

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



Contract Number

21-203

SAP Number

## Arrowhead Regional Medical Center

Department Contract Representative	William L. Gilbert
Telephone Number	(909) 580-6150
Contractor	Laborie Medical Technologies, Corp.
Contractor Representative	Melanie Scherer
Telephone Number	619-508-2946
Contract Term	
Original Contract Amount	\$34,724.00
Amendment Amount	
Total Contract Amount	\$34,724.00
Cost Center	

**Briefly describe the general nature of the contract:** Procurement of Aquarius LT Urodynamic machine for ARMC Women's Health in the amount of \$32,224 two-year service maintenance in the total amount of \$2,500; for a total contract amount of \$34,724.00.

### FOR COUNTY USE ONLY

Approved as to Legal Form.

Charles Phan, Deputy County Counsel

Date 3/17/2021

Reviewed for Contract Compliance

Date

Reviewed/Approved by Department

William L. Gilbert, Director

Date

3/18/21



**LABORIE MEDICAL TECHNOLOGIES, CORP.**  
 400 Avenue D, Suite 10 Williston, Vermont 05495-7828  
 1-800-522-6743 or (802) 857-1300 Fax: (802) 878-1122  
 www.LABORIE.com

**Customer:** County of San Bernardino on behalf  
 of Arrowhead Regional Medical Center  
**Attention:** Women's Health Center  
**Title:** Chief Medical Officer  
**End User Address:** 400 N Pepper Ave  
 City, State, Zip: Colton, CA  
**Phone:**  
**Email:**

**Quote Date:** 2/1/2021  
**Quote Expires:** 4/30/2021  
**Quote Number:** MS83120SBC-LT  
**Territory Manager:** Melanie Scherer  
**Phone:** (619) 508-2946  
**Fax:** 802-878-1122  
**Email:** mscherer@laborie.com

### Aquarius LT Urodynamic System

#### Features:

##### Full Urodynamic Test Capability

- Perfect Balance between performance and utility.
- Excels in everyday Urodynamic studies

##### User-Friendly

- Intuitive Touch-screen central hub, voice guidance and customized remote-control

##### Streamlines Office Efficiency

- Intelligently manages appointments, previous visits patient information and test data

##### Backed by LABORIE's Outstanding Service Program:

- CME-accredited training courses and certified on-site clinical training.
- Live telephone support and remote online assistance.



<u>QTY</u>	<u>Item No.</u>	<u>Description</u>	
1	UDS-1	Aquarius LT System	\$38,995
		<i>Includes the following features and components:</i>	
		- Roam DX	
		- Touchscreen hub with infusion pump	
		- Custom cart with LIT	
		- UDS Software & manuals	
		- 110V LIT	
		- Printer	
		- PDF Printer	
		- Air-charged Transducers	
		<input type="checkbox"/> Short <input type="checkbox"/> Long	
		- EMG	
		- Urocap V Weight Cell Flowmeter	
		- Folding Commode w/ Funnel	
		- Laptop computer	



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Customer: County of San Bernardino on behalf  
of Arrowhead Regional Medical Center  
Attention: Gina Gonzales  
Title: Staff Analyst II

Quote Date: 2/1/2021  
Quote Expires: 4/30/2021  
Quote Number: MS83120SBC-LT

#### ADDITIONAL OPTIONS

##### Education

EXPIRES ONE YEAR AFTER PURCHASE OF EQUIPMENT

1 each	<b>COU040</b>	"Hands-On" Urodynamics - A Practical Approach For those who have little or no experience performing Urodynamic tests. Understand the need, components, patient and software preparation, how to run tests, recognize artifact, and basic troubleshooting techniques. Focuses on LABORIE urodynamic equipment. Follows ICS guidelines for technique, annotation, and documentation. One-day presentation, price per registrant.	<b>\$650</b>
1 each	<b>COU025</b>	Interpretation Course - Provides and educational opportunity f examiner who seeks assistance with interpreting urodynamic testing results and applying this to their practice. Price per registrant.	<b>\$650</b>

##### Service Contracts:

SERS02ALT	Aquarius LT Silver Uptime Contract Year 2	\$2,500
SERS03ALT	Aquarius LT Silver Uptime Contract Year 3	\$2,750
SERS04ALT	Aquarius LT Silver Uptime Contract Year 4	\$3,025
SERS05ALT	Aquarius LT Silver Uptime Contract Year 5	\$3,327



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Customer: County of San Bernardino on behalf  
of Arrowhead Regional Medical Center

Quote Date: 2/1/2021  
Quote Expires: 4/30/2021  
Quote Number: MS83120SBC-LT

**Aquarius LT Terms & Acceptance Form**

*This Quote does not include applicable state taxes unless specifically stated E.&O.E.*

Discount Expires:	April 1, 2021	Aquarius LT Price:	\$38,995
		Discount:	-\$9,600
		Service Agreement Year 2 only	\$2,500
		Shipping:	\$550
		<b>TOTAL</b>	<b>\$32,445</b>

Training: Price includes installation and 1 day in-service. Additional in-service available at an additional cost.

All patient care activities are the sole responsibility of the customer. This includes, but is not limited to: patient instruction, and insuring all institution

Customer Responsibilities: protocols and safety guidelines are met. Customer will arrange for 2 or 3 patients to be available for patient testing during the in-service.

Staffing: In order to ensure the successful education of the customer staff, LABORIE requests all staff members involved in the operation of the urodynamics equipment be present during training and whenever possible to refrain from other duties.

Supplies: Customer is responsible for ensuring there are enough supplies on hand to complete the patient tests scheduled during training.

LABORIE Responsibilities: LABORIE will install and provide in-service training on the LABORIE equipment purchased. Customization of the LABORIE equipment will be completed based on your specific needs. Complete user manuals and verbal instruction will be provided, along with contact information for on-going support and supply ordering.

Additional Training: If you feel you need additional training days at the time of installation, please contact your sales executive as soon as possible. Additional fees are applicable.

Service Packages: Extended Service contracts are available after the system's warranty period expires.

Payment Terms: NET 30 days from date of invoice with approved credit. Credit cards are accepted.

Shipping and Handling: Customer pays \$950 shipping/additional shipping charges if S2 or S3 Sonesta table is ordered and \$1125 for the Sonesta 6210.

Warranty: 1 year parts and labor

Delivery: 4 - 6 weeks ARO, FOB Origins, Prepaid & Add

Upon customer signing below or issuing a purchase order against this quote, the parties agree to all terms contained hereof including the General

Customer Order as quoted: Conditions of Sale found on the attached Exhibit "A". Customer agrees that any other additional terms and conditions, whether on customer's purchase order or otherwise, shall not apply unless both parties agree in writing.

Customer: County of San Bernardino on Behalf of Arrowhead Regional Medical Center

**Curt Hagman**

**Chairman, Board of Supervisors**

Name and Title

Authorized Signature

Date

APR 06 2021

SIGNED AND CERTIFIED THAT A COPY OF  
THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIRMAN OF THE BOARD  
LYNNA MONELL

Clerk of the Board of Supervisors  
of the County of San Bernardino

By

Deputy

Laborie Medical Technologies Corp.

Jill Pietig, Director, Customer Care

Name and Title

Authorized Signature

Date

11-February-2021

**Ordering Information:**

For sites requiring purchase orders, this equipment order cannot  
be processed without a copy of the purchase order.

FAX ORDERS TO: 802-878-1122

EMAIL ORDERS TO: EQUIPMENT@LABORIE.COM

## **EXHIBIT "A"**

### **Terms and Conditions of Sale ("Agreement")**

#### **GENERAL CONDITIONS OF SALE**

These terms and conditions ("Agreement") shall govern the provision of products and services to County of San Bernardino on behalf of Arrowhead Regional Medical Center (hereinafter referred to as "County", "You", or "you") by Laborie Medical Technologies Corp. ("LABORIE") unless otherwise agreed upon in a separate, written agreement between you and LABORIE.

#### **1. PRICING AND PAYMENT**

1.1 All prices are in U.S. dollars unless otherwise stated on the quotation. LABORIE reserves the right to change prices without notice. Prices in effect at the time your order is accepted will prevail. Pricing is subject to the terms of this Agreement and the quotation.

1.2 Prices are exclusive of, and you will pay: (a) all applicable federal, state, provincial and local taxes (including all applicable sales, use, consumption, goods and service, value added, and withholding taxes), unless you have provided LABORIE with an appropriate tax exemption certificate or number, and (b) all fees and charges related to customs, duties and brokerage. County represents that it is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on LABORIE 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 by LABORIE.

1.3 Payment terms are net thirty (30) days from the date of LABORIE's invoice date. Payment shall be made in full and without deduction or set-off.

#### **2. ORDERS, DELIVERY AND SHIPPING**

2.1 LABORIE will make reasonable efforts to accommodate your delivery requirements; however, delivery is subject to availability of resources at the time of order placement and is dependent on your availability to provide input and to perform reviews. LABORIE shall therefore not be liable in any way for any delay or damage arising from LABORIE's failure to meet such delivery requirements or any delivery dates.

2.2 All orders are subject to acceptance by LABORIE. All shipments shall be made FCA LABORIE's facilities (Incoterms 2000) as indicated on the quotation. Risk of loss for products shall pass to you upon your receipt of the product.

2.3 You are responsible for examining all shipments promptly upon receipt and for preparing your facilities for installation of the products. If you discover any shortages or incorrect products in the shipment, you must notify LABORIE immediately. Please check your order carefully, as no claim for shortages or deficiencies will be accepted by LABORIE after one (1) week from delivery of the products.

2.4 LABORIE reserves the right to make partial shipments unless otherwise agreed to in writing. Such partial shipments shall become due and payable in accordance with this Agreement.

#### **3. RETURNS**

3.1 Products may be returned to LABORIE within ten (10) days of delivery for credit, if the products are unused, in a new and intact condition, and in their original containers, subject to LABORIE's return procedures. You must obtain a valid, written Return Materials Authorization (RMA) from LABORIE before products may be returned. LABORIE reserves the right to refuse or return collect any products sent back without an RMA. Returned products are subject to a restocking charge which may range from 20-50%. You are also responsible for paying the full cost of refurbishing or repairing the products and all return LABORIE Medical handling and shipping costs. Disposable/Sterile products are also subject to expiration date and compromised packaging considerations. Consult LABORIE for details and RMA.

#### 4. TITLE, INTELLECTUAL PROPERTY AND USE RESTRICTIONS

4.1 You shall not obtain title and/or any right of possession to the products sold to you until you pay all amounts due for such products. NOTWITHSTANDING THE FOREGOING, TITLE TO SOFTWARE SHALL NOT PASS TO YOU. YOUR USE OF ANY LABORIE SOFTWARE SUPPLIED TO YOU UNDER THIS AGREEMENT IS GOVERNED BY AND SUBJECT TO LABORIE'S SOFTWARE LICENSE TERMS APPLICABLE TO SUCH SOFTWARE. Use of any third party products and software under this Agreement shall be governed by and subject to your agreeing to the terms of all applicable third party agreements and licenses respecting such third party products and software.

4.2 You do not acquire any intellectual property or other proprietary rights under this Agreement, including without limitation any right, title or interest in and to patents, copyrights, trade-marks, industrial designs, confidential information, or trade secrets, whether registered or unregistered, relating to LABORIE products, services, or any part thereof. Your only rights to LABORIE products, services, or any part thereof shall be those rights expressly licensed or granted to you under this Agreement. Any rights not expressly granted under this Agreement are reserved.

4.3 Except to the extent expressly agreed upon in writing by you and LABORIE, you shall not, and you shall not permit any third party to, copy, reproduce, distribute, modify, decompile, disassemble or reverse engineer any software or other products provided to you by LABORIE, nor shall you use such products or services except to facilitate your internal business functions.

#### 5. CHANGES

5.1 LABORIE reserves the right to make changes in the design of its products or services without the obligation to make equivalent changes to products or services that have previously been supplied to you. LABORIE further reserves the right to change part numbers and specifications without prior notice.

5.2 You shall not be entitled to change or cancel any order without the prior written agreement of LABORIE.

#### 6. CANCELLATION AND TERMINATION

6.1 LABORIE may terminate this Agreement upon written notice to you, and may also stop any products in transit to you and suspend the delivery of products and services to you without penalty, if: (a) you commit a material breach of this Agreement and fail to remedy such breach within thirty (30) days of receiving notice of such breach, or (b) you become involved in any legal proceeding concerning your solvency, have a receiver or administrator appointed of any of

your assets, cease or threaten to cease operations, or otherwise have a serious and reasonable doubt arise respecting your solvency.

6.2 Upon termination of this Agreement for your breach or insolvency: (a) all of LABORIE's performance obligations hereunder shall immediately cease, (b) your license to use any software provided to you hereunder shall immediately cease, and you shall either return all such software to LABORIE or have an officer of your company certify that such software has been destroyed, and (c) any payments then due to LABORIE become immediately payable in full.

6.3 Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other party.

## 7. COMPLIANCE WITH LAWS

7.1 Each party shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies (including import and export laws and regulations), including federal, provincial, state, municipal and local governing bodies, of any country having jurisdiction over the products and LABORIE Medical services or any part thereof.

## 8. WARRANTY

8.1 LABORIE warrants that, for a period of one (1) year from the date that the products are delivered to you: (a) the products will comply with LABORIE's specifications for such products, and (b) the products will be free from material defects in material, design and workmanship. LABORIE does not warrant that the operation of the products or services will be uninterrupted or error-free.

8.2 If you notify LABORIE of any such material defects or non-conformance with the products within such one (1) year period, LABORIE will, at its option, repair or replace the products. If LABORIE is unable to repair or replace such products within a reasonable timeframe, LABORIE may refund you the amounts paid for such defective or non-conforming products. All shipment of such products is at your expense.

8.3 The above warranty shall not apply to defects or non-conformities resulting from: (a) improper or inadequate maintenance or installation of the products, (b) use of the products or services in combination with software, interfaces, or other materials that are not supplied or specifically authorized by LABORIE, (c) unauthorized or improper use, modification maintenance or repair of the products or services, (d) abuse, negligence, accident, or other damage from external sources, or (e) improper preparation of your facilities for product installation and use.

8.4 THE WARRANTY SET FORTH IN THIS SECTION 8 IS THE EXCLUSIVE WARRANTY MADE BY LABORIE TO YOU. LABORIE DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, FITNESS FOR A PARTICULAR PURPOSE, DURABILITY, TITLE, OR ANY OTHER WARRANTY OR CONDITION ARISING BY STATUTE, CUSTOM OR USAGE OF TRADE RELATED TO THE LABORIE PRODUCTS AND SERVICES PROVIDED HEREUNDER. Some jurisdictions may not allow the exclusion or limitation of implied warranties and conditions. To the extent permitted by law, any implied warranties or conditions relating to the products and services to the extent

that they cannot be excluded as set out above are limited to one (1) year from the date that the products are delivered to you.

## 9. INSURANCE

### 9.1 Additional Insured

All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the Agreement hereunder. A Blanket Additional Insured endorsement is acceptable. 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.

### 9.2 Waiver of Subrogation Rights

LABORIE shall require the carriers of the 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 LABORIE and LABORIE's employees or agents from waiving the right of subrogation prior to a loss or claim. LABORIE hereby waives all rights of subrogation against the County.

### 9.3 Severability of Interests

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

### 9.4 Proof of Coverage

LABORIE shall furnish Certificates of Insurance to the County evidencing the insurance coverage at the time the Agreement is executed, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the County except for non-payment of premium for General Liability only

### 9.5 Acceptability of Insurance Carrier

Unless otherwise approved by County's 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".

### 9.6 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 County's Risk Management.

### 9.7 Insurance Specifications



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

LABORIE shall secure and maintain throughout the Agreement term the following types of insurance with limits as shown:

Workers' Compensation/Employers 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 two hundred and fifty thousand dollar (\$250,000) limits, covering all persons, providing Services on behalf of LABORIE and all risks to such persons under this Agreement.

Commercial/General Liability Insurance

LABORIE shall carry General Liability Insurance covering all operations performed by or on behalf of LABORIE 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.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations)
- d. Personal Injury
- e. Contractual liability
- f. \$2,000,000 general aggregate limit

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 one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If LABORIE is transporting one or more non-employee passengers in performance of 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.

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.

## 10. INDEMNITY

10.1 LABORIE will defend (with counsel reasonably approved by you), indemnify, and hold you harmless from any and all claims, actions, losses, damages and/or liability, including attorney's fees and costs, arising out of (1) any allegation that LABORIE's products provided under this

Agreement is defective, (2) the negligence or willful misconduct of LABORIE, its employees, or its agents.

10.2 LABORIE will defend, indemnify and hold you harmless with respect to amounts required to be paid to a third party, and all costs, expenses, and liability, including without limitation attorney's fees and court costs, arising from a claim that the products or services furnished and used within the scope of this Agreement infringe(s) such third party's copyright, patent or other intellectual property right enforceable in the territory in which you have been authorized to use such products or services. Notwithstanding the foregoing, LABORIE shall have no liability for any claim of infringement to the extent based on use of a superseded or altered release or version of any product if the infringement would have been avoided by the use of a current unaltered release or version of such product that LABORIE has, as of the time the LABORIE Medical claim arose, made commercially available at no charge to you.

10.3 LABORIE'S indemnity obligations hereunder are conditional upon: (a) the County notifying LABORIE in sufficient time to allow the LABORIE to protect its legal interests; (b) LABORIE having sole control of the defense and all related settlement negotiations, provided, however, that any settlement does not result in any admission of wrongdoing by County and imposes no obligation on County, and County shall act reasonably and in good faith to protect the LABORIE's, and (c) the County providing the LABORIE with the reasonable assistance, information and authority necessary to perform LABORIE's obligations under this paragraph.

10.4 LABORIE 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 LABORIE or its employees or agents. Such repairs shall be made immediately after LABORIE becomes aware of such damage, but in no event later than thirty (30) days after the occurrence. If the LABORIE fails to make timely repairs, the County may make any necessary repairs. The LABORIE, as determined by the County, shall repay all 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 LABORIE from the County, as determined at the County's sole discretion.

10.5 The indemnification obligations set forth in this Agreement shall survive termination of the Agreement.

## 11. LIMITATIONS OF LIABILITY

11.1 Except as expressly stated herein, in no event will LABORIE be liable under this Agreement for any damages other than your direct damages to the extent arising from LABORIE's negligence or willful misconduct, and, except as to any indemnification obligations, in no event shall LABORIE's aggregate liability exceed the greater of \$3 million or ten times the amounts paid by you to LABORIE for the products and services that gave rise to the claim.

11.2 EXCEPT FOR THE LIMITED DIRECT DAMAGES SPECIFIED IN THIS SECTION 11 AND THE INDEMNIFICATION OBLIGATIONS IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, DATA, USE OR OPPORTUNITY, WHETHER OR NOT SUCH DAMAGES WERE FORESEEN OR UNFORESEEN, AND

WHETHER OR NOT THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 12. SUPPORT

12.1 LABORIE shall not be obligated to provide any support or maintenance services for the products or services unless specified in the quotation. For greater certainty, this provision does not in any way relieve LABORIE of its warranty obligations hereunder.

12.2 Support Services are provided in multiple Support Incident packages, comprising of two options: (a) Five (5) Support Incident package; (b) Single (1) Support Incident package. A Support Incident is a specific, discrete problem whose origin can be isolated to a single cause. LABORIE will make reasonable efforts to resolve a Support Incident but does not guarantee that Support Incidents will be resolved. LABORIE, in its sole discretion, will determine what constitutes a Support Incident and to the extent permitted by law if the Support Incident is resolved. Generally, a Support Incident is resolved when Customer receives one of the following: (a) information that resolves the problem; (b) information on how to obtain a solution that will resolve the problem; (c) notice that the problem is caused by a known, unresolved issue or an incompatibility issue with a Supported Product; (d) information that identifies the problem as being resolved by upgrading to a newer release of the Supported Product; or (e) notice that the problem has been identified as a hardware equipment issue. Under a Service Plan with a limited number of Support Incidents, each new Support Incident contact made by Customer will decrease the remaining number of eligible Support Incidents.

12.3 Term and Termination. Unless terminated earlier in accordance with this section, a Service Plan will continue for a term of twelve (12) months from the Effective Date or until all Support Incidents are used, whichever occurs first (unless otherwise authorized by LABORIE in writing). LABORIE will not provide Support Services beyond the end of the Service Plan unless your Service Plan is renewed on or before its termination date. LABORIE may terminate a Service Plan at any time (a) if after providing Customer no less than thirty (30) days prior written notice, Customer fails to pay fees due for a Service Plan, or (b) if after providing Customer no less than thirty (30) days prior written notice, Customer fails to resolve a breach of these Terms and Conditions, or (c) if Customer breaches a term of any license agreement governing the use of provided product under a Service Plan. Except as otherwise provided by law and provided no Support Services have been received by Customer, Customer may cancel a Service Plan for any reason with thirty (30) days written notice, and receive a refund of all sums paid, less any funds expended for services rendered prior to the termination. Refund requests must be sent in writing, together with applicable proof of purchase.

## 13. CONFIDENTIALITY

13.1 Each party recognizes that it may in the course of this Agreement come into possession of confidential or proprietary information of the other party, which shall be designated with a watermark indicating that such information is "Confidential." Each party therefore agrees that at all times during the term of this Agreement and following termination of this Agreement and unless otherwise required by law: (a) each party shall maintain the confidential information of the other party in strict confidence, shall take all necessary precautions against unauthorized disclosure of such confidential information, and shall not directly or indirectly, disclose, allow access to, transmit or transfer any confidential information to a third party without the knowledge and express written consent of the other party, (b) neither party shall use, disclose or reproduce

the other party's confidential information except as reasonably required in the performance of this Agreement, or as required by law and then only to employees and agents, and (c) each party agrees to advise the other party promptly in writing of any misappropriation, disclosure, conversion or misuse by any person of any confidential information of which it may become aware. Notwithstanding all of the foregoing, LABORIE understands that the County is a public entity subject to, among other laws, decisions, rules and statutes, the Ralph M. Brown Act, the California Public Records Act, and the Sunshine Ordinance in its County Code and LABORIE consents to disclosure of information and writings, including but not limited to this Agreement and related Quotation, to the extent required by applicable law.

13.2 The confidentiality obligations under this Agreement shall not apply to confidential information which: (a) is, or becomes, readily available to the public other than through a breach of this Agreement; (b) was lawfully known to the receiving party without any confidentiality obligation prior to receipt of the confidential information from the disclosing party; (c) was independently developed or discovered outside of the course of the performance of obligations under this Agreement; or (d) which is otherwise required to be disclosed by applicable law.

#### 14. GENERAL

14.1 Independent Contractor: Each party is acting as an independent contractor, and not in any way as the agent or representative of the other party. Neither party has the authority to bind the other in any way.

14.2 Force majeure: Neither party shall be deemed to be in default of this Agreement for failure to fulfill its obligations due to causes beyond its reasonable control. This provision shall not be construed as excusing any payment obligations of either party hereunder.

14.3 Notices: Any notices, reports or other mandatory communications required or permitted to be given under this Agreement shall be in writing and shall be delivered by hand or sent by registered mail, or courier addressed to LABORIE or you at their respective addresses. If sent by registered mail, notice shall be deemed effective within two days of mailing.

14.4 No Waiver: No waiver by either party of a breach or omission by the other party under this Agreement shall be binding on the waiving party unless it is expressly made in writing and signed by the waiving party. Any waiver by a party of a particular breach or omission by the other party shall not affect or impair the rights of the waiving party in respect of any subsequent breach or omission of the same or different kind.

14.5 Assignment: Neither party shall assign or transfer this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld, conditioned or delayed. This Agreement shall be binding upon the parties hereto and their respective lawful successors and permitted assigns.

14.6 Severability: If any one or more of the provisions of this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, any such provision shall be severable from this Agreement, in which event this Agreement shall be construed as if such provision had never been contained herein.

14.7 Survival: Any provision of this Agreement which expressly states that it is to continue in effect after termination or expiration of this Agreement, or which by its nature would survive the termination or expiration of this Agreement, shall do so.

14.8 Dispute Resolution and Governing Law: The parties agree to work in good faith to resolve any dispute that may arise under this Agreement. If you are contracting with Laborie Medical Technologies Corp., this Agreement shall be governed by and interpreted in accordance with the laws of the State of California, and any legal action shall be brought in the Superior Court of San Bernardino County.

14.9 Entire Agreement/Modification: This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements and understandings relating to the subject matter hereof. This Agreement may not be altered, amended, or modified except by a written instrument signed by the duly authorized representatives of both parties. Your additional or different terms and conditions, whether on your purchase order or otherwise, shall not apply.

14.10 Debarment and Suspension: LABORIE represents and warrants that it is not and at no time has been convicted of any criminal offense related to health care nor has been debarred, excluded, or otherwise ineligible for participation in any federal or state government health care program, including Medicare and Medicaid. Further, LABORIE represents and warrants that no proceedings or investigations are currently pending or to LABORIE's knowledge threatened by any federal or state agency seeking to exclude LABORIE from such programs or to sanction LABORIE for any violation of any rule or regulation of such programs.

14.11 Licenses, Permits, and /or Certifications: LABORIE shall ensure that it has all necessary licenses, permits and/or certifications required by Federal, State, County, and municipal laws, ordinances, rules and regulations. LABORIE shall maintain these licenses, permits and/or certifications in effect for the duration of this Agreement. LABORIE 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 Agreement.

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