 Natividad MEDICAL CENTER
County of Monterey Agreement for Services
(Not to Exceed \$100,000)

This Agreement (hereinafter "Agreement") is made by and between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center, an acute care hospital (hereinafter, "NMC"), and Bard Medical Division, C.R. Bard, Inc. hereinafter "CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "Parties.").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED; NMC hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibit A in conformity with the terms of the Agreement. The services are generally described as follows: Purchase product and support services related to the product.

PAYMENTS BY NMC; NMC shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitations set forth in this Agreement. The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of \$70,000.

TERM OF AGREEMENT; the term of this Agreement is from May 1, 2018 through April 30, 2023 unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and NMC and with NMC signing last and CONTRACTOR may not commence work before NMC signs this Agreement.

NMC reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

SCOPE OF SERVICES AND ADDITIONAL PROVISIONS/EXHIBITS; the following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A: Scope of Services/Payment Provisions

Exhibit B: Bard Protection Program

Exhibit C: Addendum No. 1

1. PERFORMANCE STANDARDS:

- 1.1. CONTRACTOR warrants that CONTRACTOR and Contractor's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of NMC, or immediate family of an employee of NMC.
- 1.2. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 1.3. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use NMC premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

2. PAYMENT CONDITIONS:

- 2.1. Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided herein. NMC (Monterey County) does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 2.2. Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County (NMC) and the CONTRACTOR.
- 2.3. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to NMC. If not otherwise specified, the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for Administrator or his or her designee shall certify the invoice, either in the requested amount or in such other amount as NMC approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
- 2.4. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

3. TERMINATION:

- 3.1. ~~During the term of this Agreement, NMC may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.~~ ab
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- 3.2. ~~NMC may cancel and terminate this Agreement for good cause effective immediately upon written notice to Contractor. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If NMC terminates this Agreement for good cause, NMC may be relieved of the payment of any consideration to Contractor, and NMC may proceed with the work in any manner, which NMC deems proper. The cost to NMC shall be deducted from any sum due the CONTRACTOR under this Agreement.~~ ab
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4. INDEMNIFICATION:

- 4.1. ~~CONTRACTOR shall indemnify, defend, and hold harmless NMC (hereinafter "County"), its officers, agents and employees from any claim, liability, loss injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The CONTRACTOR shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the CONTRACTOR is obligated to indemnify, defend and hold harmless the County under this Agreement.~~ ab
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5. INSURANCE:

5.1. Evidence of Coverage:

~~Prior to commencement of this Agreement, the CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the CONTRACTOR upon request shall provide a certified copy of the policy or policies.~~

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~~This verification of coverage shall be sent to NMC's Contracts/Purchasing Department, unless otherwise directed. The CONTRACTOR shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and NMC has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.~~

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5.2. Qualifying Insurers: All coverage's except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by NMC's Contracts/Purchasing Director.

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5.3. Insurance Coverage Requirements: Without limiting Contractor's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

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5.4. Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

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~~(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)~~

Exemption/Modification (Justification attached; subject to approval)

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5.5. Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

~~(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)~~

Exemption/Modification (Justification attached; subject to approval)

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5.6. Workers' Compensation Insurance, If CONTRACTOR employs other in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

~~(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)~~

Exemption/Modification (Justification attached; subject to approval)

~~5.7. Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.~~

~~(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)~~

Exemption/Modification (Justification attached; subject to approval)

6. **Other Insurance Requirements:**

~~6.1. All insurance required by this Agreement shall be with a company acceptable to NMC and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.~~

~~6.2. Each liability policy shall provide that NMC shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.~~

~~6.3. Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional insureds with respect to liability arising out of the Contractor's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Contractor's insurance.~~

~~6.4. Prior to the execution of this Agreement by NMC, CONTRACTOR shall file certificates of insurance with NMC's Contracts/Purchasing Department, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.~~

~~6.5. CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by NMC, annual certificates to NMC's Contracts/Purchasing Department. If the certificate is not received by the expiration date NMC shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain~~

~~such insurance is a default of this Agreement, which entitles NMC, at its sole discretion, to terminate the Agreement immediately.~~

7. RECORDS AND CONFIDENTIALITY:

7.1. Confidentiality: ~~CONTRACTOR and its officers, employees, agents and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from NMC or prepared in connection with the performance of this Agreement, unless NMC specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to NMC any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out Contractor's obligations under this Agreement.~~

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7.2. NMC Records. When this Agreement expires or terminates, CONTRACTOR shall return to NMC any NMC records which CONTRACTOR used or received from NMC to perform services under this Agreement.

7.3. Maintenance of Records: CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

7.4. Access to and Audit of Records: NMC shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess or \$10,000, the parties to this Agreement may be subject, at the request of NMC or as part of any audit of NMC, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

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~~8. Royalties and Inventions: NMC shall have a royalty free, exclusive and irrevocable license to reproduce, publish, and use, and authorize other to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of NMC.~~

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9. Non-Discrimination: During the performance of this Agreement, Contractor, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in Contractor's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, full comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

10. Compliance with Terms of State or Federal Grant: If this Agreement has been or will be funded with monies received by NMC pursuant to a contract with the state or federal government in which NMC is the grantee, CONTRACTOR will comply with all the provisions of said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, NMC will deliver a copy of said contract to Contractor, at no cost to Contractor.

11. **Independent Contractor:** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent CONTRACTOR and not as an employee of NMC. No offer or obligation of permanent employment with NMC or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from NMC any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of Contractor's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold NMC and the County of Monterey harmless from any and all liability, which NMC may incur because of Contractor's failure to pay such taxes.
12. **Notices:** Notices required under this Agreement shall be delivered personally or by first-class, postage per-paid mail to NMC and Contractor's contract administrators at the addresses listed below.

NATIVIDAD MEDICAL CENTER:

Natividad medical Center
 Attn: Contracts Division
 Natividad Medical Center
 1441 Constitution Blvd
 Salinas, CA. 93906
 FAX: 831-757-2592

CONTRACTOR:

Name: Bard Medical Division, C.R. Bard, Inc

 Attn: Andrea Schraft

 Address: 730 Central Avenue

 City, State, Zip: Murray Hill NJ, 07974

 Email: Andrea.schraft@crbard.com

MISCELLANEOUS PROVISIONS:

- 13.1 **Conflict of Interest.** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 13.2 **Amendment.** This Agreement may be amended or modified only by an instrument in writing signed by NMC and the Contractor.
- 13.3 **Waiver.** Any waiver of any terms and conditions of this Agreement must be in writing and signed by NMC and the Contractor. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 13.4 **Contractor.** The term "Contractor" as used in this Agreement includes Contractor's officers, agents, and employees acting on Contractor's behalf in the performance of this Agreement.
- 13.5 **Disputes.** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 13.6 **Assignment and Subcontracting.** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of NMC. None of the services covered by this Agreement shall be subcontracted without the prior written approval of

NMC. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

- 13.7 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of NMC and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 13.8 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 13.9 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 13.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 13.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 13.12 Non-exclusive Agreement. This Agreement is non-exclusive and both NMC and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 13.13 Construction of Agreement. NMC and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 13.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 13.15 Integration. This Agreement, including the exhibits, represents the entire Agreement between NMC and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations. Representations, or agreements, either written or oral, between NMC and CONTRACTOR as of the effective date of this Agreement, which is the date that NMC signs the Agreement.
- 13.16 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

Signature Page to follow

NATIVIDAD MEDICAL CENTER

By: [Signature]
Gary R. Gray, DO, CEO

Date: 5/30/17

APPROVED AS TO LEGAL PROVISIONS

By: [Signature]
Monterey County Deputy County Counsel

Date: 5.25.18

APPROVED AS TO FISCAL PROVISIONS

By: [Signature]
Monterey County Deputy Auditor/Controller

Date: 5-25-18

CONTRACTOR

Bard medical Division C.R. Bard Inc.
Contractor's Business Name*** (see instructions)

Uwe Mc WWCIM
Signature of Chair, President, or Vice-President

Marne Ha
Name and Title

Date: 5/31/18

By: [Signature]
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Todd Walter - Controller Medivance
Name and Title

Date: 5/2/18

*****Instructions:**

If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers (two signatures required). If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership (two signatures required). If CONTRACTOR is contracting in and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement (one signature required).

Natividad Medical Center
 1441 Constitution Boulevard
 Salinas, California 93906

Thank you and **Natividad Medical Center** for your continued interest in the ARCTIC SUN® Temperature Management System. Below you will find a pricing proposal covering the purchase of our products. This pricing is based off of current market value and is subject to change upon the expiration date of this proposal. As always, please feel free to contact me if you have any questions. I can most easily be reached at (707) 483-6887 or email me at chris.shen-floerke@crbard.com. This quote and related pricing will expire June 15, 2018.

Part Number	Part Description	List Prices	Each Prices	Qty	Total
50000000E	ARCTIC SUN® 5000E Temperature Management System - Standard Product Warranty (one year) - Service Kit (sent to Biomed) -TIM (Transmission Interface Module) -Multiple-Protocol Selection -Customized, Hospital Protocol Upload	\$56,650	\$45,000	1	\$45,000
AS5000247	TTM 24/7 Clinical/Technical Support (single charge for the life of the device(s))	\$2,550	\$2,550	1	\$2,550
AS50001411	On-site Clinical Training	\$2,450	\$2,450	1	\$2,450
74100	Calibration Test Unit (CTU)	\$2,883	\$2,883	1	\$2,883
EXTWARR4	Four Year Extended Product Warranty	\$6,995	\$6,995	1	\$6,995
	TOTAL *does not include freight charges	\$71,528	\$59,878		\$59,878

Freight is not included in above pricing; actual freight charges will be added at time of shipment

SERVICES

Bard Medical/Medivance offers a host of services to assist your institution in successfully implementing targeted temperature management

- **The Arctic Circle™ Clinical Resource Program**
 - Comprehensive product training program to develop in-house expertise on the Arctic Sun
 - Collaborative educational community designed to link clinicians worldwide to share best practices in the field of Targeted Temperature Management
 - Advanced education in the field of temperature management

- Computer-based product training where and clinician participation and completion reports can be provided in a weekly report, upon request, to clinical educators

- **24/7 Helpline**
 - The 24/7 Helpline is intended to assist healthcare professionals with technical questions they may have regarding the use of the Arctic Sun® Temperature Management System. While the Helpline is staffed by licensed critical care nurses, they are not able to provide medical or nursing advice or to prescribe treatment.
 - Technical support staffed by the Medivance Engineers

- Peer to Peer Education

- **Product Excellence**
 - Easy to service device
 - Filters are incorporated into the disposable portion of the product, which means less maintenance

Product Warranty Policy

Limited Warranty

Bard Medical Division, C. R. Bard, Inc. ("Bard") warrants to the original purchaser that each Arctic Sun® Control Module ("Equipment") and ArcticGel Pad ("Disposables") will be free of defects in workmanship and materials for the period set forth in the labeling and if no such period is set forth, then one year from the date of purchase. If the Equipment or a Disposable proves to be so defective, such Equipment or Disposables may be repaired, replaced, refunded or credited, at Bard's option. An extended warranty for Equipment is available for purchase. The warranty covers all parts and labor associated with defects in material and workmanship of the Equipment. Bard will, at its discretion, determine if the Equipment is to be repaired on site, or at the Bard service center. If Equipment is to be returned for service, Bard will supply packaging materials and pay for ground shipping. However, it is the hospital's responsibility to prepare and package the Equipment for shipment at its own cost. Any expedited shipment request will be at the customer's expense. Any unauthorized equipment repair performed during the warranty period will void the warranty. All returns must be authorized in advance by Bard. The liability of Bard under this product warranty does not extend to any abuse, accidental damage, misuse, improper storage, alteration, further manufacture, packaging or processing, accidental damage or damage from misuse of Equipment, damage caused by using tap water rather than distilled water, routine maintenance, recalibration, or its repair by any person or entity not authorized by a Bard representative.

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THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE LIABILITY AND REMEDY STATED IN THIS LIMITED WARRANTY WILL BE THE SOLE LIABILITY OF BARD AND REMEDY AVAILABLE TO CUSTOMER WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND BARD WILL NOT BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF HANDLING OR USE OF BARD EQUIPMENT OR DISPOSABLES EVEN IF BARD HAS BEEN ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES. ~~IN NO EVENT WILL BARD'S LIABILITY UNDER THIS WARRANTY EXCEED THE PURCHASE PRICE PAID TO BARD BY CUSTOMER FOR SUCH EQUIPMENT AND DISPOSABLES.~~

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Terms of Service

If Equipment availability is critical for patient treatment, it is the customer's responsibility to purchase back-up Equipment. Although Bard will attempt to promptly repair Equipment under warranty, the timeliness of repair is not guaranteed.

The customer is responsible for maintaining the Equipment according to the schedules and instructions in the documentation supplied with each system. Bard provides remote Technical Support from 8am to 5pm Mountain time and 24/7 emergency phone support. Contact Customer Service for all service related requests. A detailed description of the problem or service required, the unit serial number, and contact information will be required to assist in providing efficient service of the unit. The hospital must provide personnel to assist Technical Support with troubleshooting.

Loaned Equipment

If Equipment under warranty is returned for service, loaned Equipment will be available to the customer at no charge upon request for the duration of the service. The customer is responsible for setting up the loaned Equipment and to prepare and package the Equipment for return shipment according to the documentation. The customer is also responsible for the care and maintenance of the loaned Equipment and all accessories while the Equipment is in their possession. Any loss or damage will be the sole responsibility of the customer. Loaned Equipment must be returned within 7 days upon return of the repaired Equipment or rental charges will be applied at a rate of \$40 per day.

Shipping

Loaned equipment will be shipped ground at Bard's expense. Any expedited shipment request will be at the customer's expense.

Non-Warranty Service

Parts and service are available for a fee through Customer Service for Equipment no longer under warranty. If requested, Bard can provide an estimate of the cost of factory repair. Bard will require a Purchase Order from the customer in order to initiate the repair service. If it is later determined the Equipment requires repair which exceeds the original estimate, Bard will contact the customer for authorization prior to proceeding with the repair.

Bard will attempt to maintain parts inventory for Equipment a minimum of six years beyond the end of production.

Exhibit B-Bard Protect Program

Accessories		
74100	Calibration/Test Unit 115V	\$2499.00
71900	Drain Line	\$35.00
71800	Fill Tube	\$40.00
73407	Fluid Delivery Line	\$1500.00
73300	Power Cord 115V	\$125.00
75300	Screen Protector Kit	\$125.00
70904	Shunt Line	\$15.00

Spare Parts		
40300300	Air Filter	\$240.00
40234100	Caster with Brake	\$105.00
40234101	Caster without Brake	\$80.00
40308100	Chiller Pump, 100120V	\$760.00
40207300	Chiller, 100120V	\$5330.00
40307100	Circulation Pump Assembly	\$1335.00
40239400	Clip tubing wire	\$5.00
40308200	Control Panel Assembly	\$4190.00
40312500	Drain Valve	\$134.20
40307500	Flowmeter	\$430.00
40207400	Heater, 100120V	\$1160.00
40308300	Input / Output Circuit Card	\$980.00
40308600	Isolation Circuit Card	\$1935.00
40310200	Level Sensor	\$100.00
40303600	Main Harness	\$725.00
40308700	Main Voltage Circuit Card	\$615.00
40307800	Manifold Assembly	\$2105.00
40307900	Manifold Harness	\$1065.00
40307600	Mixing Pump Assembly	\$1650.00
40308500	Power Circuit Card	\$1050.00
40309100	Power Module	\$490.00
40308400	Processor Circuit Card	\$1475.00
40308000	Tank Harness	\$620.00

Service Items		
73905	Cleaning Solution Kit 4 bottles	\$50.00
77000	Service Kit	\$360.00
77700	Temperature Simulator 37° C	\$65.00
74800	Temperature Simulator 33°, 37°, 39° C	\$145.00

Please consult package insert
for more detailed safety information
and instructions for use.

BARD | MEDICAL

Medivance, Inc.
321 South Taylor Ave., Suite 200
Louisville, Colorado 80027 USA
www.medivance.com

For ordering information:
Customer Service 1 800 326 4456
Fax 303 683 3400
Email arctic@arcticmedical.com

© 2012 C. R. Bard, Inc. All Rights Reserved.
Bard, Arctic Sun, Arctic Gel, and CoreConnect are trademarks and/or registered trademarks of C. R. Bard, Inc.

Federal Law (USA) restricts this device to sale by or on the order of a physician.

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Bard Protect Program

We've got you covered

Warranty and
maintenance options
designed with
your needs in mind

ARCTIC SUN 5000
TEMPERATURE MANAGEMENT SYSTEM

Extended Warranty Options

AT THE TIME OF SALE		
EXT-WARR-1	1 year extension	\$3995
EXT-WARR-2	2 year extension	\$4995
EXT-WARR-3	3 year extension	\$5995
EXT-WARR-4	4 year extension	\$6995

POST SALE UNIT PRICING		
ASS000EXTWARRX1	1 year	\$6495
ASS000EXTWARRX2	2 year	\$7495
ASS000EXTWARRX3	3 year	\$8495
ASS000EXTWARRX4	4 year	\$9495

In addition to the one year manufacturer's warranty, extended warranties are available for purchase. The warranty includes preventative maintenance as well as all parts and labor associated with defects in material and workmanship of the equipment.

Shipping

If equipment under extended warranty is returned for service, loaned equipment will be available at no charge for the duration of service. Ground Shipment charges will be covered by Bard. Additional charges will apply for expedited shipment.

Preventative Maintenance Option

Four key components of the ARCTIC SUN® Temperature Management System that have 2,000 hours of use or more should be assessed. Preventative maintenance only includes the replacement of these key components and calibration.

Price: \$3500

No equipment downtime

Our Customer Service Team will work with you to ensure no equipment downtime in your facility. A loaner may be provided if needed.

Components replaced:

- Mixing Pump (1)
- Circulation Pump (1)
- Heater (1)
- Drain Valves (2)

Parts serviced will be covered with a new one year limited warranty.

Parts

For equipment no longer under Extended Warranty

If you elect to repair the equipment at your facility, phone Technical Support is supplied by Bard at no additional cost.

Preventative Maintenance Components

Preventative Maintenance Description	Parts Charges	Labor (est. hrs)**
Mixing pump replacement	\$1,652.00	5
Circulation pump replacement	\$1,335.00	5
Heater assembly replacement	\$1,158.00	5
Drain ports replacement	\$134.00	5
Calibration	\$500.00	
Total	\$4,779.00	20

** Estimated timing for all preventative maintenance components is 5 hours per component.

Exhibit C

ADDENDUM NO. 1

**TO AGREEMENT BY AND BETWEEN Bard Medical Division, C. R. Bard, Inc. AND
THE COUNTY OF MONTEREY ON BEHALF OF NATIVIDAD MEDICAL CENTER
FOR THE PURCHASE OF MEDICAL DEVICE PRODUCTS**

This Addendum No. 1 amends, modifies, and supplements the County of Monterey Agreement for Services (hereinafter "Agreement") by and between Bard Medical Division, C. R. Bard, Inc, (hereinafter "CONTRACTOR") and the County of Monterey, on behalf of Natividad Medical Center (hereinafter "NMC"). This Addendum #1 has the full force and effect as if set forth within the Terms. To the extent that any of the terms or conditions contained in this Addendum #1 may contradict or conflict with any of the terms and conditions of the Agreement, it is expressly understood and agreed that the terms and conditions of this Addendum #1 shall take precedence and supersede the attached Agreement.

NOW, THEREFORE, NMC and CONTRACTOR agree that the Agreement terms and conditions shall be amended, modified, and supplemented as follows:

I. Section 3, "TERMINATION" to the Agreement is hereby amended and restated to read in its entirety as follows:

3.1. During the term of this Agreement, either Party may terminate the Agreement for any reason by giving written notice of termination to the other Party at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

3.2. Either Party may cancel and terminate this Agreement for good cause effective immediately upon written notice to the other Party. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If NMC terminates this Agreement for good cause, NMC may be relieved of the payment of any consideration to Contractor, and NMC may proceed with the work in any manner, which NMC deems proper. The cost to NMC shall be deducted from any sum due the CONTRACTOR under this Agreement.

II. Section 4. "INDEMNIFICATION" is hereby amended and restated to read in its entirety as follows:

MUTUAL INDEMNIFICATION.

The Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents, employees, or subcontractors from any claim, liability, loss, injury or damage arising out of, or in connection with, the performance of this Agreement by the Contractor and/or its officers, agents, employees or subcontractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of County and/or its officers, agents, employees and subcontractors. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under this Agreement.

The County shall indemnify, defend, and hold harmless the Contractor, its officers, agents, employees, and subcontractors from any claim, liability, loss, injury or damage arising out of, or in connection with, the performance of this Agreement by the County and/or its officers, agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of the Contractor and/or its officers, agents, employees and subcontractors. The County shall reimburse the Contractor for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the County is obligated to indemnify, defend and hold harmless the Contractor under this Agreement.

III. Limit Liability

Except for defense and indemnification obligations, as set forth within this Agreement, neither the County nor CONTRACTOR shall be liable to the other for any damages exceeding the aggregate insurance coverage limits set forth under this Agreement, including but not limited to, any and all legal and regulatory actions, alleged damages, claims, liabilities, costs, expenses or financial loss, in any way arising from or relating to the performance of this Agreement. The provisions of this Paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort or otherwise. **CONTRACTOR WILL NOT BE LIABLE TO COUNTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE HANDLING OR USE OF CONTRACTOR PRODUCTS EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES**

IV. Section 5., "INSURANCE", shall be amended and restated to read in its entirety as follows:

5. INSURANCE:

5.1. Evidence of Coverage:

Prior to commencement of this Agreement, the CONTRACTOR shall provide a "Certificate of Insurance" evidencing that coverage required herein has been obtained. This verification of coverage shall be sent to NMC's Contracts Purchasing Department, unless otherwise directed. The CONTRACTOR shall not receive a "Notice to Proceed" with the work under this Agreement until it has provided evidence of the insurance required.

5.2. Qualifying Insurers: All coverage's except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by NMC's Contracts Purchasing Director.

5.3. Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

5.4. Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

5.5. Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, no owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

5.6. Workers' Compensation Insurance, If CONTRACTOR employs other in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

5.7. Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of

this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

6. Other Insurance Requirements:

6.1. All insurance required by this Agreement shall be with a company financially secure in accordance with paragraph 5.2 and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

6.2. CONTRACTOR shall provide notice to NMC in writing at least thirty days in advance of any endorsed reduction in coverage or limit that would impact compliance with the requirements herein, OR any cancellation, or intended non-renewal of the insurance required of the contractor. Each policy shall provide coverage for CONTRACTOR and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

6.3. Commercial general liability and automobile liability policies shall provide an endorsement including the County of Monterey, its officers, agents, and employees (Additional Insureds) as additional insureds to the extent of the indemnity obligations owed to the Additional Insureds under the terms of this agreement with respect to liability arising out of the CONTRACTOR's work, including ongoing and completed operations, and shall further provide that such insurance is, to the same extent, primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss wherever CONTRACTOR's insurance provides coverage to the Additional Insureds.

6.4. Upon execution of this Agreement by NMC, CONTRACTOR shall file certificates of insurance with NMC's Contracts/Purchasing Department, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any material change that is made in any insurance policy required hereunder wherever such change would result in a non-compliance with the insurance requirements herein and which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

6.5. CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by NMC, annual certificates to NMC's Contracts/Purchasing Department. If the

certificate is not received by the expiration date, NMC shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles NMC, at its sole discretion, to terminate the Agreement immediately.



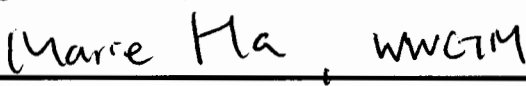
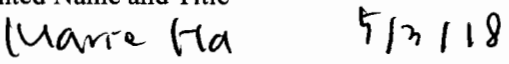
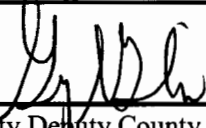
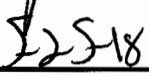

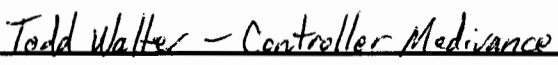
V. Paragraph 10.1, "CONFIDENTIALITY", shall be amended to:

Confidentiality. The Parties and their officers, employees, agents and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. The Parties shall not disclose any confidential records or other confidential information received or prepared in connection with the performance of this Agreement, unless the disclosing Party specifically permits the receiving Party to disclose such records or information. "Confidential Information" shall mean the terms and conditions of this Agreement, including the pricing. NMC agrees to take reasonable steps to ensure that its employees, agents and any other persons permitted access to Confidential Information are advised of the confidential nature of the materials and the restrictions herein imposed upon NMC. The Parties shall promptly transmit any and all requests for disclosure of any such confidential records or Confidential Information to the other Party. The Parties shall not use any Confidential Information gained in the performance of this Agreement except for the sole purpose of carrying out each Party's obligations under this Agreement. However, in the event that the contract is requested as per the Public Records Act request per California Government Code Section 6250-6270, CONTRACTOR agrees that the contract, including pricing for the contract, shall be turned over to the party making the Public Records Act request and in this situation NMC cannot keep the contract or its pricing confidential.

VI. Paragraph 10.5, "ROYALTIES AND INVENTIONS", shall be deleted in its entirety.

Signature page to follow.

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Addendum No.1 on the basis set forth in this document and have executed this Addendum No. 1 the day and year set forth herein.

<p><u>Natividad Medical Center</u></p> <p></p> <p>_____ Gary R. Gray, DO, CEO</p> <p></p> <p>_____ Date</p>	<p><u>Bard Medical Division, C. R. Bard, Inc.</u></p> <p>_____ Signature of Chair, President or Vice-President</p> <p></p> <p>_____ Printed Name and Title</p> <p></p> <p>_____ Date</p>
<p><u>Approved as to Legal Provisions:</u></p> <p></p> <p>_____ Monterey County Deputy County Counsel</p> <p></p> <p>_____ Date</p>	<p></p> <p>_____ Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer</p> <p></p> <p>_____ Printed Name and Title</p>
<p><u>Approved as to Fiscal provisions:</u></p> <p>_____ Monterey County Chief-Deputy Auditor-Controller</p> <p>_____ Date</p>	<p>_____ Date</p> <p><u>Signature Instructions</u></p> <p>For a corporation; including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers (two signatures required).</p>