributions include those made by any agent/person/entity on behalf of the Contractor or by a parent, subsidiary or otherwise related business entity of Contractor.

C.51 Force Majeure. Neither party will be responsible or liable for delays in its performance arising from causes beyond its reasonable control including, without limitation, pandemic or epidemic, acts of God or government, public disturbances, labor difficulties, the unavailability of raw materials, weather, the failure of a commercial delivery service or the United States Postal Service to timely deliver documents or packages, or transportation problems. This section does not apply to a party's payment obligations.

C.52 Price Discount Disclosure. The pricing for any products or services provided hereunder may reflect or be subject to discounts, rebates or other price reduction programs. ARMC is hereby advised that it is obligated to: (i) fully and accurately report any such discounts, rebates, or other price reductions in cost reports or claims for reimbursement by it to Medicare, Medicaid, or other health care programs requiring such disclosure, and (ii) provide such information to the representative of the U.S. Secretary of the Department of Health and Human Services and state agencies upon request. Contractor will furnish a statement to ARMC listing the applicable discount(s) that ARMC receives.

C.53 Warranty. Contractor warrants to ARMC that (i) all Reagents, Equipment and services will comply with applicable local, state and federal statutes and regulations when used in the manner directed in the product insert or documentation, (ii) except for research use only products. (“RUO Products”) not for use in diagnostic procedures, any and all product clearances required by the U.S. Food and Drug Administration relative to the Reagents and Equipment have been obtained and the Reagents and Equipment have been cleared for sale and clinical use, (iii) all Reagents and Equipment (unless otherwise indicated in an Instrument Exhibit) will be new and free from material defects in material and workmanship at the time of delivery; (iv) the Equipment will perform according to all material Operating Standards; and (v) all services performed under this Contract will be performed in a good and workmanlike manner and if any component of the Equipment is found to be defective in material or workmanship, or does not perform according to all material Operating Standards, the rights of the parties shall be governed solely by the terms of this Contract (including the Support and Service Plan set forth on Schedule 1). Contractor shall repair such component or Equipment accordingly. ***Contractor makes no other warranties, express or implied, about the Reagents, or Equipment or services including but not limited to implied warranties of merchantability or fitness for a particular purpose.***

C.54 Default

C.54.1 ARMC Default. An event of default will have occurred if ARMC (i) fails to pay any amount due Contractor hereunder within sixty (60) days of its due date, (ii) fails to perform any other obligation under this Contract within thirty (30) days after written notice from Contractor, (iii) makes an unauthorized Enhancement to the Licensed Software, or (iv) ceases doing business as a going concern, becomes insolvent or dissolved, assigns assets for the benefit of creditors or enters into any bankruptcy or reorganization proceeding. Upon any event of default, Contractor may but will not be required to (a) terminate Contractor’s obligations under this Contract, (b) take immediate possession of the Equipment, (c) immediately collect from ARMC all amounts payable to Contractor under this Contract, and (d) avail itself of any other remedy or remedies provided under law or in equity.

C.54.2 Contractor Default. An event of default will have occurred if Contractor (i) fails to perform any obligation under this Contract to the satisfaction of ARMC within thirty (30) days after written notice from ARMC, or (ii) ceases doing business as a going concern, becomes insolvent or dissolved, assigns assets for the benefit of creditors or enters into any bankruptcy or reorganization proceeding. Upon any event of default, ARMC may but will not be required to (a) terminate this Contract, and (b) avail itself of any other remedy or remedies provided under law or in equity or under the terms of this Contract.

D. TERM OF CONTRACT

This Contract is effective as of October 22, 2024 (“Effective Date”) and continue for a period of five (5) years from the Acceptance Date (as defined in Attachment A) of Equipment last installed under this Contract.

E. COUNTY RESPONSIBILITIES

E.1 Place orders for reagents and consumables as set forth on Attachment B for the Equipment in accordance with the annual minimum commitment described in Section F.2 for each Contract Year.

E.2 ARMC may only use the reagents and consumables set forth on Attachment A in conjunction with the Equipment.

E.3 Coordinate with Contractor to schedule the preventive maintenance and repair services under this Contract at ARMC.

- E.4 Coordinate with Contractor to provide Contractor, its employees, agents, and permitted subcontractors reasonable access to ARMC's premises to perform the services under this Contract.
- E.4 Work with the Contractor to assess the type of training necessary for individual ARMC employees.
- E.5 Use the Software only in conjunction with the Equipment and within ARMC's normal internal business operations. ARMC may not disassemble, decompile, or reverse engineer any portion of the Software or make any enhancements, improvements, modifications, updates, upgrades, new releases or other derivative work, unless approved by or provided by Contractor.
- E.6 Upon the expiration or termination of this Contract, County shall, at Contractor's cost, and upon a reasonable time thereafter (i) return the Equipment to Contractor or its designated agent, by delivering the Equipment to such address in the continental United States as Contractor requires or (ii) allow Contractor access to pick up the Equipment. The Equipment will be returned in good working condition without any damage or fault (reasonable wear and tear excepted).

F. FISCAL PROVISIONS

- F.1 For ARMC's purchase of the reagents and consumables for use with the Equipment, Contractor shall bill the County in accordance with the fee schedule on Attachment B. The prices on Attachment B shall remain firm for three (3) Contract Years from the Acceptance Date. Thereafter, Contractor may increase the prices no more than once per Contract Year at no more than three percent (3%). In the event that Contractor seeks to increase the prices after three (3) Contract Years, Contractor shall provide a list of the new prices for the Products at least 60 days prior to the effective date of the new prices. Notwithstanding the above, Equipment consumables and changeable parts set forth in Attachment B are excluded from the price protection above and subject to change at any time during the Contract Term.
- F.2 Contractor shall provide the Equipment and all associated training, technical support, preventive maintenance, and repair services at no cost to ARMC/County during the term of this Contract. In consideration of the foregoing, ARMC/County shall purchase sufficient numbers of Products to comply with the total minimum spending requirements for the Products for each Contract Year as set forth below:

Contract Year	Total Minimum Spending Requirement for Products
From the Effective Date through Contract Year 1	\$186,505.00
Contract Year 2	\$186,505.00
Contract Year 3	\$186,505.00
Contract Year 4	\$186,505.00
Contract Year 5	\$186,505.00

- F.3 County/ARMC's failure to meet the minimum spending requirements for the Products, as set forth in Section F.2., above, during any given Contract Year shall not constitute a breach of the Contract. However, if at the end of a Contract Year, ARMC has not complied with the minimum spending requirement for the past Contract Year, Contractor may bill ARMC/County the difference between the expenditures during that Contract Year and the Total Minimum Spending Requirement for Products during that Contract Year.
- F.4 For the provision of the Software to ARMC, Contractor will (i) provide ImmuLINK Panel ID as set forth below; and (ii) will bill the County the fees set forth below for each Contract Year:

F.4.1 In consideration of ARMC's payment of the fees below, upon installation, Contractor grants to ARMC a personal, non-transferable and non-exclusive license to use ImmuLINK Panel ID in

object code form only, and the related user documentation, within the United States. ImmuLINK Panel ID should be installed and used only on a client/server network owned or operated by ARMC and used only by ARMC employees and its agents. ARMC may use ImmuLINK Panel ID only in conjunction with Contractor's equipment and within ARMC's normal internal business operations for its patients and not on behalf of, or for the benefit of, any other third party. ARMC will not copy, display or distribute ImmuLINK Panel ID in any form or medium, except that ARMC may maintain a copy of the ImmuLINK Panel ID for backup purposes. ARMC will not disassemble, decompile or reverse engineer any portion of ImmuLINK Panel ID or make any enhancements, improvements, modifications, updates, upgrades, new releases or other derivative works ("**Enhancements**") thereto. As between Contractor and ARMC, Contractor is and will be the sole and exclusive owner of ImmuLINK Panel ID and all rights and intellectual property rights therein, and if ARMC makes an unauthorized Enhancement to ImmuLINK Panel ID, Contractor will own all rights therein, including but not limited to intellectual property rights. Contractor will provide any necessary support in accordance with this Contract between Contractor and ARMC.

Contract Year	Cost
Contract Year 1	\$6,500 (activation fee + subscription fee)
Contract Year 2	\$4,500 (subscription fee)
Contract Year 3	\$4,500 (subscription fee)
Contract Year 4	\$4,500 (subscription fee)
Contract Year 5	\$4,500 (subscription fee)

F.4.2 To initiate purchase of a subscription for the use of ImmuLINK Panel ID, ARMC must submit a purchase order for the Total Cost.

F.4.3 Contractor will invoice ARMC in advance for the first year on or after the installation of ImmuLINK Panel ID, and annually thereafter. ARMC will pay such invoiced amounts within forty-five (45) days after the invoice date.

F.5 Unless explicitly stated otherwise, all prices offered are exclusive of shipping costs, insurance costs, all taxes, fees, assessments, and charges which are levied, assessed or imposed by federal, state, or local authorities upon the Reagents, Equipment or transactions contemplated hereunder or which are imposed on or measured by the price of the Reagents or Equipment or the proceeds of sale hereunder (collectively referred to as the "**Costs**"). All such Costs will be borne by ARMC, and ARMC agrees to indemnify, defend and hold Contractor harmless from and against any such Costs which may be imposed upon or asserted against Contractor. For the avoidance of doubt, Contractor also may not charge the County any fees or costs associated with SCC bi-directional interface between the EPIC electronic health record system ("EHR") and the Equipment.

F.6 In the event that the County incurs any fees from SCC for (1) interfacing between the Equipment and the EPIC EHR, or (2) developing any interfaces to interface between the Equipment and the EPIC EHR, Contractor shall reimburse the County for such fees up to \$10,000.00 during the Contract term. County will invoice Contractor for such fees and such fees shall be made payable to the County by Contractor within 30 days of the invoice date.

F.7 The maximum amount of payments under this Contract by the County shall not exceed \$1,243,500, and shall be subject to availability of other funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.

F.8 Payment for Products will be due within 45 days after the date of invoice. Payment will be made in U.S. Dollars to Contractor or its designated affiliate at the remittance address set forth in the invoice. Contractor shall provide County invoices upon shipment.

- F.9** Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.
- F.10** County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.
- F.11** Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.
- F.12** Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

G.1 Indemnification

Contractor will indemnify, defend, and hold harmless County and its officers, employees, agents and volunteers, from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement of any United States patent, copyright, trademark or trade secret (Intellectual Property Rights) by any Equipment or Products provided under this Contract. If a credible claim is made or threatened, including without limitation the filing of a lawsuit against County, or County receives a demand or notice claiming actual or potential infringement or misappropriation of any Intellectual Property Rights, County will use reasonable efforts to notify Contractor promptly of such lawsuit, claim or election. However, County's failure to provide or delay in providing such notice will relieve Contractor of its obligations only if and to the extent that such delay or failure materially prejudices Contractor's ability to defend such lawsuit or claim. County will give Contractor sole control of the defense (with counsel reasonably acceptable to County) and settlement of such claim; provided that Contractor may not settle the claim or suit absent the written consent of County unless such settlement (a) includes a release of all claims pending against County, (b) contains no admission of liability or wrongdoing by County, and (c) imposes no obligations upon County other than an obligation to stop using the Equipment or Products that are the subject of the claim. In the event that Contractor fails to or elects not to defend County against any claim for which County is entitled to indemnity by Contractor, then Contractor shall reimburse County for all reasonable attorneys' fees and expenses within thirty (30) days from date of invoice or debit memo from County. After thirty (30) days, County will be entitled to deduct any unpaid invoice or debit memo amount from any amounts owed by County to Contractor. This shall not apply to any judgment or settlement amount, which amounts County shall be entitled to notify, invoice or debit Contractor's account at any time; and County, at its sole discretion, may settle the claim or suit.

If, in Contractor's opinion, any Equipment or Products become, or are likely to become, the subject of a claim of infringement of Intellectual Property Rights, Contractor may, at its option: (i) procure for County the right to continue using the Equipment or Products; (ii) replace or modify the Equipment or Products to be non-infringing, without incurring a material diminution in performance or function; or (iii) if neither of the foregoing is feasible, in the reasonable judgment of Contractor, County shall cease use of the goods or services upon written notice from Contractor, and Contractor shall provide County with a pro-rata refund of the unearned fees paid by County to Contractor for such Equipment or Products.

The Contractor also agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The Contractor indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

Notwithstanding the above, neither party will be liable to the other for any incidental, special, consequential, punitive or exemplary damages of any nature.

G.2 Additional Insured

All policies, except for Worker's Compensation, shall contain additional endorsements naming the County and its officers employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

G.3 Waiver of Subrogation Rights

The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

G.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 the County.

G.5 Severability of Interests

The Contractor 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 the Contractor and the County or between the County and any other insured or additional insured under the policy.

G.6 Proof of Coverage

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

G.7 Acceptability of Insurance Carrier

Unless otherwise approved by Risk Management, 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- VII".

G.8 Deductibles and Self-Insured Retention

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

G.9 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, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

G.10 Insurance Review

Insurance requirements are subject to periodic review by the County. The 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 the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

- G.11** The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

- G.11.1** 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 all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

If Contractor has no employees, it may certify or warrant to the County 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 the County'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.

G.11.2 Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor 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. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations).
- d. Explosion, collapse and underground hazards.
- e. Personal injury.
- f. Contractual liability.
- g. \$2,000,000 general aggregate limit.

G.11.3 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 occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

G.11.4 Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

G.11.5 Cyber Liability Insurance - Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

H. RIGHT TO MONITOR AND AUDIT

H.1 The County, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements established by the County.

H.2 All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under this Contract or until all pending County, State and Federal audits are completed, whichever is later.

I. CORRECTION OF PERFORMANCE DEFICIENCIES

- I.1 In the event of a problem or potential problem that could impact the quality or quantity of work, Services, or the level of performance under this Contract, Contractor shall notify the County within one (1) working day, in writing and by telephone.
- I.2 Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.
- I.3 Contractor's Primary Contact and County Representative shall attempt in good faith to promptly resolve any dispute, controversy or claim arising out of this Contract. If these representatives are unable to resolve a dispute, controversy or claim with ten (10) days after the initial request for a meeting, then the dispute shall be submitted to an executive-level performance review.

If the Primary Contact and County Representative are not successful in resolving the dispute, negotiations shall be conducted by the Chief Executive Officer, or designee and the highest level executive for Contractor. If these representatives are unable to resolve the dispute within ten (10) days after the representatives have commenced negotiations, or 20 days have passed since the initial request for negotiations at this level, the Parties may agree in writing to submit the dispute to mediation.

- I.4 In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - a. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or
 - b. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
 - c. Withhold funds pending duration of the breach; and/or
 - d. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "b" of this paragraph; and/or
 - e. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.
- I.5 Unless a remedy is specifically designated as exclusive, no remedy conferred by any of the specific provision of the Contract is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either Party shall not constitute a waiver of the right to pursue other available remedies.

J. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either: (i) served personally, (ii) deposited in the United States mail (certified or registered), or (iii) prepaid courier delivery service, postage prepaid, and addressed to the other party as follows:

*San Bernardino County
 Arrowhead Regional Medical Center
 400 N. Pepper Ave.
 Colton, CA 92324
 Attn: ARMC Chief Executive Officer*

*Werfen USA LLC
 180 Hartwell Road
 Bedford, MA 01730-2443
 Attention General Counsel Transfusion and
 Transplant*

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

K. ENTIRE AGREEMENT

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

L. ELECTRONIC SIGNATURES

This Contract 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 Contract. The parties shall be entitled to sign and transmit an electronic signature of this Contract (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 Contract upon request.

IN WITNESS WHEREOF, San Bernardino County and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY on behalf of
Arrowhead Regional Medical Center

WERFEN USA LLC

(Print or type name of corporation, company, contractor, etc.)

►

Dawn Rowe, Chair, Board of Supervisors

By ►

(Authorized signature - sign in blue ink)

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Name _____
(Print or type name of person signing contract)

Lynna Monell
Clerk of the Board of Supervisors
San Bernardino County

Title _____
(Print or Type)

By _____
Deputy

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form

Reviewed for Contract Compliance

Reviewed/Approved by Department

►

Charles Phan, Supervising Deputy County
Counsel

►

►

Andrew Goldfrach, ARMC Chief Executive
Officer

ATTACHMENT A

Equipment List

The Equipment is and at all times will continue to be the property of Contractor, and the County and ARMC will have no right, title or interest therein, except as set forth in this Contract. Additionally, all parts, improvements, additions, replacements and substitutions to the Equipment will at all times remain the property of Contractor.

Equipment	Quantity	Annual Instrument Value*	Annual Service Value*
**Echo Lumena M20363	1	\$5,364.53	\$10,415.00
Echo Lumena TBD (NEW)	1	\$25,214.94	\$10,415.00

**The values shown are to assist ARMC with allocating value to the Equipment and service being provided in consideration of ARMC commitment to purchase Products. For the avoidance of doubt, ARMC will not be invoiced separately for the Equipment or service.*

* The parties acknowledges that: (i) ARMC currently has possession of the Echo Lumena with serial number M20363; and (ii) the rights and obligations of the parties with respect to the Echo Lumena with serial number M20363 shall be governed by the terms of this Contract, except that the parties' obligations under the sections below of the Contract have been satisfied.

1. **Equipment Delivery and Installation (of the New Equipment).**
 - a. The Equipment and related components will be shipped FOB Destination to ARMC. Contractor will promptly replace or repair any Equipment and related components lost or damaged in shipment and will be responsible for all disputes with the shipper and all insurance claims related to the shipment.
 - b. Contractor will arrange for setup, installation and start-up testing of the Equipment to ensure the hardware complies with the operating standards set out in Contractor's operational qualifications (the "**Operating Standards**"). As part of the operational qualification process, Contractor will repair, replace or modify any part of the Equipment at no cost to ARMC to conform the Equipment to all material Operating Standards. For purposes of this Contract, the Equipment will be deemed accepted when: (i) Contractor has completed the setup, installation and start-up testing of the Equipment and confirms that the Equipment is performing according to all material Operating Standards; and (ii) ARMC has evidenced acceptance of the Equipment by execution of Contractor's Operational Qualification Certificate for the serial number of the Equipment (the "**Acceptance Date**"), which may be executed by the ARMC Chief Executive Officer or designee. Thereafter, ARMC shall perform validation testing on the Equipment and sign Contractor's Instrument Go-Live Acknowledgement Form (the "**Go-Live Date**"). The form may be executed by the ARMC Chief Executive Officer or designee. Upon the Go-Live Date, ARMC may use the Equipment as a test of record, if applicable.
 - c. ARMC will provide Contractor or its designee access to ARMC's facility, at reasonable times and on reasonable notice to ARMC, for delivery, setup, installation, verification, testing, inspection and service. Contractor will use reasonable efforts to minimize disruptions to ARMC's workplace.
2. **Instrument Relocation.** Equipment shall not be moved or resold by County or ARMC without Contractor's prior written consent.
3. **Software.** Subject to the terms and conditions of this Contract, Contractor grants ARMC a non-exclusive, non-transferable license to use and operate the software for the Equipment (the "**Licensed Software**"). This license will continue in full force and effect until the earlier to occur of the termination of ARMC's right to use the Equipment or ARMC's permanent cessation of use of the Equipment. ARMC will have the right to use the Licensed Software solely in object code form and solely on the Equipment acquired by ARMC under this Contract. ARMC will not copy, display or distribute the Licensed Software in

any form or medium, except that ARMC may maintain a copy of the Licensed Software for backup purposes. ARMC will not disassemble, decompile or reverse engineer any portion of the Licensed Software or make any enhancements, improvements, modifications, updates, upgrades, new releases or other derivative works (“**Enhancements**”) thereto. ARMC will not directly or indirectly use the Licensed Software for the benefit of any person other than ARMC. As between the parties, Contractor is and will be the sole and exclusive owner of the Licensed Software and all rights and intellectual property rights therein, and if ARMC makes an unauthorized Enhancement to the Licensed Software, Contractor will own all rights therein, including but not limited to intellectual property rights.

4. **Risk of Loss.** ARMC will bear the entire risk of all loss, theft, damage, destruction, condemnation, requisition, taking by eminent domain or similar termination of use of the Equipment upon delivery. ARMC will promptly notify Contractor in writing if any of the above events occur. None of those events will relieve ARMC or the County of any of its obligations hereunder.
5. **Training.** Contractor will provide three (3) days of training (up to eight (8) hours a day) to two (2) ARMC operators (at the same time) at ARMC’s facility during the week of the Equipment installation. Training is intended to enable ARMC to operate the Equipment and perform the ordinary maintenance and repair of the Equipment using the Echo Kit changeable parts. For the avoidance of doubt, Contractor will provide the initial Echo Kit, thereafter ARMC will be responsible for the purchase of such parts during the Term of the Contract.
6. **ImmuLINK.** ImmuLINK Manage® computer program is included in the Echo Lumena (“**ImmuLINK Manage**”). Contractor hereby grants to ARMC a personal, non-transferable and non-exclusive license to use ImmuLINK Manage in object code form only, and the related user documentation within the United States. ImmuLINK Manage should be installed and used only on a client/server network owned or operated by ARMC and used only by ARMC’s employees. Unless otherwise permitted by Contractor, ARMC may use ImmuLINK Manage only in conjunction with Contractor’s Equipment and within ARMC’s normal internal business operations and not on behalf of, or for the benefit of, any third party. ImmuLINK Manage shall be considered as Licensed Software under the Contract. Contractor will provide ImmuLINK Manage in accordance with Schedule 1, attached hereto. Notwithstanding any language to the contrary, ARMC does not have to pay an annual subscription fee for ImmuLINK Manage.
7. **Uptime Guarantee.** During each calendar month of the term of this Contract, Contractor guarantees that the Equipment will be up at least 95%. The system is considered to be “up” when it can generate reportable results or materially function in the way for which it is intended. The system is considered to be “down” when it can no longer generate reportable results or materially function in the way for which it is intended. “Downtime” for the system means the period of time during the system’s normally scheduled hours of operation that ARMC determine in good faith that the system is not performing due to a malfunction of the system not caused by ARMC’s misuse or negligence. Downtime shall commence upon ARMC’s timely notice to Contractor that the system is down and will end when the parties in good faith mutually agree in writing that the malfunction has been corrected and that the system is up.

ATTACHMENT B

Reagents and Consumables

1. Reagent Orders

- a. **Standing Orders**. ARMC agrees to establish standing orders for the Reagents, including but not limited to, those required to run testing on Equipment. (“**Standing Orders**”).
- b. **Delivery**. New Standing Orders and changes to existing Standing Orders for Reagents must be received at least thirty (30) days prior to the scheduled shipment date of such Reagents. Contractor will use commercially reasonable efforts to deliver non-standing order Reagents within ten (10) business days after Contractor’s receipt and acceptance of a ARMC order.
- c. **Title and Risk of Loss**. Reagents will be delivered FOB Destination. Title to and risk of loss for Reagents will pass to ARMC at the delivery point. Contractor will (i) make the shipping arrangements, prepay all shipping and handling costs and invoice ARMC for such costs, (ii) promptly replace all Reagents lost or damaged in shipment, and (iii) be responsible for all disputes with the shipper and all insurance claims related to the shipment.
- d. **Inspection**. ARMC is responsible for inspecting all Reagents upon receipt. Notification of shipping errors or damages in transit must be received by Contractor within seven (7) calendar days after ARMC receives the Reagents. The failure of ARMC to inspect the Reagents and timely notify Contractor of shipping errors or damages in transit will be deemed an acceptance and waiver of those errors and damages in the Reagents.
- e. **Returns**. Subject to compliance with the “Inspection” section above, Contractor will credit ARMC 100% of the purchase price for Reagents returned due to shipping errors or damage in transit, provided that ARMC: (i) requests a Return Material Authorization (RMA) number from Contractor and (ii) returns the Reagents or, if required by Contractor, discards the Reagents as medical waste, within thirty (30) days after its receipt of an RMA number. No returns will be accepted without an authorized Contractor RMA number written clearly on the outside of the shipping container. Contractor will not accept returns of Reagents ordered in error by ARMC.

Reagents

Product Code	Product Description	Package Size	Annual Volume	Unit Price
0000008	Blood Bank Rec Book (1 ea.)	1 each		\$18.60
0002223	Hemantigen (10 mL)	10 mL		\$62.38
0002224	Checkcell (10 mL)	10 mL	52	\$52.53
0002225	Checkcell (3x10 mL)	3 x 10 mL	52	\$157.58
0002226	Checkcell Weak (10 mL)	1 x 10 mL		\$61.29
0002227	Checkcell Weak (3x10 mL)	3 x 10 mL		\$183.87
0002327	Bovine Alb 22 % (10x10 mL)	10 x 10 mL	2	\$146.65
0002332	Panocell-16 (16x3 mL)	16 x 3 mL		\$413.68
0002338	Referencells A1,A2,B,O (4x10 mL)	4 x 10 mL		\$136.80
0002342	Referencells A2 (10 mL)	1 x 10 mL	26	\$52.53
0002345	A1 & B Referencells (2x10 ml)	2 x 10 mL	156	\$52.53
0002350	Validation Panel	1 Kit		\$1,500.00
0002377	Panoscreen Cw III 3x10	3 x 10 mL		\$104.06
0002380	Panoscreen I & II (2x10 mL)	2 x 10 mL		\$105.07
0002381	Panoscreen I,II & III (3x10 mL)	3 x 10 mL	78	\$131.33
0002383	Panoscreen Extend	1 Kit		\$233.17
0002385	Panocell-10 Set, Ficin-treated	24 x 3 mL		\$290.02
0002390	Panoscreen I & II- Primary Lot	2 x 10 mL		\$131.33
0002400	corQC Test System (2x11.5)	2 x 11.5 mL	39	\$145.55
0002850	Plastic Droppers (4.2 mL, 500/box)	4.2 mL 500/bx		\$68.94
0002854	Plastic Droppers (4.9 mL, 500/box)	4.9 mL 500/bx		\$68.94
0002888	Blood Bank Pad (50 sheets)	50 sheets		\$45.97
0002995	Weak D Cells (5 mL)	1 x 5 mL		\$180.57
0002999	Tech-Chek (kit)	1 kit		\$158.68
0003032	Panocell-10 (12x3 mL)	12 x 3 mL		\$188.22
0004068	Anti-C3b,-C3d Gamma-clone (5 mL)	1 x 5 mL	13	\$131.33
0004210	Anti-K (5 mL)	1 x 5 mL	5	\$133.30
0004501	Anti-P1, Gamma-clone (5 mL)	1 x 5 mL		\$656.63
0004802	Anti-M, Gamma-clone (5 mL)	1 x 5 mL	1	\$306.42
0004807	Anti-N, Gamma-clone (5 mL)	1 x 5 mL	1	\$321.75
0004811	Anti-Mia RUO 1x5	1 x 5 ml		\$766.06
0004814	Anti-S Gamma-clone	1 x 5 mL	1	\$766.06
0004815	Anti-s Gamma-clone	1 x 5 mL		\$328.31
0004816	Anti-Fya Gamma-clone	1 x 5 mL	1	\$262.65
0004817	Anti-k Gamma-clone	1 x 5 mL		\$632.00
0004818	Anti-Fyb Gamma-clone	1 x 5 mL	1	\$448.70
0004819	Anti-CW Gamma-clone	1 x 5 mL		\$556.39
0004861	Anti Lea, Gamma-clone (5 mL)	1 x 5 mL	1	\$574.56

0004864	Anti Leb, Gamma-clone (5 mL)	1 x 5 mL		\$574.56
0005020	Panocell-20 (20x3 mL)	20 x 3 mL	18	\$441.04
0005021	Dia Screening Cell (10 mL)	1 x 10 mL		\$136.80
0005035	Capture-P Wash & Storage (1 L)	1 L bag		\$239.86
0005036	RBC Storage Solution (1 L)	1 L bag		\$421.33
0005070	pHix (phosphate buffer)	6x200 bottle		\$93.02
0006226	Stir Balls	100/each	9	\$13.22
0006400	Anti-A Monoclonal Series 1	10 x 10 mL	21	\$350.20
0006401	Anti-A Monoclonal Series 1	1 x 10 mL		\$42.02
0006406	Anti-B Monoclonal Series 3	10 x 10 mL	19	\$350.20
0006407	Anti-B Monoclonal Series 3	1 x 10 mL		\$42.02
0006408	Anti-A,B (monoclonal)	10 x 10 mL		\$350.20
0006412	Anti-D Mono/mono Blend 4	10 x 10 mL	13	\$361.14
0006413	Anti-D Mono/mono Blend 4	1 x 10 mL		\$43.34
0006414	Anti-D Mono/mono Blend 5	10 x 10 mL	13	\$361.14
0006415	Anti-D Mono/mono Blend 5	1 x 10 mL		\$43.34
0006419	Capture LISS (1x11.5 mL)	1 x 11.5 mL		\$15.19
0006420	Capture LISS (10x11.5mL)	10 x 11.5 mL	45	\$52.86
0006427	Cap R Rdy Ind Cell BarC 1x11.5	1 x 11.5 mL		\$6.57
0006428	Capture R Indicator Cells	10 x 11.5 mL	52	\$65.67
0006433	Cap R RS Pooled 1 Plt	1 plate		\$77.55
0006436	Cap R RS Pooled 5 Plt	5 plates		\$229.82
0006439	Cap R RS I,II 1 Plt	1 plate		\$87.55
0006440	Cap R RS I,II 5 Plt	5 plates		\$437.74
0006446	Capture R Select	5 plates		\$275.13
0006454	Capture R Ready ID - Extend I	1 plate		\$93.02
0006455	Capture R Ready ID - Extend I	5 plates	6	\$437.74
0006456	Capture R Ready ID - Extend II	1 plate		\$93.02
0006457	Capture R Ready ID - Extend II	5 plates	6	\$437.74
0007056	GammaZyme-F (10 mL)	1 x 10 mL		\$273.59
0007058	GammaZyme-B (10 mL)	1 x 10 mL		\$273.59
0007151	Anti-H, Lectin (5 mL)	1 x 5 mL		\$98.49
0007540	Anti-Kpa (2 mL)	1 x 2 mL		\$273.59
0007550	Anti-Kpb (2 mL)	1 x 2 mL		\$273.59
0007700	P1 Blood Grp Subst (2 mL)	1 x 2 mL		\$306.42
0007702	Lewis Blood Grp Subst (2 mL)	1 x 2 mL		\$306.42
0007861	Gamma Elu-Kit II (kit)	1 kit	4	\$218.87
0007865	Gamma EGA Kit (kit)	1 kit		\$383.04
0007890	Gamma-Quin (10 mL)	1 x 10 mL		\$352.40
0007893	FMH RapidScreen Kit (kit)	1 kit	13	\$137.90
0007930	Complement Control Cells (1x3 mL)	1 x 3 mL	26	\$147.74
0007999	RiSE Self Eval System (kit)	1 kit		\$276.88
0012280	Anti-A1 Lectin (5 mL)	1 x 5 mL	2	\$138.99

0013060	Segment Sampler (250/box)	250/bx		\$217.77
0013065	Reagent 2 Tier Rack (2/box)	2/bx		\$30.89
0013066	Reagent 3 Tier Rack (1 ea.)	1 ea.		\$30.89
0013068	Reagent 4 Tier Rack (1 ea.)	1 ea.		\$30.89
0056169	Self Check II (kit)	1 kit		\$383.04
0057292	FDP (10x2 mL)	10 x 2 mL		\$284.55
0057316	R.E.St. (8 tests)	8 Tests		\$383.04
0057319	W.A.R.M. (10x5 mL)	10x5 mL		\$383.04
0057320	H.P.C. (10x1 mL)	10x1 mL		\$383.04
0066050	GAL Plates, Galileo 100/ea	100 plates		\$875.50
0066052	Specimen Diluent (10x11.5 mL)	10 x 11.5 mL		\$146.65
0066053	Specimen Diluent 6 x 57ml	6 x 57 mL		\$374.29
0066087	Monoclonal Control	1 x 10 mL		\$20.75
0066089	Monoclonal Control (10x10 mL)	10 x 10 mL	15	\$172.91
0066090	WB CorQC (kit)	1 kit	26	\$196.99
0066122	DAT + Control Cells (1x10 mL)	1 x 10 mL		\$17.51
0066125	DAT Positive Cells	4 x 10 mL		\$57.38
0066204	Capture R Ready ID	1 plate		\$82.08
0066206	Cap CMV 1 Plate	1 plate		\$87.61
0066214	Capture R Ready ID	5 plates	6	\$410.39
0066216	Cap CMV 5 plate	5 plates		\$394.27
0066231	Cap LISS 6x57	6 x 57 mL		\$421.92
0066236	Cap R Control Set 2x11.5ml	2 x 11.5 mL		\$94.93
0066238	Capture CMV Ind Cell (1x11.5 mL)	1 x 11.5 mL		\$21.99
0066239	Capture CMV Control Set (2x3 mL)	2 x 3 mL		\$213.73
0066240	Capture-P Ind Red Cells (1x11.5mL)	1 x 11.5 mL		\$71.13
0066246	Capture-P (96 tests)	1 Plate/96 Test		\$152.56
0066247	Capture-P Ready-Screen (6 tests)	1 Plate/6 Test		\$437.74
0066248	Capture-P Control Set (2x3 mL)	2 x 3 mL		\$142.70
0066251	Capture-P (480 tests)	5 Plates/480 Test		\$637.68
0066296	corQC Extend Standard 1x10mL	2 x 11.5 mL		\$89.19
0066297	corQC Extend Complete	1 kit		\$178.38
0066420	Anti-D Gamma-clone (10x10 mL)	10 x 10 mL	9	\$361.15
0066421	Anti-C Gamma clone (5 mL)	1 x 5 mL	6	\$103.96
0066422	Anti-E Gamma clone (5 mL)	1 x 5 mL	8	\$103.96
0066424	Anti-e Gamma clone (5 mL)	1 x 5 mL	4	\$189.72
0066425	Anti-c Series 1	1 x 5 mL	5	\$103.96
0066426	Anti-JKA Gamma-clone (1x5 mL)	1 x 5 mL	2	\$487.00
0066427	Anti-JKB Gamma-clone (1x5 mL)	1 x 5 mL	1	\$525.30
0066428	Anti-S Gamma-clone	1 x 5 mL		\$766.06
0066429	Anti-s Gamma-clone	1 x 5 mL		\$328.31
0066430	Anti-Fya Gamma-clone	1 x 5 mL		\$262.65

0066451	Anti-Kell Gamma-clone (1x5 mL)	1 x 5 mL		\$133.29
0066803	Cap R RS (3) 1 plate	1 plate		\$87.55
0066813	Capture R Ready Screen (3)	5 plates	156	\$437.74
0089000	CMT Plates	40 plates	30	\$186.04
0401010	Anti-IgG-C3d Gamma-clone (10)	10 x 10 mL		\$252.79
0401510	Anti-IgG Gamma-clone (10)	10 x 10 mL		\$207.94
0409203	Anti-IgG, Gamma-Clone® (Green)	3 x 10 mL		\$30.63
0409210	Anti-IgG Gamma-clone (green, 10)	10 x 10 mL	8	\$207.94
0409703	Anti-IgG, -C3d Gamma-Clone® (Green)	3 x 10 mL		\$91.00
0409710	Anti-IgG-C3d Gamma-clone (grn, 10)	10 x 10 mL		\$252.79
0410203	Anti-A Gamma-clone (3x10 mL)	3 x 10 mL		\$146.65
0410210	Anti-A Gamma-clone (10x10 mL)	10 x 10 mL		\$350.20
0413203	Anti-B Gamma-clone (3x10 mL)	3 x 10 mL		\$146.65
0413210	Anti-B Gamma-clone (10x10 mL)	10 x 10 mL		\$350.20
0414210	Anti-A,B Gamma-clone (10x10 mL)	10 x 10 mL	3	\$350.20
0420403	Gamma-clone Control (3x10 mL)	3 x 10 mL		\$94.13
0420410	Gamma-clone Control (10x10 mL)	10 x 10 mL	1	\$268.12
0420503	Anti-D Gamma-clone (3x10 mL)	3 x 10 mL		\$153.21
0705003	Gamma PeG (3x10 mL)	3 x 10 mL		\$55.16
0705010	Gamma PeG (10x10 mL)	10 x 10 mL	2	\$153.21
0705403	Gamma N-HANCE (3x10 mL)	3 x 10 mL		\$38.61
0705410	Gamma N-HANCE (10x10 mL)	10 x 10 mL	6	\$107.25

Instrument Consumables and Changeable Parts: Pricing for the products below are subject to change at any time during the Contract Term.

Product Code	Description	Sales Price
0006074	Stirball Dispenser	\$73.67
0066806	Echo Balance Strips (1 plate/12 strips)	\$22.20
0086502	Echo Lumena Reagent Rack	\$110.82
0086503	Echo Lumena Donor Rack	\$175.97
0086504	Echo Lumena Pediatric Rack	\$171.86
0086506	Echo Lumena Sample Rack	\$171.86
0086508	Echo Lumena Supply Bottle Assembly	\$496.78
0086509	Echo Lumena Waste Bottle Assembly	\$479.79
0086536	Echo Lumena Thermal & Ambient Incubator	\$8,765.19
0086538	Bottom Lamp Asby	\$217.61
0086539	Top Lamp Asby	\$288.61
0087051	Echo Washer Syringe Cap & Seal	\$246.98
0087057	Echo Tubing Set – Fluidics to Main	\$102.46
0087058	Echo Waste Shuttle	\$183.53
0087059	Echo Waste Tubing Kit	\$113.08
0087073	Echo Tool Kit	\$177.40

0087080	Echo Sample Tray (rack holder)	\$22.00
0087081	Echo Reagent Tray (rack holder)	\$30.33
0087088	Echo Waste Tubing Connector	\$52.59
0087206	Echo Centrifuge	\$3,592.69
0087231	Echo Cable Asby, Skin Switch & Power	\$155.08
0087242	Echo Washer Manifold	\$457.49
0087245	Echo Probe Rinse Station	\$846.56
0087264	Echo Peri-Pump	\$444.72
0087269	Echo Probe Assembly	\$614.72
0087272	Echo Supply Cap Assembly	\$204.60
0087273	Echo Waste Bottle Cap Assembly	\$178.83
0087279	Echo Pump (probe rinse & waste)	\$760.67
0087290	Echo Plug Manifold	\$31.96
0087304	Echo Probe Rinse Tube Assembly	\$119.02
0087312	Echo Stylus, Aspirate	\$49.28
0087313	Echo Stylus, Dispense	\$32.79
0087314	Echo Stylus Cap	\$2.25
0087315	Echo Stylus Tube	\$3.04
0087400	Echo Strip Holder	\$9.39
0087405	Echo Q-Cup (Quick Connector)	\$63.15
0087406	Echo Syringe 100uL	\$390.17
0087407	Echo Syringe 1000uL	\$396.34
0087408	Echo Manifold Check Valves	\$64.46
0087409	Echo Inlet In-Line Filter	\$43.01
0087416	Echo Screw, Syringe Plunger	\$19.91

ATTACHMENT C



Campaign Contribution Disclosure (SB 1439)

DEFINITIONS

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

Contractors must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.

1. Name of Contractor: Werfen USA LLC
2. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?
 Yes If yes, skip Question Nos. 3-4 and go to Question No. 5 No
3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: N/A
4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded ("closed corporation"), identify the major shareholder(s): Instrument Laboratory, Co.
5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship
Werfen Italy Investments S.r.l.	Owns 100% Instrument Laboratory, Co.
Werfen S.A.	Owns 100% of Werfen Italy Investments S.r.l.

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)
N/A		

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and//or Agent(s):
N/A		

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name
N/A	

9. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer within the prior 12 months, by any of the individuals or entities listed in Question Nos. 1-8?

No If **no**, please skip Question No. 10.

Yes If **yes**, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing the Contract, Contractor certifies that the statements made herein are true and correct. Contractor understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of this Contract is being considered and for 12 months after a final decision by the County.

SCHEDULE 1

Support and Services Plan

CLIENT SERVICES

Our customers are always our highest priority

At Werfen, we take pride in offering the best quality support and customer resources to meet the highest standards.

Customer Service

Contact us any time at [800-955-9525](tel:800-955-9525) or e-mail customerservice.na@werfen.com

Ordering

Our Ordering Department handles purchase requests for instruments, reagents, supplies and service contracts.

To place an order:

- Call us at [800-955-9525](tel:800-955-9525), option 1; Monday-Friday, 8:00AM-6:00PM, ET.
- Fax us at [781-861-6135](tel:781-861-6135)
- E-mail orders to customerorders.na@werfen.com
- [Enroll in our EDI program; e-mail us at customerorders.na@werfen.com](#) for information.

Shipping

Orders received by 2:00PM ET are shipped the same day, via two-day delivery service, unless otherwise noted.

- Hazardous materials are shipped according to transportation guidelines and therefore, cannot be shipped via two-day service.
- Refrigerated and temperature-sensitive products are shipped Mondays–Wednesdays only, to avoid weekend delivery issues and ensure product integrity.

If you require emergency shipment, please contact us at [800-955-9525](tel:800-955-9525) for options.

Expiration Dating and Sequestering

- Reagents and supplies with shelf-life limitations are shipped with an expiration of 90 days or more.
- Controls and calibrators are shipped with an expiration of 30 days or more.
- Specific lots of controls and calibrators can be sequestered for up to 12 months, upon receipt of associated purchase order.

Returns

- If there is an error with your order, please notify us within 7 days of receipt. Werfen will issue a return-authorization number for free shipping return.
- Upon receipt of the returned item, Werfen will issue a credit (if applicable).
- Returned items must be unopened and in their original packaging, unless the return is a result of a Customer receiving a defective or damaged product. Any products with customer markings on packaging cannot be returned for credit.
- Hazardous material, refrigerated and date-sensitive products are not eligible for return.

Click [here](#) for IRS Identification Number and Certification: W-9 Form

SERVICE TERMS

All services provided by Contractor (also herein referred to as “Werfen”) are subject to the following terms and conditions. To the extent of any conflict between these terms and conditions and the terms and conditions in the body of the Contract, the terms of the Contract shall control. Except as expressly agreed by an authorized representative of Werfen in writing, no other terms and conditions, including any terms and conditions attached to, or contained within, Customer’s request for quotation, acknowledgment, purchase order or other contract documentation shall apply, and the terms of the Contract shall supersede any such terms and conditions.

1. RESERVED

2. SERVICE PLANS

FIELD SERVICE (Hemostasis, Autoimmune, ROTEM, Capture Workstation, GEM Premier Instruments (most locations))

SERVICE: If Service is specified for equipment in the Contract, Contractor (also herein referred to as “Werfen”) will provide, at the installation site, all necessary labor and parts (new or remanufactured as determined by Werfen) necessary to restore the covered equipment to operation in accordance with its specifications during the term of the Contract. Parts which are considered by Werfen as expendables or consumables are not included. Any equipment parts replaced by Werfen will become property of Werfen. Werfen will respond to ARMC (hereinafter also referred to as “Customer”) (including by telephone) within 24 hours of Customer’s repair service request. All on-site service is provided during normal business hours, Monday through Friday excluding holidays, from 8am to 5pm unless otherwise agreed by Werfen. Depending on the model of equipment, Werfen will perform preventative maintenance calls, which include all necessary parts and labor. As part of the preventative maintenance, Werfen will evaluate performance of the equipment as compared to its specifications.

TOTAL SERVICE & ACCESSORIES PLAN: (Werfen Hemostasis and Transfusion instruments only) If a Total Service & Accessories Plan is specified in the Quote, this option shall be available and shall, in addition to the Services included in the Total Service Agreement Plan, include a maximum of one replacement per year for any uninterruptible power system (“UPS”) and printer that shipped with equipment covered by the Total Service Agreement Plan during the term of the Total Service Agreement Plan.

DEPOT SERVICE (applicable to GEM Premier (remote locations only), HemoChron, VerifyNow and Avoximeter Instruments only (collectively “Depot Instruments”)) Customer shall return the instruments covered by Depot Service to Werfen and Werfen will provide all necessary labor and parts to restore the covered equipment to operation in accordance with its specifications during the term of the Depot Service Agreement. Any parts replaced by Werfen will become property of Werfen. Werfen will verify performance of the equipment to its specifications before returning the equipment to Customer. Werfen will issue a Return Goods Authorization (RGA) number before shipment of the equipment to Werfen and provide a prepaid label for the return of the equipment. Werfen is not responsible for damages or losses that may occur during shipment to Werfen. Where applicable and subject to signing a Loaner Agreement, a loaner instrument may be provided for Customer’s use while the covered equipment is under repair at Werfen’s facilities.

3. SOFTWARE SERVICE PLANS (GEMWeb Live, GEMWeb Plus, Synapse Link, HemoHub, QUANTA Link, ROTEM Live, ImmuLINK)

SILVER MAINTENANCE:

- Remote delivery preventative maintenance (includes operating system patching/updating; application software updates (not upgrades); third party application patching; and server health check) (each service may be completed no more than once per contract period as indicated in the Quote)

- Interconnecting additional Werfen devices
- Remote troubleshooting (24/7 Basic and Advanced support; 8x5 Complex support; and remote password recovery)
- IT Workflow configuration changes

GOLD MAINTENANCE:

- Remote delivery preventative maintenance (includes operating system patching/updating; application software updates (not upgrades); third party application patching; and server health check) (each service may be completed no more than four times per contract period as indicated in the Quote)
- Interconnecting additional Werfen devices
- Remote troubleshooting (24/7 Basic and Advanced support; 8x5 Complex support; and remote password recovery)
- IT Workflow configuration changes
- On-site technical support (limited to twice per contract period as indicated in the Quote)
- Custom reporting and data extraction
- Data recovery

4. CUSTOMER’S REPRESENTATIONS, WARRANTIES AND OBLIGATIONS

If applicable, Customer must make the equipment and/or software covered under this Contract available for servicing at the time of each scheduled preventative maintenance or emergency service call for onsite service. Werfen will contact Customer to set a mutually agreeable date and time for each service visit.

Customer must, and expressly agrees to, perform routine maintenance recommended in Werfen instruction manuals for the equipment covered by the Contract, and use only the expendables, consumables and reagents with the equipment that are set forth in the manuals for the covered equipment. Customer understands that failure to comply with these requirements may result in a voiding of the equipment’s warranty and a termination of the Services. Customer warrants that any equipment covered under this Contract that is not under its original equipment warranty is in normal operating condition performing in accordance with its specifications and not in need of overhaul or immediate repair prior to acceptance of this Contract by Customer.

Customer further agrees to furnish (or reimburse Werfen for) parts and services, which are required as a result of the following in connection with equipment or software covered by the Services (collectively, the “Excluded Causes”):

- i. Customer neglect, misuse, or improper operation of the covered equipment;
- ii. Accident, fire, water, vandalism, electrical power failure or other casualty;
- iii. Service delays caused exclusively by Customer;
- iv. The action of any persons other than a Werfen authorized Service Representative;
- v. Customer’s failure to perform routine maintenance;
- vi. Modification of the equipment covered by this Agreement without the prior written approval of Werfen;
- vii. Unsuitable environmental conditions as detailed in Werfen documentation;
- viii. The use of expendables, consumables or reagents that are not included in the equipment manuals;
- ix. The installation of third-party software or updates without the prior written approval of Werfen; or
- x. Customer’s failure to implement any software updates, patches, or other preventative maintenance measures recommended by Werfen.

Customer agrees that Werfen shall not be responsible for any costs incurred by Customer as a result of any Excluded Causes, including, without limitation, costs associated with remedial measures or work performed by third parties.

Customer agrees that it will, to the extent possible, avoid disclosing or providing access to any protected health information ("PHI"), as that term is defined in 45 CFR Part 160, to Werfen in connection with Werfen's provision of any Services under this Contract. To the extent the provision of Services does require Werfen's access or use of Customer PHI, the parties will enter into and abide by a mutually agreed upon Business Associate Agreement.

Customer acknowledges and agrees that any software covered by a Software Service Plan is being licensed, not sold and all rights, title and interest therein shall remain with Werfen and/or its third-party licensors. Use of the software shall be in accordance with the applicable software license delivered with the product.

Werfen may require Customers to update software in order to perform Services under this Contract. Werfen reserves the right to provide Customer an end-of-life announcement with respect to its software. In the event the Customer does not update the software in accordance with Werfen, Werfen may, at its option, (i) cancel this Contract or (ii) remove any affected software from coverage under this Contract, with a corresponding pro-rated adjustment of the annual Contract price. Werfen will use commercially reasonable efforts to provide Service or parts on a time and materials basis only, at Werfen's current rates, for any software subject to an end-of-life announcement.

5. RESTRICTIONS AND EXCLUSIONS

Any instrument or software covered by this Contract must have been purchased directly from Werfen or through an authorized Werfen distributor. Unless otherwise expressly agreed to in writing by Werfen, Werfen will not repair or service instruments or software purchased through the internet, bankruptcy sales, or any other means. Werfen reserves the right to deem an instrument unrepairable. In this event, any remaining term under this Contract may be transferred to a new serial number of the same model instrument.

The following are not covered Services: (1) parts and services other than those described in Sections 2 and 3; (2) consumables, reagents or expendable parts; (3) the moving, decontamination, de-install or re-install of equipment covered by this Contract; (4), UPS and printers unless covered by a Total Service & Accessories Plan; or (5) Service on national holidays.

All services and parts furnished by Werfen outside the scope of this Contract will be billed at Werfen's then current charges for such services and parts. If at any time after arrival at Customer's facility, Werfen's service representative is unable to proceed with repair service due to delay or causes by Customer, Werfen will charge Customer for such delays or causes at Werfen's then current charges. Service for accessories (UPS or printers) or other existing equipment may be added to the Services covered by this Contract by mutual written consent of the parties in writing, subject to additional charges mutually agreed upon by the parties.

6. WERFEN'S REPRESENTATIONS AND WARRANTIES

Werfen represents and warrants that all Services under this Contract will be performed in a professional and workman-like manner by personnel that have been trained to perform the Services, and as described in any applicable Quote. The sole obligation of Werfen shall be to repair or replace any non-conforming equipment or part covered during the term of the Contract. For software, Werfen's sole obligation shall be to restore the functionality of the software in accordance with applicable technical specifications during the term of the Contract. This warranty shall not be deemed to have failed of its essential purpose as long as Werfen is willing and able to repair or replace any non-conforming equipment, software, or part covered by the Contract. In the event that equipment covered by the Contract cannot be repaired, Werfen reserves the right to provide to the Customer: (a) a prorated refund or credit of the purchase price of the equipment, or (b) prorated credit towards the purchase of replacement equipment.

In its provision of Services under this Contract, Werfen will comply with the requirements of the Federal Anti-Kickback statute and Physician Payments Sunshine Act, as applicable.

Remote troubleshooting/support shall be provided via a secure connection that conforms to generally recognized industry data security standards.

EXCEPT AS EXPRESSLY STATED HEREIN, WERFEN MAKES NO OTHER WARRANTY OF ANY KIND WITH RESPECT TO ANY SERVICE RENDERED OR EQUIPMENT, SOFTWARE, PRODUCTS OR PARTS SOLD OR PROVIDED TO CUSTOMER UNDER THIS CONTRACT. WERFEN EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WERFEN DOES NOT WARRANT THAT ANY SOFTWARE OR SOFTWARE RELATED SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

7. RESERVED

8. RESERVED

9. RESERVED

10. RESERVED

11. WORKPLACE POLICIES

Werfen shall maintain the cleanliness of Customer's premises and will comply with all written Customer policies and procedures applicable to third party vendors when providing the Services onsite. For remote troubleshooting services, Werfen shall comply with Customer policies and procedures relating to third-party access to Customer's systems and networks.